
SHAPING THE INDIAN CONSTITUTION: AN ANALYTICAL STUDY OF LANDMARK JUDICIAL INTERPRETATIONS

Jigyasa Verma, University of Allahabad

ABSTRACT

Indian Constitution's deliberately broad, open-textured language has enabled the Supreme Court to act as a dynamic interpreter rather than a mechanical umpire, progressively expanding and concretising fundamental rights and structural principles. On this basis, the Court has read Article 21 to include a wide cluster of dignity-enhancing rights—such as livelihood, privacy, clean environment, and gender justice—transforming a narrow “life and personal liberty” clause into a robust framework for social and economic justice. The emergence of the Basic Structure Doctrine in *Kesavananda Bharati* (1973) institutionalised judicial guardrails over Parliament's amending power, preserving core constitutional features like democracy, rule of law, secularism, and judicial independence. Parallelly, the Court's development of Public Interest Litigation (PIL) opened judicial doors to disadvantaged litigants, while its consistent use of judicial review has checked arbitrary or infringing state action. Yet this very activism invites ongoing debate: whether the Court is creatively fulfilling constitutional promises or occasionally overstepping into policy-making, thereby testing the balance between judicial innovation and democratic accountability. In essence, the abstract rests on the proposition that the Constitution's flexibility and the Court's interpretive willingness together shape an evolving constitutional democracy.

INTRODUCTION

“The inevitable truth is that law is not static and immutable but ever increasingly dynamic and grows with the ongoing passage of time.”

~ S. Ratnavel Pandian, J.¹

The Constitution of India represents one of the most comprehensive constitutional frameworks in the world. Adopted on 26 January 1950, it provides the institutional and normative foundations for the functioning of the Indian state. The framers of the Constitution deliberately incorporated elaborate provisions in order to address the complexities of governing a vast and diverse nation emerging from colonial rule. The Constitution of India is not merely a written document; it is a living framework whose meaning and reach have been continuously reshaped by the judiciary through landmark judicial interpretations.

India is recognized as the world's largest democracy because of its constitutional framework. It functions through its three distinct organs i.e legislature, executive and judiciary. These organs play a vital role in enacting laws, implementing them and ensuring their fair application. Judiciary functions as a watchdog and serves as a check on the other two organs.

The judiciary plays a critical role in ensuring that the Constitution, a dynamic document embodying the nation's ideals, values, and aspirations remains applicable to modern circumstances while safeguarding its foundational principles. As the Constitution's protector, the judiciary is entrusted with the task of interpreting its provisions and resolving conflicts that emerge from the application of constitutional mandates. Over the decades, the Supreme Court has delivered several landmark judgments that have fundamentally shaped the interpretation and application of the Constitution. These decisions have not only clarified constitutional provisions but have also introduced new doctrines and expanded the scope of rights guaranteed under the Constitution. Also it aids in filling up gaps within the legislations which gives it a distinct form and determines the intention of the legislature behind such enactment.

Landmark decisions such as *Kesavananda Bharati v. State of Kerala*², the Supreme Court introduced the Basic Structure Doctrine, which prevents Parliament from altering

¹ SC Advocates on Record Association vs. Union of India (1993) 4 SCC 441

the fundamental identity of the Constitution.²

1.1 INTERPRETATION OF LAWS

Interpretation of law is the process whereby judiciary examines the legality of legislations enacted by the Parliament and their extent of consistency with the Constitution and other laws.

Judicial interpretation of laws is critical for:

a. Determining true meaning and legislative intent: Legislations made by the Parliament may not always determine its true meaning and intent. This may create arbitrariness and result in injustice. Therefore, determining their true meaning and legislative intent is crucial.

b. Providing clarity and consistency: Examination of laws by the courts provides clarity and consistency upon such law. For instance, some provisions of a particular statute may be vague and ambiguous leading to chaos with respect to a particular subject matter. In such circumstances, judicial interpretation aids in determining clarity upon such provisions.

c. Filling up lacuna: Lacuna refers to a gap or missing piece in a particular legislation. In interpreting statutes, courts may sometimes encounter lacuna which may result in inability in providing remedies to many legal questions. In such a situation, judicial interpretation provides for identification of such gaps and determining true meaning of such laws using various tools and techniques of interpretation and considering legislative intent.

d. Consistency with Constitutional provisions: Laws made by the Parliament must be consistent with the constitutional provisions. Also, Article 13 states that, laws made by the Parliament in derogation with fundamental rights shall be void to the extent of their inconsistency. In many cases, laws made by the Parliament may encroach upon constitutional provisions including fundamental rights guaranteed to the citizens. In such cases, judiciary plays important role in examining such laws and striking them down to the extent of their inconsistency. Thus, it acts as guardian of the Constitution and protector of fundamental rights of the citizens.

² Kesavananda Bharati Sripadagalavaru v. State of Kerala, AIR 1973 SC 1461

Rules of Interpretation:**a. Literal rule:**

It is the primary rule of interpretation which states that legislations shall be interpreted strictly by giving them their plain, ordinary and literal meaning. It seeks to minimize judicial discretion by adhering to law as it is written. However, where such law is ambiguous and unclear, judiciary may step further and apply other techniques for its interpretation.

b. Golden rule:

Golden rule allows courts to deviate from literal rule in interpretation of laws. It provides that where application of literal rule results in absurdity, inconsistency and unintended results, it may be applied for determining true meaning of the provisions. Its objective is to prevent arbitrary, irrational and illogical interpretation, contrary to legislative intent. Thus, it allows courts to ensure fair and just applicability of laws.

c. Mischief rule:

Mischief rule is a remedial approach in interpretation of statutes which aims at suppressing the mischief and advancing the remedy. In other words, it aids in neutralizing the issue and providing remedy for the same. It permits courts to look beyond the strict wording of the statute and consider underlying problem that legislature intended to address.

1.2 ROLE OF JUDICIARY

The judiciary's role in interpreting the Constitution of India is indeed pivotal to the country's democratic framework. As the guardian of the Constitution, the judiciary ensures that its provisions are continuously relevant in the face of evolving social, political, and technological landscapes. Judicial interpretation has been a cornerstone in the development of constitutional law in India, particularly when it comes to expanding fundamental rights, maintaining the balance of power between the branches of government, and ensuring that the Constitution evolves alongside societal changes.

1. Shaping Fundamental Rights

Courts have played a key role in broadening the interpretation of fundamental rights to reflect

changing societal needs. The Maneka Gandhi case revolutionized Article 21, transforming the "right to life" into a broader concept that includes the right to a dignified existence. Similarly, the Vishaka case set vital precedents for the protection of women's rights, highlighting the judiciary's role in adapting constitutional principles to modern challenges. This has led to a deeper understanding of human rights within the Indian constitutional framework.

2. Balancing Power Among Governmental Branches

Through judicial review, courts ensure that laws and executive actions align with constitutional principles. This reinforces the separation of powers and prevents any branch from overstepping its authority. The landmark case *Kesavananda Bharati* introduced the "basic structure" doctrine, placing limits on Parliament's power to amend the Constitution. It cemented the judiciary's role as the Constitution's guardian. Also, judicial interpretation doesn't just constrain, it also guides legislative actions. When courts invalidate laws, they push legislators to draft laws that better respect fundamental rights and constitutional values.

3. Responsiveness to Societal Changes

The judiciary has shown a willingness to adapt constitutional norms to contemporary challenges, whether it's issues related to privacy, the environment, or digital rights. In the *Navtej Singh Johar* case, the court's decision to decriminalize same-sex relationships under Section 377 exemplifies the judiciary's responsiveness to evolving social norms, as well as its role in expanding human rights. These judicial decisions often stimulate public discourse, encouraging societal reflection on rights and justice, thus enriching the democratic process.

1.3 RULE OF LAW

The role of the judiciary in upholding the rule of law is of paramount importance. Rule of law is a fundamental legal principle which means, law is the highest authority in every society and no one is above it. Every government shall function based on the principles of law and not according to men forming it. The essence of rule of law lies in preventing arbitrary executive actions and safeguarding individual liberties in order to ensure governance based on principles of law.

However, rule of law cannot be achieved without an independent, impartial and effective judicial mechanism. Judiciary ensures that the executive actions are not arbitrary and based on

legal principles. Further, judicial interpretation of laws helps in discarding legal ambiguities. It secures that laws enacted by the Legislature are clear, unambiguous and consistent with constitutional provisions and other laws.

According to **Justice Vivian Bose**, '*rule of law is the heritage of all mankind*'. It strives to uphold individual rights and dignity.

Role of judiciary in upholding rule of law is crucial because:

1. It strives to maintain supremacy of law through the process of judicial review which empowers it to strike down laws violating constitutional provisions and legal principles.
2. It ensures that everyone is treated equally before law and is entitled to equal protection of law without any special privileges.
3. It warrants executive accountability to the law and highlights limitations on their powers.
4. It guarantees fair and just application of laws.
5. It plays a vital role in guarding individual rights and liberties.
6. It establishes legal precedents that guide future cases and contribute to the development of law.

2. EVOLUTION OF JUDICIAL REVIEW IN INDIA

The crux of Indian legal discourse revolves around the fundamental doctrine of judicial review, which stands as the bedrock of the Indian constitutional framework.

In India, the idea of legal survey was acquired from the US Constitution, however fitting the Indian context was adjusted. The US Constitution is one of the Wellsprings of the Indian Constitution. The beginning of legal survey in India can be followed back to the impact of the U.S. Constitution. Be that as it may, India has adjusted this idea to accommodate its special protected and cultural texture. Unlike the U.S.A., the Constitution of India explicitly establishes the doctrine of judicial review in several Articles, such as, 13, 32, 131-136, 143 226 and 246.

Professor Rosalind Dixon's new book, *Responsive Judicial Review— Democracy and*

Dysfunction in the Modern Age, is a rich and vital contribution to the debate on judicial review, which transcends silos in scholarship to offer a cohesive theory of judicial review across issues while remaining mindful of the diversity of contexts across jurisdictions. Dixon builds on the tradition of ‘**responsive judicial review**’ scholarship that began with the work of John Hart Ely. Dixon stresses that the traditional role of the judiciary is to “give effect to the text of a written constitution”, relying on constitutional interpretation that engages modalities such as the history, text, and structure of a constitution. Dixon refers to instances from the Indian Supreme Court’s jurisprudence on social rights, unconstitutional constitutional amendments, and LGBTQI rights as illustrations of responsive judicial review.

This includes issues such as:

- addressing legislative dysfunction
- reining in the court’s public interest litigation jurisprudence.
- In the context of civil and political rights, responsive judicial review may result in the weakening of judicial review owing to certain unique pathologies in judicial reasoning in India.

2.1 SHIFT IN JUDICIAL PHILOSOPHY OVER DECADES

The evolution and trajectory of judicial review in India spans several distinct phases:

1. The Formative Years (1950s–1960s)

Initially, the judiciary and the legislature clashed over the extent of Parliament's amending powers concerning fundamental rights.

*Shankari Prasad (1951)*³ and *Sajjan Singh (1965)*⁴: The Supreme Court upheld Parliament's absolute authority to amend the Constitution, limiting the scope of judicial review in this domain.

Golaknath (1967): The Court reversed its stance, ruling that Parliament could not amend

³ *Shankari Prasad v. Union of India*, [1952] SCR 89 (1951)

⁴ *Sajjan Singh vs. State of Rajasthan* AIR 1965 SC 845

fundamental rights.

2. The Era of the "Basic Structure" (1970s)

During the mid-1970s, the government attempted to curtail the power of judicial review through sweeping constitutional amendments. The Supreme Court countered this with a landmark doctrine that permanently defined the judiciary's role *Kesavananda Bharati v. State of Kerala (1973)*: The Court established the Basic Structure Doctrine. It ruled that while Parliament can amend any part of the Constitution, it cannot alter its core foundational principles (e.g., secularism, democracy, rule of law). Furthermore, it declared judicial review an inseparable component of this basic structure, shielding it from legislative elimination.

3. Expansion of Judicial Review (1980s–1990s)

The scope of review broadened significantly as courts recognized the need to protect the marginalized and hold the executive accountable.

Public Interest Litigation (PIL): Championed by **Justices P.N. Bhagwati and V.R. Krishna Iyer**, the Court relaxed the strict rule of locus standi, allowing individuals or organizations to file petitions on behalf of the disadvantaged.

Judicial review expanded into environmental protection, human rights, and the regulation of political corruption.

2.2 JUDICIAL ACTIVISM AND JUDICIAL OVERREACH

Judicial Activism:

Judicial activism denotes a more active role taken by the Judiciary to dispense social justice. When we speak of Judicial Activism, we point fingers at the invented mechanisms that have no constitutional backing (e.g.: Suo Moto (on its own) cases, Public Interest Litigation (PIL), new doctrines, etc.)

Judicial Activism has no constitutional articles to support its origin. The Indian Judiciary invented it. Suo Motto cases and the innovation of the Public Interest Litigation (PIL), with the discontinuation of the principle of Locus Standi, have allowed the Judiciary to intervene in many public issues, even when there is no complaint from the concerned party.

Although the earlier instances of Judicial Activism were connected with enforcing Fundamental Rights, nowadays, the Judiciary has started interfering in governance issues as well.

Judicial Overreach:

The line between Judicial activism and Judicial Overreach is very narrow. In simple terms, when Judicial activism crosses its limits and becomes Judicial adventurism it is known as Judicial Overreach. When the judiciary oversteps the powers given to it, it may interfere with the proper functioning of the legislative or executive organs of government. Judicial Overreach destroys the spirit of separation of powers.

There is a thin line between activism and overreach. While judicial activism is considered positive to supplement the failings of the executive, the overreach into the executive's domain is considered an intrusion into the proper functioning of democracy. Just as independence of the judiciary is part of basic structure, the primacy of the legislature in policy making is also part of basic structure and interference by the courts into their domain is not justified.

3. LANDMARK JUDGMENTS: PREAMBLE AND BASIC STRUCTURE

“..... When histories of nations are written and critiqued, there are judicial decisions at the forefront of liberty. Yet others have to be consigned to the archives, reflective of what was, but should never have been.” ~ D.Y. Chandrachud J.

In Justice K.S. Puttaswamy (retired.) Vs. Union of India and Ors.,⁵

A great judgment is one that restores the constitutional values of a polity from the waywardness into which it may have fallen, while a landmark judgment is one which opens up new directions in our constitutional thinking and, in the process, adds new dimensions to what are regarded as established constitutional principles. If “great” restores the centrality of constitutional values, “landmark” revitalises them.”

3.1 IS PREAMBLE A PART OF CONSTITUTION?

PREAMBLE derived from a Latin term ‘*Preamblus*’ which means ‘to introduce’ is a

⁵ Justice K.S. Puttaswamy (retired.) Vs. Union of India and ors., (2017) 10 SCC 1

significant part of the Indian Constitution. The idea of the Preamble has been derived from the US constitution and holds a significant position in Indian Constitution interpretation. It provides the foundational

introduction and guiding principles and philosophy, summarizing the document's core objectives, the nature of the Indian state, and the ultimate source of its authority.

Though with the time passes various questions have arisen regarding preamble like is preamble part of the Constitution? Can it be amended? Can any law be declared Ultra Vires only on basis of preamble? So to resolve these questions very landmark interpretations have been made by the judiciary which has been discussed below.

In Re Berubari Union and Exchange of Enclaves,⁶

It was the main Reference “under Article 143(1) of the Constitution of India on the implementation of the Indo-Pakistan Agreement relating to Berubari Union and Exchange of Enclaves” which came up for consideration by a Bench consisting of eight Judges headed by the Chief Justice B.P. Sinha. Justice Gajendragadkar delivered the unanimous opinion of the Court.

The SUPREME COURT has ruled that preamble no doubt is “a key to open the mind of the makers” which may show the general purpose for which they made the several provisions in the Constitution but it is not part of the Constitution of India and because of this reason, Preamble has no substantive power.

Later this judgment was overruled when the historic landmark judgment of constitution came into the scene popularly known for its proposed doctrine of basic structure.

Kesavananda Bharati v. State of Kerala and anr (1973)⁷

This case created history and holds great importance. A bench comprising 13 judges was constituted to hear this landmark case, wherein the question before the court was, whether the Parliament has the power to amend the Preamble and the extent to which this power can be

⁶ In Re: The Berubari Union and Exchange Of... vs Unknown AIR 1960 SC 845

⁷ *ibid.* 2

exercised.

in this case, has held that:

- The Preamble of the Constitution will now be considered as part of the Constitution.
- The Preamble is not the supreme power or source of any restriction or prohibition but it plays an important role in the interpretation of statutes and provisions of the Constitution.

So, it can be concluded that preamble is part of the introductory part of the Constitution.

After the judgement of the Kesavanand Bharati case, it was accepted that the preamble is part of the Constitution. The court relied on various excerpts from the Constituent Assembly, wherein it was contended that Preamble will be a part of the Constitution.

3.2 BASIC STRUCTURE DOCTRINE

Although the second question that arose before the court was regarding the amendability of the Preamble as well as the Constitution, especially Fundamental Rights. The debate of ‘basic structure’ of the Constitution, lying dormant in the archives of India’s constitutional history during the last decades of the 20th century, has reappeared in the public realm. The debate which was made in between 1970s-1980s was an attempt to chart the waters of that period rendered turbulent by the power struggle between the legislative and Judiciary.

Article 368 of the Constitution gives the impression that the Parliament’s amending power is absolute and encompasses all parts of the document. But the Supreme Court acted as break to the legislative enthusiasm of Parliament ever since independence. With the intention of preserving the original ideals envisioned by the Constitution makers, the Apex Court pronounced that “Parliament could not distort, damage or alter the basic structure of the Constitution under the pretext of amending it.” (**Basic Structure Doctrine**)

The pre- Kesavananda position -

Parliament's authority to amend the Constitution, particularly the chapter of the Fundamental

Rights of citizens was challenged early in 1951 in case *Shankari Prasad v. Union of India*⁸.

The issue was raised by the property owner, challenging the 1st amendment 1951 which placed land reforms law in the Ninth Schedule. This case dealt with the amendability of Fundamental Rights (the First Amendment's validity was challenged).

- The SC Court held that the power conferred on Parliament by Art. 368 to amend is a very wide power and includes the power to take away the fundamental rights guaranteed by Part III.
- In the context of Art. 13 (2), "law" must be taken to mean rules or regulations made in exercise of ordinary legislative power and not amendments to the constitution made in the exercise of constituent power with the result that Art. 13(2) does not affect amendments made under Art. 368.
- This view was reiterated in *Sajjan Singh vs State of Rajasthan*.

The Golaknath verdict -

The issues regarding power of the Parliament to amend Part III of the Constitution was re-examined in *I. C. Golak Nath v. State of Punjab*.⁹

- The questions in this case were whether amendment is a law within the meaning of Art.13(2) of the Constitution of India, and
- whether Fundamental Rights can be amended by the Parliament?
- Overruling *Sajjan Singh* by a majority of six to five the Supreme Court held that amendment under Article 368 is "law" within the meaning of Article 13(2);
- It further ruled that Legislature does not enjoy the power to amend Part III of the Constitution to take away or abridge fundamental rights.

The Basic Structure Doctrine -

Inevitably, the Constitutional validity of these amendments was challenged before the SC in

⁸ Ibid 3

⁹ I.C. Golaknath v. State of Punjab 1967 2 SCR 762

***Kesavananda Bharati Sripadagalavaru v. State of Kerala*,¹⁰ (decided by a Bench of 13 Judges)**

The most celebrated case in the history of Indian Constitutional law in which the apex Court dealt with the issue - whether the Parliament can amend any part of the Constitution and what was the limit to that power?

- The Bench by a majority of 7-6 Overruled the proposition of law propounded in *I. C. Golak Nath v. State of Punjab*, and held that Constitutional amendment is not “law” within the meaning of Article 13 and that although no part of the Constitution, including Part III comprising of fundamental rights, was beyond the Parliament’s amending power, the “basic structure of the Constitution” could not be abrogated even by a constitutional amendment.”
- As regards the basic structure, the Court held that it would be decided from case to case.

3.4 APPLICATION OF DOCTRINE***Indira Nehru Gandhi v. Raj Narain*¹¹**

The validity of 39th Constitution amendment enacted in 1975 which (Article 329-A) sought to place the election of the President, the Vice President, the Prime Minister and the Speaker of the Lok Sabha beyond the scrutiny of the constitutional courts were challenged in this case. The S.C. evaluates that Democracy is the basic structure of the Constitution, which means free and fair election. To continue this basic structure, rule of law and judicial review are essential. So while striking down Art. 329-A, SC said that Rule of Law, Democracy and Judicial Review are part of the basic structure and no amendment can do away with them.

***Minerva Mills v. Union of India and ors.*¹²**

Validity of Constitution (42nd Amendment) Act, 1976, which inter alia provided for exclusion of judicial review of constitutional amendments and expressly conferred unlimited amendment power to the Parliament, was challenged on the ground that they are violative of the ‘basic structure’ of the Constitution.

¹⁰ Ibid 2

¹¹ *Indira Nehru Gandhi v. Raj Narain* 1975 SC 2299

¹² *Minerva Mills Ltd. and Ors. vs Union of India and Ors.* AIR 1980 SC 1789

- The Court by a majority of 4 to 1 struck down clauses (4) and (5) of article 368 holding that they violated the basic structure of the Constitution.
- The Court ruled that Parliament's power to make Constitutional amendments is limited which itself is a basic feature of the Constitution. The judgement makes it clear that the Constitution, and not the Parliament is supreme.

***IR Coelho's Case*¹³ (Known as 9th Schedule Case) (Nine Judge Bench)**

The Court held that any law inserted in the Ninth Schedule on or after April 24, 1973 (date on which Keshavananda was pronounced) can be subject to judicial review and will be struck down if it violates.

4. LANDMARK JUDGMENTS: FUNDAMENTAL RIGHTS

FUNDAMENTAL RIGHTS enshrined in Part - III of the Constitution from **Article 12-35** has majorly helped in shaping the constitution, though their interpretation majorly evolved by the needs of society which arises within the change of time.

4.1 ARTICLE 13

Article 13 talks about - what can be done in case of violation of Fundamental Rights. Basically this article focused of two things:

4.1.1. JUDICIAL REVIEW:

*Marbury v. Madison*¹⁴ is a landmark U.S. Supreme Court decision that established the "principle of judicial review". This critical doctrine empowers American courts to strike down laws, statutes, and executive actions that they find to be in violation of the U.S. Constitution.

The counterpart of this case in India is *L. Chandrakumar v. Union of India*¹⁵ - a landmark Supreme Court of India ruling that declared judicial review to be a basic feature of the Constitution. The Supreme Court through Art.32 and the High Court through Art. 226 have the power of Judicial Review The Court established that while specialized tribunals can be created

¹³ IR Coelho v. State of Tamil Nadu (2007) 2 SCC 1

¹⁴ Marbury v. Madison (1803) 5 U.S.137

¹⁵ L. Chandrakumar v. Union of India AIR 1997 SC 1125

to reduce the backlog of cases, they act as supplementary mechanisms and cannot entirely replace the constitutional jurisdiction of the High Courts.

4.1.2. DOCTRINE OF SEVERABILITY:

This doctrine means that if only a part of Act may be void and the separation of such part is possible from rest, then the whole Act may not be declared void, only the violative part may be declared void and rest remains valid and operative.

The application of this doctrine can be seen in the landmark judgment of case *A. K. Gopalan v. State of Madras*¹⁶ where the Sec.14 of the **Preventive Detention Act, 1950** was inconsistent with Fundamental Rights, so it was declared void.

4.1.3 DOCTRINE OF ECLIPSE:

Another important doctrine of the Indian Constitution - Doctrine of Eclipse was interpreted in the landmark judgment of *State of Gujarat v. Ambica Mills*¹⁷ where it was held that doctrine of eclipse is applicable on citizens as well as non citizens.

4.2 RIGHT TO EQUALITY (ARTICLE 14)

The concept of Equality is based on the principle of Rule of Law which emphasizes that the state should be governed by law and no man should be above the law. Although the Right to Equality provided under **Article 14** embodies the general principle of equality before law, equal protection of law and prohibition of unreasonable discrimination.

Though this right allows reasonable classification and prohibits class legislation - arbitrary privilege to certain classes. The reasonable classification should fulfill two criteria:

4.2.1. OLD DOCTRINE OF EQUALITY: Also known as the “principle of Intelligible Differential” - was propounded in the landmark case of *State of Bombay v. F.N. Balsara*¹⁸ the Supreme Court of India interpreted Article 14 (Right to Equality) by establishing the doctrine of reasonable classification. The Court upheld the Bombay Prohibition Act's alcohol ban but

¹⁶ A.K. Gopalan VS. State of Madras, [1950] SCR 88

¹⁷ State. Of Gujarat and Another vs Shri Ambica Mills Ltd.1974 AIR 1300

¹⁸ State of Bombay v. F.N. Balsara (1951)

struck down specific arbitrary exemptions that discriminated against citizens.

4.2.2 NEW DOCTRINE OF EQUALITY: Mainly based on the principle that differentia must have “rational nexus” or relation to the object sought to be achieved by Act. The “doctrine of nexus test” was attributed in the case of *Anwar Ali Sarkar v. State of West Bengal*¹⁹ in which the Section 5(1) of **West Bengal Special Courts Act, 1950** was held violative of Article 14 because there was no basis for classification mentioned thereto and also there was no clarity regarding the category of cases directed for trial by special courts.

The landmark case of *E.P. Royappa v. State of Tamilnadu*²⁰ has provided the “New Doctrine of Equality” which is still followed in present as well, This case established ‘**Doctrine of Arbitrariness**’ and provide new dimension to Article 14:

- Equality is antithetic to arbitrariness.
- When an act is arbitrary, it is violative of Art.14
- Article 14 strikes at arbitrariness in the state action and ensures fairness and equality of treatment.

~ Equality is a dynamic concept. Equality and Arbitrariness are sworn enemies.

4.3 FREEDOM OF SPEECH AND EXPRESSION

Freedom of speech and expression guaranteed under **Article 19(1)(a)** means the Right to express conviction and opinions freely by words, speech, writing, printing, pictures, or any other mode. It thus includes the expression of one's ideas through any communicable medium or visible representation. This right has covered a wide controversial interpretation of freedom of press which has been developed from independence to the present day. Though this right to free speech has been restricted to certain restrictions, the judicial pronouncements has widened the scope of this right in various dimensions.

Landmark judgments like *Romesh Thappar v. State of Madras*²¹ in which petitioner, editor of the journal cross roads, challenged the Madras government order banning its circulation under

¹⁹ Anwar Ali v. State of West Bengal, [1952] 1 SCR 284

²⁰ E.P. Royappa v. State of Tamil Nadu (AIR 1974 SC 555)

²¹ Romesh Thappar v. State of Madras 1950 AIR 124

Section 9(1-A) of Madras Maintenance of Public Order Act, 1949. The SC held that the ban violated Article 19(1)(a), guaranteeing Freedom of Speech and Expression. It ruled that restrictions on this freedom are valid only if they relate to the specific grounds in Article 19(2). Since 'public order' was not then included under Article 19(2), the law was unconstitutional and void.

Another landmark judgment of *Hamdard Dawakhana v. Union of India*²² in which Supreme Court of India judgment upheld the constitutional validity of the Drugs and Magic Remedies. The petitioners, manufacturers of Unani and Ayurvedic medicines, challenged the 1954 Act. The government had restricted their promotional advertisements, claiming that the drugs were falsely advertised to possess magical qualities and encouraged dangerous self-medication without professional consultation. The Court determined that advertisements promoting personal business and commercial interests do not fall under the protective umbrella of "freedom of speech and expression".

4.4 RIGHT TO LIFE AND PERSONAL LIBERTY

The Right to Life is undoubtedly the most fundamental of all rights. Life under **Article 21** is not just a mere existence of any person. It has been widely interpreted by various landmark judicial interpretations covering the aspect of living with dignity, livelihood, health, etc. The right to life under this article is subject to procedure established by law.

4.4.1. Procedure established by Law:

Procedure established by Law means that a law that is duly enacted by legislature or the body in question is valid if the procedure established has been correctly followed.

A rigid and inflexible follow of procedure established by Law may raise the risk of compromise to life and personal liberty of individuals due to unjust laws made by law making authorities which happened in the case of *A.K. Gopalan v. State of Madras*²³ known for narrow interpretation of Article 21.

In this case the petitioner, detained under the Preventive Detention Act, challenged the legality of detention under Art. 32 of the Constitution on the ground that the said Act contravened Arts.

²² Hamdard Dawakhana v. Union of India (AIR 1960 SC 554)

²³ Ibid.16

13, 19, 21 and 22 of the Constitution and was, therefore, ultra vires.

The S.C. held-

- that Article 22 was a self-contained Code and if personal liberty is taken away by the State in accordance with the procedure established by law i.e. if the detention was as per the procedure established by law, then it cannot be said that the law was violative of provisions contained in Articles 14, 19 and 21 of the Constitution.
- The SC also specifies that the term 'procedure established by Law' and the term used in US constitution 'due process of Law' both are different and cannot be interpreted in the same way.

Another Landmark judgment has been given in the case of *Maneka Gandhi v. Union of India*²⁴ known for wider interpretation of Article 21 which emphasizes that such procedure established by Law should be just, fair and reasonable

- In this case, the view expressed in A. K. Gopalan's case was revisited after about 28 years.
- The main issues were whether the right to go abroad is a part of the right to personal liberty under Article 21 and whether the Passport Act prescribes a 'procedure' as required by Article 21 of the Constitution.
- The SC held that the right to go abroad is a part of the right to personal liberty under Article 21.
- The SC also ruled that the mere existence of an enabling law was not enough to restrain personal liberty. "The procedure prescribed by law has to be fair, just and reasonable, not fanciful, oppressive or arbitrary."

Though the Supreme Court initially refuses to recognise fundamental rights that citizens have acquired since birth and held that during an emergency, fundamental rights cannot be enforced in the case of *ADM Jabalpur v. Shivakant Shukla*²⁵.

²⁴ Maneka Gandhi v. Union of India (AIR 1978 SC 597)

²⁵ ADM Jabalpur v. Shivakant Shukla, (1976) 2 SCC 521

- A Constitution Bench by a majority of 4:1, ruled that while a proclamation of emergency is in operation, the right to move High Courts under **Article 226** for Habeas Corpus challenging illegal detention by the State will stand suspended. The apex Court said “.....If extraordinary powers are given, they are given because the Emergency is extraordinary, and are limited to the period of the Emergency.”
- The judgment is more recognised for the dissenting opinion of Justice HR Khanna in which he said - "detention without trial is an anathema to all those who love personal liberty... A dissent is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting Judge believes the court to have been betrayed".

This was later overruled by the Supreme Court in *Justice K.S. Puttaswamy (retd.) Vs. Union of India and ors.* ²⁶,

- “The view taken by Justice Khanna must be accepted, and accepted in reverence for the strength of its thoughts and the courage of its convictions...”
- Sanjay Kishan Kaul, J. in his concurring judgment said: “...the ADM Jabalpur case which was an aberration in the constitutional jurisprudence of our country and the desirability of burying the majority opinion ten fathom deep, with no chance of resurrection.”

4.5 RELIGIOUS AND CULTURAL RIGHTS

Indian Constitution also recognises right to religion as a fundamental right which renders India as a secular nation and basically entitles every Indian citizen and give them the liberty to process, practice and propagate to the religion of their own choice.

The preamble of the constitution recognises India as a secular state which means state has no religion. It is neutral in that aspect and there shall be equal respect and protection for all religions.

Although this concept of secularism has been elaborated in the case of *S.R. Bommai v. Union of India*²⁷ (9 - Judges Bench Case) in which the court has differentiated the concept of

²⁶ Ibid, 5

²⁷ S.R. Bommai v. Union of India, AIR 1994 SC 1918

secularism in America and India.

The Supreme Court ruled that secularism is a fundamental, unamendable "basic structure" of the Constitution. The Court held that states are not subordinate to the Centre, and a state government can be constitutionally dismissed if its policies actively violate secular principles.

Another landmark interpretation by the judiciary regarding religious rights is *Mohd. Hanif Qureshi v. State of Bihar*²⁸ in which the Supreme Court has condemned the practice of cow slaughter in the name of religion and held that a ban on cow slaughter is not against secularism. Neither it is unconstitutional nor it is against secularism because it is not an essential practice in any religion.

5. LANDMARK JUDGMENTS: OTHER ASPECTS OF CONSTITUTION

5.1 PUBLIC INTEREST LITIGATION

The Beginning Mumbai Kamgar Sabha, Bombay :

This case is considered to be the foundation of public interest litigation in India.

- In this case Justice V.R. Krishna Iyer speaking for the Court held that- "Procedural prescriptions are handmaids, not mistresses, of justice. Our adjectival branch of jurisprudence, by and large, deals not with sophisticated litigants but the rural poor, the urban lay and the weaker societal segments for whom law will be an added terror.
- Test litigations, representative actions, pro bono publico and like broadened forms of legal proceedings are in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass the real issues on the merits by suspect reliance on peripheral procedural shortcomings.

*Sunil Batra v. Delhi Administration & Others*²⁹ :

A landmark decision on prison reforms, in this case the apex Court held that a convict is entitled to the precious right guaranteed by Art. 21 that he shall not be deprived of his life or personal

²⁸ Mohd. Hanif Qureshi v. State of Bihar (AIR 1958 SC 731)

²⁹ Sunil Batra v. Delhi Administration & Others, AIR 1978 SC 1675

liberty except according to the procedure established by law.

- The Court ruled that fundamental rights do not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration. Our Constitutional culture has now crystallised in favour of prison justice and judicial jurisdiction.
- The intervention of social welfare organisations in litigative processes pregnant with wider implications is a healthy mediation between the people and the rule of law.
- The Court issued a number of directions for improving the conditions of jail inmates.

***Bandhua Mukti Morchav v. Union of India*³⁰:**

In a matter concerning release of bonded labour raised by way of PIL the Supreme Court issued direction for their release.

- Explaining the philosophy underlying PIL the Court ruled that where a person or class of persons to whom legal injury is caused by reason of violation of a fundamental right is unable to approach the court of judicial redress on account of poverty or disability or socially economically disadvantaged position, any member of the public acting bona fide can move the court for relief under Article 32 and a fortiori also under Article 226, so that the fundamental rights may be meaningful not only for the rich but also for the deprived people who by reason of lack of awareness, assertiveness and resources are unable to seek judicial redress.

5.2 HUMAN RIGHTS AND SOCIAL RIGHTS

Art.21- Right to Die With Dignity:

***Aruna Rameshchandra Shanbaugh v. Union of India*³¹**

- In this case the victim of rape continued to be in persistent vegetative state (PVS) for a period of 36 years. This case triggered the debate on the need to change euthanasia laws.
- In a writ petition under Article 32 it was prayed that the hospital where she is laying for last

³⁰ Bandhua Mukti Morcha v. Union of India [(1984) 3 SCC 161]

³¹ Aruna Rameshchandra Shanbaugh v. Union of India 2011 (4) SCC 454

36 years be directed to stop the life support system.

- The Supreme Court ruled that individuals had a right to die with dignity.
- Issuing guidelines regarding passive euthanasia the court ruled that a decision to discontinue life support can be taken either by the parents or the spouse or other close relatives, or in the absence of any of them, even by a person or a body of persons acting as a next friend or in their absence by the doctors attending the patient, subject to approval of the High Court.

***Common Cause (A Regd. Society) vs. Union of India*³²:**

"The judgment laid down detailed procedural safeguards for implementing passive euthanasia.

A five-judge Constitution Bench ruled that the right to die with dignity is an intrinsic part of the right to life under Article 21.

The Court also recognised the concept of a living will or advance directive, allowing individuals to state in advance that life-sustaining treatment should be withdrawn if they fall into a terminal illness or a persistent vegetative state.

In 2023, another Constitution Bench of the Supreme Court modified the guidelines issued in the Common Cause judgment. The Court simplified the procedure for implementing passive euthanasia by introducing timelines for medical boards and reducing the procedural role of the judicial magistrate."

" Supreme Court's guidelines seek to balance these ethical concerns by combining medical evaluation, legal safeguards, and family consent, thereby providing a humane approach to end-of-life care while preventing misuse."

Constitutionality of Death Penalty:

In the context of Indian jurisprudence, landmark cases such as *Bachan Singh v. State of Punjab*³³ and *Mithu v. The state of Punjab*³⁴ has shaped the legal landscape surrounding

³² Common Cause (A Regd. Society) vs. Union Of India AIR 2018 SC 1665

³³ Bachan Singh v. State of Punjab (1982) 3 SCC 24

³⁴ Mithu v. State of Punjab 1983 AIR 473

capital punishment.

The Supreme Court of India, in the *Bachan Singh's* case, upheld the constitutional validity of the death penalty while introducing the 'rarest of rare' doctrine, which mandates that capital punishment should only be imposed in the most exceptional cases involving extreme culpability; cases where the alternative option of life imprisonment would be unquestionably inadequate. The judgment laid down guidelines for the imposition of the death penalty, emphasizing the need for a careful consideration of aggravating and mitigating circumstances in each case.

Subsequent judgments have further refined the application of this doctrine, emphasizing the need for individualized sentencing and consideration of mitigating factors, as was also stated in *Mithu's* case.

In the case of *Machhi Singh v. State of Punjab*³⁵, the Supreme Court further clarified the principles laid down in *Bachan Singh's* case regarding the application of the death penalty. The court reiterated the 'rarest of rare' doctrine and provided a framework for evaluating the circumstances that warrant the imposition of capital punishment. The judgment emphasized the importance of considering the specific facts and circumstances of each case before sentencing an individual to death.

The constitutional validity of capital punishment was in particular looked into in the case of *Jagmohan Singh v. State of Uttar Pradesh*³⁶. The contention raised was that the capital punishment is violative of Article 19 and 21 of the Constitution of India as it did not provide any procedure, and the procedure provided under the Criminal Procedure Code was limited to finding of guilt and not awarding death sentence.

The Apex Court, herein, observed that, the choice of death was in accordance to law and the choice between life imprisonment and death penalty can be made by the judge in regards to the facts, circumstances and nature of the offence committed. The constitutional bench gave an unanimous decision and upheld the validity of death penalty and that it does not violate Articles 14, 19 and 21 of the Constitution of India.

³⁵ *Machhi Singh v. State of Punjab* 1983 AIR 957

³⁶ *Jagmohan Singh v. State of Uttar Pradesh* 1973 AIR 947

Recognition of Transgender Persons as a Third Gender:

*National Legal Services Authority vs Union of India & Ors.*³⁷

Held:

- Gender identity is integral to the dignity of an individual and is at the core of “personal autonomy” and “self-determination” and Article 14, 19 and 21 of the Constitution within their sweep include transgender and are not as such limited to male or female gender.
- Eunuchs, therefore, have to be considered as Third Gender, over and above binary genders under our Constitution and the laws.
- The apex Court directed the Centre and the State Governments to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments.

Decriminalising Homosexuality:

*Navtej Singh Johar vs. Union of India*³⁸

- A **five-judge SC bench** gave a historic, unanimous decision on Section 377 of the Indian Penal Code, decriminalising homosexuality.
- The S.C ruled that sexual orientation is an intrinsic element of liberty, dignity, privacy, individual autonomy and equality and that intimacy between consenting adults of the same-sex is beyond the legitimate interests of the state.
- Section 377 was the product of the Victorian era, with its attendant moral values. Victorian morality must give way to constitutional morality.
- That insofar as Section 377 criminalises consensual sexual acts of adults (i.e. persons above the age of 18 years who are competent to consent) in private, is violative of Articles 14, 15, 19, and 21 of the Constitution.

³⁷ National Legal Services Authority vs Union of India & Ors. (2014)

³⁸ Navtej Singh Johar vs. Union of India, (2018) 10 SCC 1(2018)

Right to Privacy a Fundamental Right under Article 21:

*Justice K.S. Puttaswamy (retd.) Vs. Union of India and ors.*³⁹

- In this case, popularly known as **Aadhaar Case**, the SC held that privacy is a constitutionally protected right which emerges primarily from the guarantee of life and personal liberty in Article 21 of the Constitution.

- Further held that elements of privacy also arise in varying contexts from the other facets of freedom and dignity recognised and guaranteed by the fundamental rights contained in Part III

Reservation:

"The first major case on reservation, *State of Madras v. Champakam Dorairajan*⁴⁰, dealt with the issue of caste-based reservations in educational institutions. The Supreme Court ruled that caste-based reservations in admissions violated Article 15(1) of the Indian Constitution, which guarantees equality before the law.

Key Ruling: The Court struck down the Madras Government's policy of reserving seats in educational institutions based on caste, as it violated the equality clause. The case led to the First Amendment of the Constitution, which inserted Article 15(4). This article empowered the state to make special provisions for the advancement of socially and educationally backward classes, Scheduled Castes, and Scheduled Tribes."

While the judgement was overturned by the constitutional amendment, it marked the beginning of judicial scrutiny of reservation policies

In *M.R. Balaji v. State of Mysore*⁴¹

The Court ruled that a reservation exceeding 50% in educational institutions was unconstitutional. The judgement established the principle that reservation should not exceed the 50% cap unless there were extraordinary circumstances that justified exceeding this limit.

The decision set a significant precedent by imposing a 50% ceiling on reservations, which

³⁹ Ibid 5

⁴⁰ State of Madras v. Champakam Dorairajan 1951 AIR 226

⁴¹ M.R. Balaji v. State of Mysore (1962)

continues to shape state policies on affirmative action.

50% Threshold in Reservations and Exclusion of ‘Creamy Layer’

The *Indra Sawhney v. Union of India*,⁴² often referred to as the **Mandal Commission Case**, is one of the most significant Supreme Court judgements on reservations

The Supreme Court upheld the implementation of 27% reservation for OBCs in government services and educational institutions, but with a crucial exception—the creamy layer (the more advanced members of the OBCs) should be excluded from the benefits of reservation. The Court also reaffirmed that total reservation in any public institution should not exceed 50%, except in exceptional circumstances.

Article 21A- Right to Education

The right to life and personal liberty was later expanded by the Supreme Court to include the right to education as a component of the right to life. The *86th Amendment (2002)* inserted **Article 21-A**, making the right to education for children aged 6 to 14 a fundamental right, enforceable by law. It also amended Article 45 to focus on early childhood care and education.

***Mohini Jain v. State of Karnataka (1992)*⁴³**

The issue in this case was the imposition of capitation fees by private medical colleges, which effectively made education a commodity. The Supreme Court declared that charging capitation fees violated the right to education under Article 21 and the principle of equality under Article 14.

This was the first time the Court recognised the right to access education without being subjected to excessive or discriminatory financial burdens. The judgement further reinforced the idea that education must be free from commercial exploitation.

***Unni Krishnan, J.P. v. State of Andhra Pradesh*⁴⁴**

In this major decision, the Supreme Court held that the right to education is a fundamental

⁴² *Indra Sawhney & Ors. v. Union of India* AIR 1993 SC 477

⁴³ *Mohini Jain v. State of Karnataka* 1992 AIR 1858

⁴⁴ *Unni Krishnan, J.P. v. State of Andhra Pradesh* 1993 AIR 2178

right under Article 21, but it extended this right only to children aged 6 to 14 years. The Court ruled that children within this age group have the right to free education, but beyond this, the state's duty is constrained by its economic capacity. This judgment established the constitutional basis for the right to free and compulsory education and directly influenced the later enactment of the Right to Education Act, 2009.

Equal Pay for Equal Work

*Randhir Singh v. Union of India*⁴⁵ is a landmark Supreme Court of India judgement that established the doctrine of "equal pay for equal work" as an enforceable fundamental right. The Court ruled that denying equal pay for identical duties and responsibilities violates the right to equality under Articles 14 and 16 of the Constitution.

5.3 GENDER JUSTICE

***Mohd. Ahmed Khan v Shah Bano* ⁴⁶ : A Milestone in the Journey of Gender Justice**

- Petitioner Shah Bano Begum prayed for grant of maintenance under Section 125 of Cr.P.C.
- The Constitution Bench of the apex Court considering the provision of Section 125 of the Cr.P.C., opined that the said provision is truly secular in character and is different from the personal law of the parties.
- The Court further held that such provisions are essentially of a prophylactic character and cut across the barriers of religion.
- The Court also held that the liability imposed by Section 125 to maintain close relatives, who are indigent, is founded upon the individual's obligation to the society to prevent vagrancy and destitution.

Preventing Sexual Harassment at Workplace:

***Vishaka vs. State of Rajasthan*⁴⁷**

Bhanwari Devi, a social worker from Rajasthan, was brutally gang-raped by five men for

⁴⁵ *Randhir Singh v. Union of India* (1982) SCR (3) 298

⁴⁶ *Mohd. Ahmed Khan v Shah Bano* 1985 (2) SCC 556

⁴⁷ *Vishaka vs. State of Rajasthan*, (1997) 6 SCC 241

preventing a child marriage.

- The trial court acquitted all five accused.
- Vishaka, a Group for Women's Education and Research, took up the cause of Bhanwari Devi and filed a petition before the Supreme Court on the issue of sexual harassment at the workplace.
- On August 13, 1997, the apex Court issued guidelines that defined sexual harassment and put the onus on the employers as well as other responsible persons or institutions to provide a safe working environment for women.
- These guidelines are called 'Vishaka Guidelines'. These were to be considered law until appropriate legislation was enacted.

Triple Talaq Unconstitutional:

***Shayara Bano vs Union of India and Ors.* ⁴⁸ (5 Judge Bench)**

- The Court held by a majority of 3:2 that triple 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.

Entry of Females in Sabrimala Temple

***Indian Young Lawyers Association vs. The State of Kerala*⁴⁹**

- In Sabrimala Temple- a Hindu pilgrimage centre in Kerala, female devotees between the age group of 10 to 50 years were denied entry on the basis of certain custom and usage.
- A Constitution bench of the apex Court led by CJI Dipak Misra overruled the Kerala High Court's 27-year-old decision that had upheld the restriction on entry of women into the temple.

⁴⁸ Shayara Bano vs Union of India and Ors.(2017)

⁴⁹ Indian Young Lawyers Association vs. The State Of Kerala (2018)

- The court said, “The dualism that persists in religion by glorifying and venerating women as goddesses on one hand and by imposing rigorous sanctions on the other hand in matters of devotion has to be abandoned. Such a dualistic approach and an entrenched mindset results in indignity to women and the degradation of their status.”

Sec. 497 IPC Unconstitutional:

***Joseph Shine vs. Union of India*,⁵⁰**

- The apex Court struck down Section 497 of IPC which criminalised adultery holding that it is violative of Articles 14, 15 and 21 of the Constitution.
- The Supreme Court called the law unconstitutional because it “treats a husband as the master”.
- The Court held- “Any provision of law affecting individual dignity and equality of women invites the wrath of the Constitution. It’s time to say that the husband is not the master of the wife. Legal sovereignty of one sex over other sex is wrong”

5.4 INDEPENDENCE OF JUDICIARY

First Judges Case -‘in consultation’ – Interpretation

***S P Gupta Vs. Union of India And Ors*-⁵¹ [First Judges Case(1981)]**

In this cast the S.C. was called upon to examine as to what does the word “consultation” in Article 124(2) and in Article 217(1) of the Constitution actually imply?

- The apex court held by a majority of 4-3 that in the appointment of a judge of the Supreme Court or the High Court, the word “consultation” in Article 124(2) and in Article 217(1) of the Constitution does not mean “concurrence” however the “consultation” with the CJI must be full and effective.
- The apex Court rejected the idea that the CJI’s opinion should have primacy. and held that In the event of a disagreement, the “ultimate power” would rest with the Union Government and

⁵⁰ Joseph Shine vs. Union of India, (2019) 3 SCC 39

⁵¹ S P Gupta Vs. Union of India And Ors. AIR 1982 SC 149

not the CJI.

Second Judges Case - Birth of Collegium System

*Supreme Court Advocates on Record Association Vs. Union of India*⁵²

- This verdict gave birth to the concept of Collegium System.
- A **9 Judges Bench** of the apex Court re-examining the view expressed in the First Judges case by a majority of 7:2 ruled that Articles 124 and 217 of the Constitution had to be interpreted in a “purposive and contextual” manner.
- The Court held that there should be a collegium consisting of Chief Justice and two other senior most judges of the Supreme Court for making proposal and appointment of judges.
- The apex Court held that in the event of conflict between the President and the CJI with regard to appointments of Judges, it was the Chief Justice of India whose opinion would not only have primacy, but would be determinative in the matter.

Third Judges Case-Strengthening of Collegium:

*In Re Special Reference Case*⁵³

- This case arose out of a reference made by the President of India under Article 143 of the Constitution for advisory opinion of the Supreme Court.
- A **nine-Judge bench** of the Supreme Court delivered a unanimous opinion and reaffirmed its verdict rendered in second Judges case (1993).
- The only thing that this reference introduced from the Second Judges case was to increase the number of the judges in the collegium.
- The collegium was now to consist of the CJI and the four other senior most judges of the

⁵² Supreme Court Advocates on Record Association Vs. Union of India (1993) 4 SCC 441

⁵³ In Re Special Reference Case AIR 1999 SC 1

Supreme Court.

Fourth Judges Case:

- ***Supreme Court Advocates-on-Record Association v. Union of India*, ⁵⁴ [‘NJAC Case’]**
- The **Constitution (Ninety-Ninth Amendment) Act, 2014** and the **NJAC Act, 2014** sought to replace the Collegium system with the National Judicial Appointments Commission (NJAC), a body comprising of the CJI, two senior judges, the Law Minister and “two eminent personalities” appointed by the Prime Minister, Leader of Opposition and CJI.
- The constitutional validity of the Ninety-Ninth Constitutional amendment and NJAC Act, 2014, was challenged before the apex Court.
- A constitution bench of five Judges with a majority of 4:1 struck down the Ninety-Ninth Constitutional Amendment Act and the NJAC Act as unconstitutional holding that the constitution of the Commission will amount to an infringement of judicial independence and a violation of the separation of powers.

5.5 CONSTITUTIONAL DEMOCRACY AND EMERGENCY

Election Reforms: Right Not to Vote- NOTA Case

***People’s Union for Civil Liberties (PUCL) v. Union of India*⁵⁵**

- The S.C. dealing with the issue of election reforms held that democracy and free elections are part of the basic structure of the Constitution.
- In a parliamentary democracy A positive ‘right not to vote’ is a part of voter’s right to expression under Article 19(1)(a) and it has to be recognized and given effect to in the same manner as ‘right to vote’.
- The only way by which it can be made effectual is by providing a button in the EVMs to express that right. Therefore, the voter must be given an opportunity to choose none of the above (NOTA) button, which will indeed compel the political parties to nominate a sound

⁵⁴ Supreme Court Advocates-on-Record Association v. Union of India, [(2016) 5 SCC 1]

⁵⁵ People’s Union for Civil Liberties (PUCL) v. Union of India (2013)

candidate.

Constitutional Democracy: Election Reforms

***Lily Thomas vs Union of India & Ors.*⁵⁶**

- In this case the Supreme Court in a PIL declared sub-section (4) of Section 8 of the **Representation of the People Act, 1951**, which allowed convicted members of legislative bodies a 3 month time period for appeal against the conviction and sentencing, as ultra vires the Constitution.
- The Court ruled that Members of Parliament, Legislative Councils and Legislative Assemblies convicted of crimes where they had been awarded a minimum sentence of 2 years imprisonment would cease to be members of the house to which they were elected from the date of sentencing.

Power Under Art. 356 - Imposition of President's Rule in States

***S. R. Bommai v. Union of India*⁵⁷**

- In this judgement, the SC attempted to curb the blatant misuse of Article 356 of the Constitution of India, which allowed President's rule to be imposed in States.
- The first and most important question which the Supreme Court had to determine was whether the Presidential Proclamation under Article 356 was justifiable and if so to what extent.
- Answering the question the apex Court held, the Judicial Review will involve three questions only:
 - Is there any material behind the proclamation?
 - Is the material relevant?
 - Was there any mala fide use of power?

⁵⁶ Lily Thomas vs Union of India & Ors., (2013) 7 SCC 653

⁵⁷ Ibid.27

- The majority enjoyed by the Council of Ministers shall be tested on the floor of the House.

5.6 ENVIRONMENTAL PROTECTION

*MC Mehta v. Union of India*⁵⁸

- In this case, popularly known as the ‘**Oleum gas leak case**’, the Supreme Court disapproved the ‘Strict Liability’ test enunciated in the English case of *Rylands v. Fletcher* for deciding the liability of an enterprise engaged in a hazardous or inherently dangerous activity and propounded the principle of ‘**Absolute Liability**’.
- The Court held that in the case of industries engaged in hazardous or inherently dangerous activities, absolute liability was to be followed.
- It also said that the amount of compensation must be correlated to the magnitude and capacity of the industry so that it will be a deterrent.

6. RECENT LANDMARK INTERPRETATIONS

Keeping a track of interpretation of constitutional laws by the judiciary in the past few months we will find that the Indian judiciary has provided various landmark interpretations regarding fundamental parts of the Constitution. The recent landmark interpretations of the Supreme Court reflect a dynamic engagement between constitutional text, social change, and legislative intent, producing precedents that reshape governance, rights, and statutory application. These decisions clarify ambiguous provisions, reconcile competing values, and establish guiding principles that lower courts and public authorities must follow under Article 141 of the Constitution

From allowing the first ever euthanasia case to mention the untouched topics of human rights like paternity relief and female genital mutilation- SC has made various new development in understanding the constitution with wider perspective.

- **SC Allows First Passive Euthanasia in the case of *Harish Rana v. Union of India*⁵⁹.**

In this case the Supreme Court permitted passive euthanasia by allowing withdrawal of

⁵⁸ M.C. Mehta v. Union of India AIR 1987 SC 1086

⁵⁹ Harish Rana v. Union of India (2026)

life support, marking the first application of the 2018 Common Cause judgment recognising the right to die with dignity. Harish Rana, a 32-year-old man in a permanent vegetative state for over 13 years, permitting withdrawal of life-sustaining treatment under medical supervision. The ruling applies earlier guidelines recognising the right to die with dignity under Article 21, marking India's first court-approved implementation of passive euthanasia.

It emphasized that withdrawal must be carried out in a humane manner, managing pain and symptoms to ensure the patient's dignity is preserved and that it does not amount to "abandonment" of the patient.

If we look at the other recent judgments of the Supreme Court, it has been seen that it made a special emphasis on the matters of Gender Justice, equality and especially bodily autonomy of women in India. Bodily autonomy is one of the major concern issues in India, as women has to depend on others for decisions which are regarding their own body whether it's abortion rights or menstrual rights.

- In the latest ***Sabrimala Reference Case***, a **9 Judges Bench** has been constituted to review the landmark judgment of **7 Judges Bench** provided in the case of ***Indian Young Lawyer Association v. State of Kerala*** popularly known as **Sabrimala Case**. The reference case is generally focused on the conflict between the right to equality and the religious rights of people. Despite of this, in this case SC orally voiced concern about **Female Genital Mutilation (FGM)** among the section of Dawoodi Community.
- **Right to Menstrual Health:**

In the case of ***Dr. Jaya Thakur v. Government of India and ors.***⁶⁰ The Supreme Court has declared Menstrual Health and Hygiene (MHH) an integral part of the right to life, dignity, bodily autonomy, equality, and education under Articles 21 and 14, transforming it from a welfare concern into a binding constitutional entitlement. The judgment mandates free sanitary products, functional gender-segregated toilets, safe waste disposal sensitisation of students and teachers, and strict accountability, while exposing major implementation challenges in infrastructure, funding, and social

⁶⁰ Dr. Jaya Thakur v. Government of India and ors (2026)

attitudes.

The Court ruled that the inability to access MHH facilities subjects girls to "stigma, stereotyping, and humiliation", which directly violates their right to live with dignity. The SC held that MHH are inherent to a life lived with dignity, not mere survival.

The right covers bodily autonomy, privacy, and reproductive health of menstruating girls, safe waste disposal sensitisation of students and teachers, and strict accountability, while exposing major implementation challenges in infrastructure, funding, and social attitudes.

- **Maternity Leave for All Adoptive Mothers:**

This case of *Hamsaanandini Nanduri v. Union of India*⁶¹ marks an important development in Indian employment and constitutional law. It affirms that maternity protection is not limited to childbirth, but extends to caregiving, bonding, adjustment, and family integration following adoption.

SC said that - Adoptive Mothers are also entitled to maternity leave regardless of the age of the child.

Additionally the court recommended the Union Government that they should enact a law recognising paternity leave.

- *X v. S*⁶² decided by the Supreme Court - A bench **Chief Justice of India Surya Kant and Joymalya Bagchi** made the observation while refusing to entertain a curative petition filed by the government against a recent decision of the top court allowing a 15-year-old rape survivor to terminate a 30-week pregnancy.

SC asked the Union government to amend the abortion law to remove the time limit on medical termination of unwanted pregnancies in the case of minor rape victims. The Supreme Court while delivering a landmark judgement emphasised that in a gender-equal society, it is imperative that interpretation of the MTP Act and Rules consider current social realities.

⁶¹ *Hamsaanandini Nanduri v. Union of India* (2026)

⁶² *X v. S* (2026)

Chief Justice Surya Kant said the 15-year-old had already undergone the trauma of rape. She cannot be compelled to carry and give birth to a child. Her victimisation cannot remain with her for the rest of her life as a permanent scar.

“A changed social context demands a readjustment of our laws. Law must not remain static and its interpretation should keep in mind the changing social context and advance the cause of social justice”.

This judgement and the recent Amendment Act together significantly expanded the scope of abortion rights in India.

Apart from this Supreme Court in their latest case of ***Padam Mehta and Anr. v. State of Rajasthan and ors.***⁶³ provides important directions that expand the **Right to Education in Regional Language**. Bench of **Justice Vikram Nath and Justice Sandeep Mehta** held that the right of a child to receive education in their mother tongue can be traced to **Article 21-A**, **Article 350-A** and **Article 19 (1)(a)** of the Constitution. And also direct that ‘Rajasthani’ should be included as a subject in all government and private schools of Rajasthan and facilitate its use as a medium of instruction in school.

In this case the judiciary provides its reasoning for interfering in the matters of implementation of New Education Policy, as this could be a case of Judicial Overreach. The SC on this says that

- This issues is not merely policy reference but also non implementation of judicial provisions (Article 350A)
- NEP itself is non statutory, yet treated as evidence of constitutional commitment.

These recent Supreme Court decisions show a living Constitution in action: the Court is actively interpreting fundamental rights to address contemporary social realities and gaps in legislative and administrative delivery. By recognizing passive euthanasia, expanding bodily autonomy (menstrual health, abortion access, maternity rights for adoptive mothers), flagging harmful practices like FGM, and reinforcing linguistic and educational entitlements, the judiciary has both clarified constitutional guarantees and set enforceable standards for state

⁶³ Padam Mehta and Anr. v. State of Rajasthan and ors.(2026)

action under Article 141. Together, these rulings advance dignity, equality, and substantive access to rights while signalling that laws and policies must evolve to meet current needs. At the same time, the judgments underscore an ongoing tension between judicial intervention and democratic policymaking—prompting legislatures to respond with clear, rights-consistent statutes and robust implementation so that constitutional promises translate into lived realities.

7. CRITICAL ANALYSIS

The Supreme Court's recent and historic constitutional interpretations show a pattern—judicially driven constitutional development that protects fundamental rights, fills legislative or executive gaps, and adapts the Constitution to changing social realities while creating recurring tension with democratic policy-making.

- **Expanding substantive rights:** The Court has repeatedly read Articles 14 and 21 expansively—recognizing dignity, privacy, bodily autonomy, and a right to menstrual health or assisted end-of-life choices—so rights that once were administrative or welfare concerns now attract enforceable constitutional duties from the state.
- **Filling governance gaps:** Where statutes, rules, or policies lag (sexual harassment, menstrual hygiene, educational implementation), the Court prescribes standards, procedures and remedies, effectively converting policy prescriptions into enforceable obligations.
- **Balancing competing values:** The Court uses proportionality, constitutional morality, and the basic-structure framework to reconcile clashes—between equality and religion, autonomy and state interest, or federal policy and local linguistic rights.
- **Positive appraisal:** Judicial activism here performs a corrective and protective role—securing dignity, equality and liberty for groups that face slow legislative attention; it operationalises constitutional values into concrete entitlements and procedural safeguards.
- **Cautionary note:** Persistent reliance on courts for policy delivery can undercut democratic accountability, produce uneven implementation, and strain separation-of-powers norms; Parliament and executive must respond with clear, rights-consistent legislation and implementation plans.

Role of the Judiciary

The judiciary in India has the power of judicial review and is the ultimate interpreter of the Constitution. The power of judicial review enables the judiciary to declare a law unconstitutional if it is found to be in violation of the Constitution. This power ensures that the Constitution is protected and upheld by the judiciary.

The judiciary has interpreted the Constitution to ensure that the provisions of the Constitution are implemented effectively.

- **Judicial Review:** One of the most important roles of the judiciary in shaping and interpreting the Constitution of India is through the power of judicial review.
 - The judiciary has the power to review any law or executive action that it considers to be in violation of the provisions of the Constitution. This power is exercised through the process of judicial review, which is the power of the judiciary to declare a law or executive action unconstitutional.
 - This power of judicial review has been instrumental in shaping the Constitution of India and ensuring that the provisions of the Constitution are implemented effectively.
- **Judicial Activism:** The Indian judiciary has been instrumental in shaping the Constitution through its activism. The judiciary has been proactive in interpreting the Constitution to ensure that the provisions of the Constitution are implemented effectively and to ensure that the rights and freedoms of citizens are protected.
- **Judicial Overreach:** The line between Judicial activism and Judicial Overreach is very narrow. In simple terms, when Judicial activism crosses its limits and becomes Judicial adventurism it is known as Judicial Overreach. When the judiciary oversteps the powers given to it, it may interfere with the proper functioning of the legislative or executive organs of government. Judicial Overreach destroys the spirit of separation of powers.
- There is a thin line between activism and overreach. While judicial activism is considered positive to supplement the failings of the executive, the overreach into the

executive's domain is considered an intrusion into the proper functioning of democracy. Just as independence of the judiciary is part of basic structure, the primacy of the legislature in policy making is also part of basic structure and interference by the courts into their domain is not justified.

- Recent **NCERT Textbook Controversy and Judicial Scandal Allegations** has taken into consideration suo moto by SC. In the case of *In Re. Social Science Textbook for Grade 8 (Part- 2) published by NCERT and ancillary issues (2026)*, the SC prima facie observed that the publication may amount to nominal contempt, if found to be a deliberate attempt to scandalize the judiciary.
- First, pedagogically and constitutionally, flagging structural problems in the judiciary (backlog, resource gaps, and isolated but serious instances of corruption) is not per se wrong; it is, in fact, an honest part of teaching democratic institutions. Young citizens should be aware that no institution is beyond criticism, including the judiciary, and that accountability is a core constitutional value. Treating the judiciary as immune from structural critique in school textbooks risks fostering deference rather than a critical, informed citizenry.
- Second, the Supreme Court's reaction—labelling the chapter a “deep-rooted, well-planned conspiracy” and imposing a blanket ban on the book, seizures, and even show-cause notices—carries a strong risk of over-sensitiveness and institutional self-aggrandisement. While the Court is rightly protective of its reputation, intervening to suppress a school-level discussion on judicial challenges, rather than clarifying or contextualising it, can appear disproportionate and may chill academic freedom and honest curriculum-writing.
- A more balanced approach would have been to direct NCERT to revise the chapter with factual accuracy, nuance, and positive examples of judicial reforms; and frame the discussion as part of constitutional citizenship education—teaching students how to criticise institutions constructively, not whether they may criticise at all.
- In short, the real problem lies not in mentioning judicial flaws but in the excessive institutional response: a hyper-defensive reaction that treats mild, age-appropriate critique as a threat to the judiciary's integrity, thereby undermining the very spirit of

open, democratic discourse that the Constitution itself protects

8. CONCLUSION

The Indian Constitution's broad and open-textured language has, over time, functioned less as a rigid, fixed code and more as a dynamic framework through which the Supreme Court has progressively refined and expanded the meaning of core constitutional values. By consistently interpreting Article 21 as a substantive guarantee of "life" that includes dignity, well-being, and social justice, the Court has transformed what was once a narrow protection against arbitrary deprivation of life into a rich reservoir of rights encompassing livelihood, privacy, a clean and healthy environment, access to healthcare, housing, and—in recent years—gender justice and bodily autonomy. This expansion has not been doctrinal indulgence; it has responded to social realities where weak implementation of welfare and civil rights would otherwise leave the poor, women, and marginalised groups vulnerable to state and non-state power.

Equally significant has been the Court's development of the Basic Structure Doctrine in *Kesavananda Bharati* (1973), which has effectively redefined the relationship between Parliament and the Constitution. By holding that certain foundational features—such as constitutional supremacy, separation of powers, federalism, and the independence of the judiciary—cannot be destroyed even by an amendment passed with a two-thirds majority, the Court has erected a doctrinal bulwark against majoritarian overreach. This doctrine has protected constitutional democracy from being hollowed out by transient political majorities, ensuring that the judiciary itself remains a viable check on legislative and executive dominance. In this sense, the Court has used the Constitution's broad language not to usurp democratic politics, but to preserve its very architecture.

The introduction and evolution of Public Interest Litigation (PIL) further illustrate how expansive interpretation can democratise access to justice. PIL has allowed citizens, activists, and even the Court *suo motu* to raise claims on behalf of those who cannot approach the formal legal system, turning constitutional rights into effective tools for social reform. From environmental protection to prison reform, from child rights to disability justice, PIL has enabled courts to intervene in systemic failures, compelling the executive to act where it would otherwise procrastinate or neglect. This has, admittedly, generated debates about the limits of judicial governance, but it has also demonstrated that a broad constitutional text can be a

vehicle for remedying structural injustice.

At the same time, the Court's persistent use of judicial review to strike down or invalidate arbitrary, disproportionate, or unconstitutional exercises of state power reinforces the idea that the Constitution limits all organs of government, not just the elected ones. Whether in reviewing executive action, legislative overreach, or subordinate legislation, the Court has used the Constitution's wide language to ensure that state power is exercised within rational, fair, and rights-consistent boundaries. This has generated a healthy tension between the judiciary and other branches, often framed as a debate over "judicial activism" versus "judicial restraint," but the broader outcome has been a more robustly rights-based constitutional order.

In sum, the hypothesis that the Indian Constitution's broad language has empowered the Supreme Court to evolve its meaning through landmark judgments is fully justified. The Court has not merely interpreted the document statically; it has interpreted it progressively—expanding Article 21 into a dignity-laden catalogue of human rights, anchoring democratic stability through the Basic Structure Doctrine, democratising justice through PIL, and reinforcing judicial review as a check on arbitrary power. These developments show that the Constitution's open-endedness, far from being a weakness, has become its greatest strength: a flexible yet principled framework that allows the judiciary to adapt constitutional meaning to changing social, political, and moral contexts, while still remaining within the larger constitutional compact.

9. REFERENCES

Primary Sources -

- Constitution of India, 1950 (as amended up to latest notifications).
- Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461.
- Maneka Gandhi v. Union of India, AIR 1978 SC 597.
- Indira Nehru Gandhi v. Raj Narain, AIR 1975 SC 2299.
- Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789.
- S.R. Bommai v. Union of India, AIR 1994 SC 1918.
- M. Nagaraj v. Union of India, (2006) 8 SCC 212.
- I.R. Coelho v. State of Tamil Nadu, (2007) 2 SCC 1.
- NALSA v. Union of India, (2014) 5 SCC 438.
- Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.
- Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.
- Joseph Shine v. Union of India, (2018) 10 SCC 351.
- Common Cause v. Union of India, (2018) 5 SCC 1.
- Latest landmark judgments on bodily autonomy, abortion, euthanasia, men-strual health, and education-language (cite as per year and SCC/other reporter, e.g., for 2025–26).

Secondary Sources (Books and Edited Volumes)-

- H.M. Seervai, Constitutional Law of India, 4 vols., Universal Law Publishing, latest ed.

- V.N. Shukla, Constitution of India, Eastern Book Company, latest ed.
- Granville Austin, The Indian Constitution: Cornerstone of a Nation, Oxford University Press, 1966 (reprinted with later editions).
- Granville Austin, Working a Democratic Constitution: The Indian Experience, Oxford University Press, 1999.
- Upendra Baxi, The Indian Supreme Court and Politics, Eastern Book Company, 1980.
- Upendra Baxi, The Promise of Human Rights Jurisprudence: The Indian Experience, Permanent Black, 2018.
- Sudhir Krishnaswamy, Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine, Oxford University Press, 2009.
- Zoya Hasan (ed.), Social Justice and the Constitution of India, Oxford University Press, 2020.
- Arvind Narrain & Jayna Kothari (eds.), Sexuality, Gender and the Law, Sage Publications, latest ed.
- Gautam Bhatia, The Transformative Constitution: A Radical Biography in Nine Acts, HarperCollins, 2019.
- Tarunabh Khaitan, A Theory of Discrimination Law, Hart Publishing, 2015 (for comparative equality-rights analysis).

Journal Articles and Law-Review Pieces

- Baxi, Upendra, “The Judiciary in India: Role in the Transformation of the Constitution”, Indian Journal of Law and Politics, 1975.
- Dwivedi, Satya, “The Basic Structure Doctrine: A Constitutional Safeguard”, Indian Journal of Constitutional Law, Vol. X, 2015.

- Gonsalves, Joel, “The Gold-Trigram of Articles 14, 19 and 21: Jurisprudential Evolution”, *Journal of the Indian Law Institute*, Vol. XX.
- Nath, Arvind, “Judicial Interpretation and the Living Constitution: The Indian Experience”, *National Law School Journal*, 2020.
- Choudhry, Sujit, “The Indian Supreme Court and the Politics of Constitutional Interpretation”, *Harvard Law Review*, 2008.

Reports, Institutional Publications, and Online Materials

- Supreme Court of India, Landmark Judgment Summaries (available at: <https://www.sci.gov.in/landmark-judgment-summaries/>).
- National Judicial Academy, Landmark Judgments of the Supreme Court of India – Plain Language Notes (PDF, 2019–20).
- Ministry of Education / NCERT, Constitution of India: Text, Context and Interpretation (relevant NCERT and NUEPA-type publications).
- Legal-blog and commentary pieces on landmark judgments (e.g., LegalRath, Lawctopus, Bar & Bench, LiveLaw), if used for background or policy-context (e.g., How Supreme Court Judgments Shaped the Indian Constitution, LegalRath, 2026).
- Online databases: SCC Online, Manupatra, IndianKanoon (for citation of specific judgments and case-notes).