



# LANDMARK SUPREME COURT JUDGEMENTS



## IMPORTANT JUDGEMENTS OF SUPREME COURT

### STATE UNDER ARTICLE 12

#### **Text of Article 12**

State as provided under Article 12 of the Constitution has four components:

( a ) The Government and Parliament of India-

Government means any department or institution of department. Parliament shall consist of the President, the House of People and Council of States

( b ) The Government and Legislature of each State

State Legislatures of each State consist of the Governor, Legislative Council and Legislative Assembly or any of them.

( c ) Local Authorities within the territory of India

Authority means

( i ) Power to make rules, bye- laws, regulations, notifications and statutory orders.

( ii ) Power to enforce them.

Local Authority means Municipal Boards, Panchayats, Body of Port Commissioners and others legally entitled to or entrusted by the government, municipal or local fund.

( d ) Other Authorities

Authorities other than local authorities working

( i ) Within the territory of India or;

( ii ) Outside the territory of India.

<b>Rupa Ashok Hurra vs Ashok Hurra (2002)</b>	Judiciary is under the meaning of state only when performing administrative functions not judicial Function.
<b>Zee tele-flims vs UOI (BCCI case) (2015)</b>	BCCI does not come under the definition of state under article 12. BCCI is not financially, functionally and administratively controlled by the government cumulatively and so it cannot be held as a State.
<b>R. D. Shetty's case</b>	<p><b>This case enumerated the following five factors, which would determine whether a body comes under the definition of State as defined in Article 12 of the Constitution:</b></p> <ol style="list-style-type: none"> <li>1. Financial assistance given by the State and magnitude of such any other forms of assistance whether of the usual kind or extraordinary.</li> <li>2. Control of management and policies of the corporation by the State, nature and extent of control.</li> <li>3. State conferred or State protected monopoly status.</li> <li>4. Functions carried out by the corporation closely related to governmental functions (reaffirmed by court in Zee Telefilms v Union of India).</li> </ol>
<b>University of Madras v/s Santa Bai</b>	The Madras High Court evolved the principle of ejusdem generis i.e. of the like nature. It means that those authorities are covered under the expression 'other authorities which perform governmental or sovereign functions.
<b>Union of India v/s R.C.Jain</b>	to be a local authority, an authority must fulfill the following tests- ( i ) Separate legal existence.

	<p>( ii ) Function in a defined area.  ( iii ) Has power to raise funds.  ( iv ) Enjoys autonomy.  ( v ) Entrusted by a statute with functions which are usually entrusted to municipalities.</p>
<b>Rati Lal v/s State of Bombay,</b>	It was held that the judiciary is not State for the purpose of Article 12.
<b>A.R.Antulay v/s R.S.Nayak and N.S.Mirajkar v/s State of Maharashtra</b>	it has been observed that when rule making power of judiciary is concerned it is State but when exercise of judicial power is concerned it is not State
<b>RELATED TO AMENDMENT AND BASIC STRUCTURE</b>	
<b>- Shankari Prasad Vs Uoi ( 1952 )</b>	parliament can amend FR
<b>-Sajjan Singh Vs State Of Rajasthan</b>	
<b>I.C. Golaknath Vs State Of Punjab (1967)</b>	legislature does not enjoy the power to amend part III of the constitution
<b>Kesavananda Bharati Vs State Of Kerala(1973)</b>	<p>parliament could amend any part of the constitution , so long it did not alter the basic or essential feature of the cons.</p> <div style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> <li># Supremacy of the Constitution</li> <li># Republican and democratic form of government</li> <li># Secular character of the Constitution</li> <li># Separation of powers between the legislature, executive and the judiciary</li> <li># Federal character of the Constitution</li> <li># The mandate to build a welfare state contained in the Directive Principles of State Policy</li> <li># Unity and integrity of the nation</li> <li># Sovereignty of the country.</li> <li># Sovereignty of India</li> <li># Democratic character of the polity</li> </ul> </div>

	<p># Unity of the country          # Essential features of the individual freedoms secured to the citizens          # Mandate to build a welfare state          # Sovereign democratic republic          # Justice - social, economic and political          # Liberty of thought, expression, belief, faith and worship          # Equality of status and opportunity.</p>
<b>Minerva Mills Vs Uoi (1980)</b>	<p>Judicial review and balance b/w FR and DPSP as part of basic structure</p> <p>It was ruled by the court that a limited amending power itself is a basic feature of the Constitution.</p>
<b>Election case verdict</b>	<p>Justice Y.V. Chandrachud listed four basic features which he considered unamendable:</p> <ul style="list-style-type: none"> <li># Sovereign democratic republic status</li> <li># Equality of status and opportunity of an individual</li> <li># Secularism and freedom of conscience and religion</li> <li># 'government of laws and not of men' i.e. the rule of law</li> </ul>
<b>L Chandra Kumar case</b>	<p>the power of judicial review over legislative action vested in the High Courts under Article 226 and in the Supreme Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure".</p>

## 9TH SCHEDULE

The Schedule contains a list of central and state laws which cannot be challenged in courts and was added by the Constitution (First Amendment) Act, 1951.

- The first Amendment added 13 laws to the Schedule. Subsequent amendments in various years have taken the number of protected laws to 284 currently.

It was created by the new Article 31B, which along with Article 31A was brought in by the government to protect laws related to agrarian reform and for abolishing the Zamindari system.

- While Article 31A extends protection to 'classes' of laws, Article 31B shields specific laws or enactments.
- While most of the laws protected under the Schedule concern agriculture/land issues, the list includes other subjects.

Article 31B also has a retrospective operation which means that if laws are inserted in the Ninth Schedule after they are declared unconstitutional, they are considered to have been in the Schedule since their commencement, and thus valid. Although Article 31B excludes judicial review, the apex court has said in the past that even laws under the Ninth Schedule would be open to scrutiny if they violated Fundamental Rights or the basic structure of the Constitution.

<b>Keshavananda Bharati v. State of Kerala (1973)</b>	<p>The court upheld the judgement in Golaknath and introduced a new concept of “Basic structure of the Indian Constitution” and stated that, “all provisions of the constitution can be amended but those amendments which will abrogate or take away the essence or basic structure of constitution which included Fundamental Rights are fit to be struck down by the court”.</p>
<b>Waman Rao Case (1981)</b>	<p>The decision drew a line of difference between Acts placed under the Ninth Schedule prior to the Kesavananda decision and Acts placed under the Ninth Schedule after the Kesavananda decision.</p> <p>The court decided that all laws placed under the Ninth Schedule prior to the Kesavananda judgement cannot be called into question for violating Fundamental Rights, but laws enacted after the judgement can be brought before a court of law. It is also known as the 'Doctrine of Prospective Overruling.'</p>
<b>I.R Coelho and State of Tamil Nadu (2007)</b>	<p>This judgement said that even though a law is listed in the 9th Schedule, it can still be scrutinised and challenged in court. The 9th Schedule contains a list of acts and legislation that cannot be challenged in court</p>

## SEPERATION OF POWER [SOP]

Separation of powers divides the mechanism of governance into three branches i.e. Legislature, Executive and the Judiciary. Although different authors give different definitions, in general, we can frame three features of this doctrine.

1. Each organ should have different persons in capacity, i.e., a person with a function in one organ should not be a part of another organ.
2. One organ should not interfere in the functioning of the other organs.
3. One organ should not exercise a function of another organ (they should stick to their mandate only).

### Some of Articles of the constitution:

**Article 50:** This article puts an obligation over the State to separate the judiciary from the executive. But, since this falls under the Directive Principles of State Policy, it is not enforceable.

**Articles 53 and 154:** It provide that the executive power of the Union and the State shall be vested with the President and the Governor and they enjoy immunity from civil and criminal liability.

**Articles 121 and 211:** These provide that the legislatures cannot discuss the conduct of a judge of the Supreme Court or High Court. They can do so only in case of impeachment.

**Article 123:** The President, being the executive head of the country, is empowered to exercise legislative powers (Promulgate or dinances) in certain conditions.

**Article 361:** The President and Governors enjoy immunity from court proceedings, they shall not be answerable to any court for the exercise and performance of the powers and duties of his office.

<p><b>Kesavananda Bharati vs State of Kerala (1973)</b></p>	<p>In this case, the SC held that the amending power of the Parliament is subject to the basic features of the Constitution. So, any amendment violating the basic features will be declared unconstitutional.</p>
<p><b>RAM JAWAYA VS PUNJAB 1955</b></p>	<p>an encroachment on SOP upsets the delicate balance of the Indian cons.</p>
<p><b>Indira gandhi nehru vs raj narain 1975</b></p>	<p>In the Indian constitution , there is SOP in a broad sense only . A rigid SOP as under american cons does not apply to india</p>

## CENTRE STATE

"The Indian Constitution is a federal Constitution in as much as it established what may be called a dual polity which will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution." - **D.R. Ambedkar**

**K.C. Wheare**, father of contemporary federal theories, defined federalism as "the method of dividing power so that general and regional governments are each within a sphere co-ordinate and independent." He called the Indian Constitution as quasi-federal in nature i.e., 'federation sui generis' or federation of its own kind.

<p><b>SR BOMMAI CASE 1994</b></p>	<ol style="list-style-type: none"> <li>1. power of the prez to dismiss a state govt is subject to JR</li> <li>2. Test of majority - only floor of the house</li> <li>3. should exercise the power only after his proclamation is approved by both the houses of parliament .</li> </ol>
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<p><b>H. Wadia vs ITC, Bombay</b></p>	<p>Court has held that “the legality of any extra-territorial law can only be decided in India’s domestic courts”</p>
<p><b>State of Madhya Pradesh v Union of India</b></p>	<p>The Court held that Central enactments could be only challenged as writ petitions under Article 32 and 262 of the Constitution and not under the original jurisdiction of the Court under Article 131.</p>
<p><b>NCT of Delhi vs UOI Case 2018:</b></p>	<ol style="list-style-type: none"> <li>1. Lt governor should act on aid and advice of COM.</li> <li>2. The phrase "Refer any matter" by the LT Governor to the President" does not mean" .Every matter" to the President.</li> <li>3. Lt governor is bound to act on aid and advice of COM except in case of Land, Public Order and Police.</li> <li>4. “The exercise of establishing a democratic and representative form of government for NCT of Delhi by insertion of Articles 239AA and 239AB would turn futile if the Government of Delhi that enjoys the confidence of the people of Delhi is not able to usher in policies and laws over which the Delhi Legislative Assembly has powers to legislate for the NCT of Delhi.</li> </ol>

## FREEDOM OF SPEECH

Article 19(1) (a) of the Constitution of India states that, all citizens shall have the right to freedom of speech and expression. The philosophy behind this Article lies in the Preamble of the Constitution, where a solemn resolve is made to secure to all its citizen, liberty of thought and expression. The exercise of this right is, however, subject to reasonable restrictions for certain purposes being imposed under Article 19(2) of the Constitution of India.

**The main elements of right to freedom of speech and expression are as under:**

1. This right is available only to a citizen of India and not to foreign nationals.
2. The freedom of speech under Article 19(1) (a) includes the right to express one's views and opinions at any issue through any medium, e.g. by words of mouth, writing, printing, picture, film, movie etc.
3. This right is, however, not absolute and it allows Government to frame laws to impose reasonable restrictions in the interest of sovereignty and integrity of India, security of

the state, friendly relations with foreign states, public order, decency and morality and contempt of court, defamation and incitement to an offence.

4. This restriction on the freedom of speech of any citizen may be imposed as much by an action of the State as by its inaction. Thus, failure on the part of the State to guarantee to all its citizens the fundamental right to freedom of speech and expression would also constitute a violation of Article 19(1)(a)

<b>Kedar Nath Singh case vs So Bihar 1962:</b>	Expressing disapprobation of the actions of the government without causing public disorder by acts of violence would not be penal.
<b>Romesh Thapar Case (1950):</b>	SC held that the freedom of speech and expression includes freedom of propagation of ideas that can only be ensured by circulation
<b>S. Rangarajan v.P. Jagjivan Ram</b>	Everyone has a fundamental right to form his opinion on any issues of general concern. Open criticism of government policies and operations is not a ground for restricting expression.
<b>Maneka Gandhi vs Union of India,</b>	the Supreme Court considered whether Article 19(1)(a) of Indian Constitution was confined to Indian territory and held that the freedom of speech and expression is not confined to National boundaries
<b>People's Union for Civil Liberties (PUCL) v. Union of India</b>	Reasonable restrictions can be imposed on the freedom of speech and expression, in the interest of the security of the State. The term security of state has to be distinguished from public order. For security of state refers to serious and aggravated forms of public disorder, example rebellion, waging war against the state
<b>Anuradha Bhasin v Union of India case</b>	<p>: SC stated that the right to trade over the internet was a fundamental right under the right to freedom of speech and expression. SC further held that the internet cannot be suspended for an indefinite period + Section 144 cannot be used as a tool to prevent the legitimate expression of opinion</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>In this case SC propounded "doctrine of Proportionally test":</p> <ol style="list-style-type: none"> <li>1. Legitimate action: It requires the state to show the Court that the basic aim that the restriction seeks to achieve is legitimate.</li> <li>2. Least restrictive: The state must demonstrate that it has chosen the least restrictive measure possible to achieve its purported objective.</li> </ol> </div>



3. A rational nexus: The state must establish that there exists a rational nexus between the limitation imposed and its purported aim.

## PRESS CENSORSHIP

<b>Indian Express v. Union of India,(1985)</b>	It has been held that the Press plays a very significant role in the democratic machinery. The courts have the duty to uphold the freedom of press and invalidate all laws and administrative actions that abridge that freedom.
<b>BRIJ BHUSHAN VS STATE OF DELHI 1950</b>	struck down statutes which imposed restrictions on free speech
<b>Odyssey Communications (P) Ltd .v. Lokvidayan Sanghatana</b>	the Supreme Court held that the right of a citizen to exhibit films on the State channel Doordarshan is part of the fundamental right guaranteed under Article 19(1)(a)

## STRIKE AND PROTEST

<b>TK Rangarajan vs government of TN</b>	: SC held that govt employees have no fundamental right to resort to strike. Fundamental right to strike is qualified right, means it can be taken by state through enactment of law
<b>Ramlila Maidan Incident vs Home Secretary, Union of India (2012):</b>	The Supreme Court had stated that citizens have a fundamental right to assembly and peaceful protest which cannot be taken away by an arbitrary executive or legislative action.
<b>Mazdoor Kisan Shakti Sangathan (MKSS) vs Union of India(2018):</b>	SC upheld the fundamental right to assembly and peaceful protest but ordered it to be regulated in such a way that they do not cause inconvenience to residents from Jantar Mantar road or the offices located there
<b>Shaheen Bagh Judgement</b>	<p>: 1. The court upheld the right to peaceful protest against a law but made it clear that public ways and public spaces cannot be occupied and that too indefinitely.</p> <p>2. The right to protest in a public place should be balanced with the right of the general public to move freely without hindrance.</p>

	3. Fundamental rights do not live in isolation. The right of the protester has to be balanced with the right of the commuter and has to co-exist in mutual respect.
<b>Devangana Kalita vs State) (Natasha Narwal vs State</b>	The bench commented that “the right to protest is not outlawed and cannot be termed as a ‘terrorist act’ within the meaning of the UAPA”.
<b>JUDGEMENT RELATED TO LIFE AND LIBERTY</b>	
<p>Everyone in the world has the right to life, liberty and the security of person. This is the universal truth in the world and the right to life is undoubtedly the most fundamental of all rights. All other rights add quality to the life in question and depend on the pre-existence of life itself for their operation. As human rights can only attach to living beings, one might expect the right to life itself to be in some sense primary, since none of the other rights would not have any value or utility without it. There would have been no Fundamental Rights worth mentioning if Article 21 had been interpreted in its original sense. This Article will examine the right to life as interpreted and applied by the Supreme Court of India.</p> <p>Article 21 applies to natural persons. The right is available to every person, citizen or alien. Thus, even a foreigner can claim this right. It, however, does not entitle a foreigner the right to reside and settle in India, as mentioned in Article 19</p>	
<b>Ak Gopalan Vs State Of Madras (1950)</b>	personal liberty can be taken by the state in accordance with the procedure established by law
<b>Maneka Gandhi Vs Uoi ( 1978 )</b>	Due process of law right to go abroad
<b>Kharak Singh v. State of Uttar Pradesh</b>	By the term life as here used something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by amputation of an armored leg or the pulling out of an eye, or the destruction of any other organ of the body through which the soul communicates with the outer world.

<p><b>Vishakha v. State of Rajasthan[x]</b></p>	<p>, the Supreme Court has declared sexual harassment of a working woman at her work as amounting to the violation of rights of gender equality and rights to life and liberty which is a clear violation of Articles 14, 15 and 21 of the Constitution.</p> <p><b>VISHAKA GUIDELINES</b></p> <ol style="list-style-type: none"> <li>1. All employers or persons in charge of workplace whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:</li> <li>2. Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.</li> <li>3. The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.</li> <li>4. As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.</li> <li>5. Appropriate work conditions should be provided in respect of work, leisure, health, and hygiene to further ensure that there is no hostile environment towards women at workplaces and no employee woman should have reasonable grounds to believe that she is</li> </ol>	
<p><b>Mc Mehta Vs Uoi</b></p>	<p>In M.C. Mehta v. Union of India (1988), the Supreme Court ordered the closure of tanneries that were polluting water</p> <p>In M.C. Mehta v. Union of India (1997), the Supreme Court issued several guidelines and directions for the protection of the Taj Mahal, an ancient monument, from environmental degradation</p>	
<p><b>Mohini Jain vs. the State of Karnataka, 1992 SC</b></p>	<p>The Supreme Court held that the right to life includes the right to education also.</p>	
<p><b>Unni Krishnan Vs State Of Andhra ( 1993 )</b></p>	<p>The Supreme court held the right to education is a fundamental right, as decided in Mohini Jain Case. But in such cases, the Hon'ble Supreme Court fixed the age that it is a fundamental right to the children for the age of 6 - 14 years.</p> <p>In the light of two above judgements, the parliament enacted the Free and Compulsory Education Act, 2009.</p>	

<b>Chameli Singh v. State of U.P</b>	A Bench of three Judges of the Supreme Court had considered and held that the right to shelter is a fundamental right available to every citizen and it was read into Article 21 of the Constitution of India as encompassing within its ambit, the right to shelter to make the right to life more meaningful.
<b>Hussainara Khatoon v. Home Secretary, State of Bihar</b>	<b>RIGHT TO SPEEDY TRIAL</b> The Court held that detention of under-trial prisoners, in jail for a period longer than what they would have been sentenced if convicted, was illegal as being in violation of Article 21. The Court, thus, ordered the release from jail of all those under-trial prisoners, who had been in jail for a longer period than what they could have been sentenced had they been convicted
<b>Olega Tellis vs. Bombay Municipal Corporation (B.M.C)</b>	In this case, the Supreme Court held that the right to livelihood is included in Article 21.
<b>Justice K. S. Puttaswamy Vs Uoi 2017</b>	right to privacy under Article 21
<b>Faheema Shirin Vs State Of Kerala ( 2019 )</b>	kerala HC declared the right to internet access as a FR
<b>RIGHT TO DIE WITH DIGNITY</b>	
<b>Arun Ramachandra Shanbaug Vs Uoi 2011</b>	right to die with dignity and SC recognised passive euthanasia
<b>Common Cause Vs Uoi ( 2018 )</b>	allowed individuals the right to draft a living will
<b>HUMAN RIGHTS / GENDER JUSTICE</b>	
<b>NAVTEJ SINGH JOHAR VS UOI 2018</b>	Decriminalising homosexuality

<b>NALSA VS UOI 2014</b>	eunuchs as third gender
<b>SHAH BANO CASE 1985</b>	Grant of maintenance , provisions are essentially of a prophylactic character and cut across the barriers of religion
<b>VISHAKHA VS RAJ 1997</b>	Issued guidelines on the issue of sexual harassment at the workplace
<b>shayra bano vs UOI 2017</b>	Instant triple talaq illegal
<b>joseph sine vs UOI 2018</b>	struck down section 497 of the IPC and decriminalised adultery in india  legal sovereignty of one sex over the other is wrong
<b>Naz Foundation case</b>	: Decriminalised consensual sexual conduct between adults of the same sex
<b>Suman Surpur vs Amar 2018</b>	: SC held that daughters have equal share in the property of father.Thus, it helps eliminate this inequality and prejudice against Hindu women.
<b>Arun Kumar Agarwal vs National insurance company:</b>	The SC not only acknowledged the contribution of the housewives as invaluable , but also observed that it cannot be computed in terms of money. Her services rendered with true love and affection cannot be equated with services rendered by others.

## RESERVATIONS

**Dr Ambedkar** stated that "the report of the Minorities Committee provided that all minorities should have two benefits or privileges, namely representation in the legislatures and representation in the services."

<b>STATE OF MADRAS VS CHAMPAKAM DORAIRAJAN 1951</b>	caste based reservation to be unconstitutional
<b>MR BALAJI VS STATE OF MYSORE 1963</b>	50% CAP
<b>INDRA SAWHNEY VS UOI ( THE MANDAL CASE OF 1992 )</b>	- 50% cap -creamy layer in backward classes -no reservation in promotion -reservation can be made by executive order -economic backwardness alone could not be a criteria
<b>M NAGRAJ VS UOI 2006</b>	three constitutional requirement - 1. quantifiable data on backwardness of sc / st 2. inadequacy of their representation 3. overall efficiency of admin
<b>ASHOK KUMAR THAKUR 2008</b>	CREAMY LAYER doctrine has no relevance in sc/ st reservation
<b>JARNAIL SINGH VS LACHHMI NARAIN GUPTA 2018</b>	allowed for grant of quota for promotion to sc/st without need to collect quantifiable data .
<b>ORDINANCE :</b>	
The constitution under article 123 and 213 gives the president as well as the governor the authority to pass laws in case of emergencies/cases requiring immediate effect while the parliament isn't in session, these laws passed are known as ordinances or in other words ordinances are the laws which are promulgated by the executive authority when the houses are not in sessions.	
<b>Governor</b>	<b>President</b>

1. An ordinance issued by the governor as the same effect and force as an law/act passed by the state legislature	1. The ordinance passed by the president of the nation will be treated with the same effect and force as such of an act passed by the center
2. The ordinance issuing power of the governor is coextensive of the legislative power of the state legislature, thus he can only issue ordinances on subjects with the state legislature can pass laws	2. The president's ordinance issuing power is co extensive the legislative power of the parliament, he can issue ordinance only on subjects on which parliament can pass a law
<p>The governor can't promulgate an ordinance without instructions from the president under these 3 circumstances:</p> <p>If a bill contains the same provisions that had required the previous sanction of the President for its introduction into the state legislature.</p> <p>If it would be deemed necessary to reserve a bill containing the same provisions for the consideration of the President.</p> <p>If an act of the state legislature containing the same provisions would have been invalid without receiving the President's assent.</p>	3. Apart from the exception that the president can't pass a ordinance amending the constitution, the president generally doesn't require any instruction to promulgate an ordinance.
<b>D C Wadhwa v state of Bihar</b>	This was the case in which the Supreme Court had pointed out the blatant increase of ordinances issued. There were 256 ordinances issued and all of them were also kept in force for a period of 1-14 by frequently promulgating them. The court had held that successive Re-promulgation of the ordinances having the same texts and without attempting to pass the bills will amount to a violation to the constitution of India; the court also held that the exceptional power of the executive to pass laws must not be treated as a substitute for the legislative power of the legislation.
<b>RC COOPER VS UOI 1970</b>	The Supreme Court held that the <b>President's decision to promulgate ordinance could be challenged</b> on the grounds that 'immediate action' was not required, and the ordinance had been issued primarily to bypass debate and discussion in the legislature.
<b>AK ROY VS UOI</b>	the Court argued that the President's Ordinance making power is not beyond the scope of judicial review
<b>KRISHAN KUMAR SINGH VS BIHAR 2017</b>	<p>The Supreme Court held that the authority to issue ordinances is not an absolute entrustment, but is "conditional upon satisfaction that circumstances exist rendering it necessary to take immediate action".</p> <ul style="list-style-type: none"> <li>○ It further stated that the re-promulgation of ordinances is a fraud on the Constitution and a subversion of democratic legislative processes.</li> </ul>

## PIL

Public interest litigation is not defined in any statute or in any act. It has been interpreted by judges to consider the intent of public at large. Although, the main and only focus of such litigation is only Public Interest there are various areas where a Public interest litigation can be filed. For e.g.

- Violation of basic human rights of the poor
- Content or conduct of government policy
- Compel municipal authorities to perform a public duty.
- Violation of religious rights or other basic fundamental rights

<b>Hussainara Khatoon v. State of Bihar</b>	These proceedings led to the release of more than 40,000 undertrial prisoners. Right to speedy justice emerged as a basic fundamental right which had been denied to these prisoners. The same set pattern was adopted in subsequent cases.
<b>S.P. Gupta v. Union of India.</b>	In this case it was held that any member of the public or social action group acting bonafide can invoke the Writ Jurisdiction of the High Courts or the Supreme Court seeking redressal against violation of a legal or constitutional rights of persons who due to social or economic or any other disability cannot approach the Court.
<b>MUMBAI KAMGAR SABHA 1976</b>	The seed of PIL was sown by justice krishna iyer through this landmark judgement .
<b>Citizen for Democracy v. State of Assam</b>	the S. C. declared that the handcuffs and other fetters shall not be forced upon a prisoner while lodged in jail or while in transport or transit from one jail to another or to the court or back.
<b>BANDHUA MUKTI MORCHA VS UOI 1984</b>	release of bonded labour

## GAMBLING

The Public Gambling Act, 1867 is a central law which clearly declared all gambling betting acts illegal, still in the present times it has a far-reaching black market with millions of cash involved which cannot be controlled by the government



The **Seventh Schedule Entry 34 List II** of the Indian constitution gives all the states the power to decide the laws regarding gambling. The state governments within their authority have the option to either adopt the Central Act or to device any amendments which may seem the best fit for their region. Hence many state authorities have done just that. Government-run lotteries are sanctioned in 13 states and in 5 Union territories while horse racing is legal in 6 states, and casinos are legal in just 2 states (Goa and Sikkim). In 2010, Sikkim became the only state to legalize Online Sports Betting.

<p><b>State of Bombay VS R.M.D Chamarbaugwala</b></p>	<p>SC held that in any game if “element of skill” is dominant over the “element of chance”, it can't be called as gambling. So today when the state govt is bringing a law to check online games, it is invalidated by different HC on the basis of this case.</p>
<p><b>Dr K.R. Lakshmanan vs. State of Tamil Nadu, 1996</b></p>	<p>The reason betting on horse racing is not prohibited while other types of gambling are illegal was answered in this case, where the Supreme Court recognised that Horse Racing was a game based on skill and did not come under the purview of gambling.</p>
<p><b>Haryana HC, 2019:-</b></p>	<p>Format of Dream 11 where a format is to pick 11 players from a real life match is a game of skill and does not fall within the definition of Gambling. It is supported by the Bombay High Court which says there is a difference between game of skill and Gambling.</p>

## OFFICE OF PROFIT

**Art.102 (1) (a) provides for the disqualification of the membership of either house of parliament and read it as follows:**

102. Disqualification for membership – A Person shall be disqualified for being chosen as, and for being, a member of either house of parliament –

(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;

There is a similar provision in the constitution of in the Constitution for the disqualification of members of the legislative assembly under Art.191 (1)

The expression office of profit has not been defined in the Constitution or in the Representation of People Act 1951. Its ambit has to be inferred only from the pronouncement of the courts and other competent authorities like the Election Commission and the president. The object of the provision is to secure the independence of the members of Parliament and do not contain persons who have received favours or benefits from the executive and who consequently being under an obligation to the executive might be amenable to influence.

<p><b>Kantha kathuriya vs Manakchand Surana</b></p>	<p>In the light of above mentioned discussion it becomes clear that the true test to be applied to determine whether a person holds an office of profit or not depends upon the extent of control the government exercises, whether the salary paid out of government has power to appoint or dismiss, whether the salary paid out of government fund or not, the salary which the person entitled to get must not be compensatory in nature to bear out day to day expenses but it must confer some pecuniary gain to the person. One thing which must bear in mind the objective of the disqualification is to avoid the conflict between the functionaries of state.</p>
<p><b>Pradyut Bordoloi vs Swapan Roy (2001)</b></p>	<p>SC outlined the four broad principles for determining whether an office attracts constitutional disqualification.</p> <ol style="list-style-type: none"> <li>1. First, whether the government exercises control over appointment, removal and performance of the functions of the office</li> <li>2. Second, whether the office has any remuneration attached to it</li> <li>3. Third, whether the body in which the office is held has government powers (releasing money, allotment of land, granting licences etc.).</li> <li>4. Fourth, whether the office enables the holder to influence by way of patronage.</li> </ol>
<h1>SPEAKER</h1>	
<ul style="list-style-type: none"> <li>○ The Office of the Speaker in India is a living and dynamic institution which deals with the actual needs and problems of Parliament in the performance of its functions.</li> <li>○ Article 93 of the Constitution provides for the election of both the Speaker and the Deputy Speaker.</li> <li>○ The Speaker is the constitutional and ceremonial head of the House.</li> <li>○ Each House of Parliament has its own presiding officer.</li> </ul> <p style="text-align: center;">There is a Speaker and a Deputy Speaker for the Lok Sabha and a Chairman and a Deputy Chairman for the Rajya Sabha.</p>	
<p><b>KIHOTO HOLLOHAN CASE 1992</b></p>	<p>Sc held the validity of anti defection law and had also made speaker's order subject to judicial review on limited grounds</p>

<b>KEISHAM MEGHCHANDRA SINGH VS SPEAKER OF MANIPUR 2020</b>	SC looked into the Speaker's inaction on the matter of disqualification in this case. SC said the disqualification petition should be cleared by the Speaker within 4 months.
<b>Nabam Rebia and Bamang Felix vs Deputy Speaker case</b>	SC has said that the speaker ought not to have disqualified the defectors when the motion for his own removal was pending (the Speaker's order was anyway stayed by the HC)
<b>Keisham Megha chandra Singh vs The Speaker Manipur:</b>	SC held that Speaker should dispose the case of defection within four weeks
<h2>GOVERNOR</h2>	
<p>The Governor's appointment, his powers and everything related to the office of Governor have been discussed under Article 153 to Article 162 of the Indian Constitution.</p> <p>The role of the Governor is quite similar to that of the President of India. The Governor performs the same duties as the President, but for the State. The Governor stands as executive head of a State and the working remains the same as of the office of President of India. Under the Constitution of India, the governing machinery is the same as that of the Central Government.</p> <p>It is stated that the Governor has a dual role.</p> <ul style="list-style-type: none"> <li>○ He is the constitutional head of the state, bound by the advice of his council of ministers.</li> <li>○ He functions as a vital link between the Union Government and the State Government.</li> </ul>	
<b>HARGOVIND PANT VS RAGHUKUL TILAK 1979</b>	the office of governor was not subordinate or subservient to GOI.

<b>BP SINGHAL VS UOI 2010</b>	<ol style="list-style-type: none"> <li>1. Need for fixity of tenure</li> <li>2. decision to remove governor &gt; JR</li> <li>3. not remove arbitrarily</li> </ol>
<b>NEBAM RABIA JUDGEMENT 2016</b>	<p>The Supreme Court ruled that the exercise of Governor's discretion Article 163 is limited and his choice of action should not be arbitrary or fanciful. It must be a choice dictated by reason, actuated by good faith and tempered by caution</p>
<b>L CHANDRA KUMAR CASE 1997</b>	<p>Tribunal can perform supplemental role with HC and SC and not substitutional role</p>
<b>SR Bommai case:</b>	<p>Following the Sarkaria Commission's recommendations, the Supreme Court underlined that the breakdown of constitutional machinery implied a virtual impossibility, and not a mere difficulty, in carrying out governance in a State.</p> <ul style="list-style-type: none"> <li>○ SC said that while the subjective satisfaction of the President regarding such a breakdown was beyond judicial scrutiny, the material on which such satisfaction was based could certainly be analysed by the judiciary, including the Governor's report.</li> <li>○ The Court reinstated the governments in Arunachal Pradesh and Uttarakhand which were suspended after the arbitrary imposition of the President's Rule.</li> </ul>
<h2>TRIBUNALS</h2>	
<p>The <b>constitutional (42nd amendment) Act, 1976</b>, inserted Article 323-A and 323-B, by which parliament has been authorised to constitute administrative tribunals for settlement of disputes and adjudication of matters specified therein.</p> <p><b>In Durga shankar Mehta v. Raghuraj Singh AIR 1954 SC 520.</b> The Supreme court defined Tribunal as: The expression Tribunal as used in Article 136 does not mean the same thing as 'court' but includes, within its ambit, all adjudicating bodies, provided they are constituted by the state and are invested with judicial as distinguished from administrative or executive functions.</p>	
<b>Roger Mathew case 2019</b>	<p>SC declared that the <b>"Tribunal, appellate tribunal and other authorities rules 2017"</b>, as unconstitutional for being violative of principles of independence of judiciary. These rules depriving SC role in appointment</p>

<p><b>Sampath Kumar V. Union Of India (1987) 1 Scc 124</b></p>	<p>In exercise of the power conferred by Article 323-A of the constitution, Parliament enacted the Administrative Tribunals Act, 1985. Section 28 of the said Act excluded the power of judicial review in service matters under Article 226 and 227 of the constitution. The constitutionality of the Act was challenged before the Supreme Court in this leading case. The constitutional bench upheld the validity of the Administrative Tribunals Act, 1985.</p>
<p><b>L chandra Kumar case 1997</b></p>	<p>SC held that Tribunals cannot and will not be a substitute for the power of judicial review that the constitution bestows upon high courts.</p>

### CONTEMPT OF COURT

The Indian legislature does not provide a concrete definition of contempt, however section 2(a) of The Contempt of Courts, 1971 says 'contempt of court means civil contempt or criminal contempt'. Section 2(b) & section 2(c) of The Contempt of Courts Act, 1971 defines civil and criminal contempt. Although the legislature has not defined what amounts to contempt, it has defined civil and criminal contempt. Thus contempt cannot be confined to four walls of a definition. Therefore, what would offend the court's dignity and what would lower the court's prestige is thus a matter which can be decided by the court itself and it's for the court to deal with each case of contempt under the facts and circumstances of that case.

<p><b>PN DUA VS SHIV SHANKAR AND OTHERS 1988</b></p>	<p>Mere criticism of the court does not amount to contempt of court . In a free marketplace of ideas , criticism about the judicial system or judges should be welcomed so long it does not hamper the administration of justice .</p>
<p><b>PRITAM LAL VS HC OF MP 1992</b></p>	<p>to punish the contemnor in order to preserve its dignity .</p>

### ELECTORAL REFORMS :

Free and Fair elections constitute the foundation of Democracy which reflects the will of the people. The nature of any particular system of law is a reflection of the spirit of people who evolved it. The Constitution of India preserves the rights of every voter..

<b>ADR VS UOI 2002</b>	disclosure of info relating to criminal antecedents , educational qualification and personal assets of a candidate contesting elections
<b>Dinesh Trivedi, M.P. v. Union of India</b>	<b>SC dealt with N.N. Vohra Committee</b> report and its implementation which addressed the problem of the growing nexus among politicians, bureaucrats and criminals and its effects on the civil society. The court further held that an independent body should be formulated to look into the matter and it should also be given necessary powers to investigate into these matters and if feasible establish special courts to take cognizance of such matters with the consent of the Union government.
<b>LILY THOMAS VS UOI 2013</b>	convicted sitting MP and MLA will be immediately disqualified with out being given three months time for appeal
<b>Common Cause v. Union of India</b>	The Supreme Court addressing the blatant use of black money in organising election rallies held that in a democracy where rule of law prevails such open show black money cannot be permitted. Any expenditure incurred in an election campaign would be presumed to have been incurred by the candidate.
<b>CEC VS JAN CHOWKIDAR 2013</b>	Person in prison can not contest elections
<b>PUCL VS UOI 2013</b>	NOTA was allowed in elections in India
<b>PUBLIC INTEREST FOUNDATION VS UOI 2014</b>	trial court to dispose the criminal cases involving MP AND MLA within 1 year
<b>LOK PRAHARI VS UOI 2018</b>	source of their income and their spouses and dependants

## ANTI DEFECTION LAW

### Main Features of the Anti-Defection Law:

Under Tenth Schedule, the provisions of Anti-Defections are:

<b>Subject</b>	<b>Provisions in the Tenth Schedule</b>
Disqualification	<ol style="list-style-type: none"> <li>1. If the member of the party: <ul style="list-style-type: none"> <li>○ Voluntarily resigns from the party.</li> <li>○ Votes, or does not vote as per the directions of the party. However, if the member has taken prior permission within 15 days about this then the member cannot be disqualified.</li> </ul> </li> <li>2. If an independent candidate, after the election joins a political party.</li> <li>3. If a nominated candidate joins the party six months after becoming the member of the legislature.</li> </ol>
Power to disqualify	<ol style="list-style-type: none"> <li>1. The sole power of deciding the disqualification of the member is with the Chairman or the Speaker.</li> <li>2. But if the complaint is about the defection of the Chairman or Speaker, then the member of the House elected by that House has the power to decide on the disqualification.</li> </ol>
Exception	<p>A member cannot be disqualified if his/her original party merges with another and</p> <ul style="list-style-type: none"> <li>○ He/She and other members of the old political party join the new political party.</li> <li>○ He/She and other members opt to function as a separate group rather than merging.</li> </ul>

  

<b>Kihoto Hollohon v. Zachilhu and Others</b>	held that the law is valid in all respects. except on the matter about judicial review, which was held to be unconstitutional.
<b>Ravi S Naik vs Union of India 1994</b>	The Supreme Court in this case cleared that the phrase “voluntary gives up membership of a political party” had wider connotations and was not synonymous with resignation.
<b>Keshavananda Bharati and Others v. the State of Kerala and Another</b>	judicial review was held to be a basic feature of the Constitution and the Constitution cannot be amended to violate its basic structure.
<b>Rajendra Singh Rana vs Swami Prasad Maurya Case of 2007</b>	The Supreme Court in this case stated that if the Speaker fails to act on a complaint, or accepts claims of splits or mergers without making a finding, he fails to act as per the Tenth Schedule. He is also considered to be in violation of his constitutional duties.
<b>Srimanth Bala Sahib Patil vs The Speaker</b>	The speaker does not have any explicit power to specify the period of disqualification or bar a member from contesting elections after disqualification until the end of the term of the legislative assembly.

**Karnataka  
2019:**

[Note: Speakers said that MLAs do not contest by election to Seek re-election and resume the membership of the house]

## DEATH PENALTY

All punishments are based on the same proposition i.e. there must be a penalty for wrongdoing. There are two main reasons for inflicting the punishment. One is the belief that it is both right and just that a person who has done wrong should suffer for it; the other is the belief that inflicting punishment on wrongdoers discourages other from doing wrong. The capital punishment also rests on the same proposition as other punishments .

**RAJENDRA  
PRASAD VS  
STATE OF UP  
1979**

it must be imposed where the peril to social security is to such an extent that extinction of such a person becomes essential for the survival of society .

**BACHAN  
SINGH VS  
PUNJAB 1980**

**RAREST OF RARE**  
The constitutional validity of death penalty was again challenged in the Bachan Singh v. State of Punjab, in May 1980, and it was premised on multiple new developments. Firstly, the re-enactment of CrPC 1973 had made the death penalty as an exception with regards to the rule of imposing life imprisonment for offences consist of choice between life imprisonment and death sentence.

**Santosh  
Kumar  
Satishbhusan  
Bariyar v.  
State of  
Maharashtra**

in death penalty sentencing, public opinion is neither an objective circumstance relating to crime nor to the criminal.

## POLICE REFORMS

### **Committees and Commissions:**

In India, several committees and commissions have been established over the years to address the need for police reforms. Some of the notable initiatives taken include:

1. **The National Police Commission (1977-1981):**  
This commission recommended measures to improve the functioning of the police and make it more accountable to the public.
2. **The Padmanabhaiah Committee (2000):**  
This committee was constituted to review the implementation of the recommendations made by the National Police Commission and suggest further reforms.



3. **The Soli Sorabjee Committee (2000):**  
This committee was set up to review the Indian Police Act of 1861 and suggest amendments to make it more effective.
4. **The Malimath Committee (2000):**  
This committee was constituted to suggest reforms in the criminal justice system, including the police.
5. **The Mukherjee Committee (2006):**  
This committee was set up to recommend measures for modernizing the police force in India and improve its effectiveness.

**PRAKASH SINGH CASE 2006**

1. Creation of a State Security Commission to ensure that the state government does not interfere in the functioning of the police.
2. Appointment of a Director General of Police (DGP) through merit-based selection and fixing of a minimum tenure for the DGP to ensure independence.
3. Separation of investigation and law and order functions of the police to prevent them from being influenced by political or other pressures.
4. Constituting a Police Establishment Board to decide transfers, postings, promotions and other service-related matters of police officers of the rank of Deputy Superintendent of Police and below.
5. Establishment of a National Security Commission at the union level to prepare a panel for selection and placement of Chiefs of Central Police Organizations (CPOs).

## ENVIRONMENT

The Indian Heritage and Culture has a special connection with the preservation and security of the environment. The Indian State has also blessed it in the Constitution which needs both the State and the Citizen to protect and enhance the environment. The Environment Act, 1986 is one of those acts which spread to the whole of India without any limitation.

**Subhash Kumar v. State of Bihar:**

The apex court held that the right to get pollution free water and air is a fundamental right under Article 21.

**Indian Council for Enviro-Legal Action vs. Union of India**

the financial costs of checking or mitigating damage produced by pollution should lie with the hazards which cause the pollution by choosing the **Polluter Pays Principle.**

<p><b>Mc Mehta Vs Uoi 1988</b></p>	<p>In M.C. Mehta v. Union of India (1988), the Supreme Court ordered the closure of tanneries that were polluting water In this judgement, it was mentioned that just like an industry which cannot pay minimum wages to its workers cannot be permitted to exist, a tannery which cannot set up a central treatment plant cannot be allowed to proceed to be in continuation.</p>
<p><b>M.C. Mehta v. Union of India 1997</b></p>	<p>the Supreme Court issued several guidelines and directions for the protection of the Taj Mahal, an ancient monument, from environmental degradation</p>
<p><b>Samit Mehta v. Union of India:</b></p>	<p>Banning the use of coal and directing industries to use CNG. The Court reaffirmed the "Precautionary Principle" and "Polluter Pays Principle" and also recognized Right to clean environment as a fundamental right under Article 21</p>
<p><b>SC on Firecracking:</b></p>	<p>The court is not against any community , court is just giving importance to Article 21(Right to life)</p> <ol style="list-style-type: none"> <li>1. The court rejected arguments that bursting crackers was a fundamental right.</li> <li>2. It also ruled it out as being an essential practice during religious festivals like Diwali.</li> <li>3. It held that Article 25 (right to religion) is subject to Article 21 (right to life).</li> <li>4. So a religious practice that threatens the health and lives of people is not entitled to protection under Article 25.</li> </ol>
<p><b>MK Ranjitsinh vs UO</b></p>	<p>I: SC asked Rajasthan and Gujarat government to do away with overhead cables, that is the reason for death of endangered species The great indian bustard. SC judgement emphasises the bio centric values of eco preservation. Natural environment has its rights which should be free from exploitation</p>



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