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A Critical study on the Doctrines of Indian Constitution

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ABSTRACT

Any constitution's basic idea is fairly straightforward. To constrain the government, that is. Many nations transitioned from the former autocratic and communist forms of governance, when oppression dominated, to democratic forms of government with the rise of liberal democracies in the 19th and 20th centuries. Therefore, it was only natural for the populace to defend the newly established democracy from the newly established government's tyranny. Therefore, the only way to implement this check on the executive branch of government was through constitutional democracy. The Indian Constitution is based on the same idea. Indians cannot be subject to tyranny once they have been freed from the British Raj's shackles. Thus, a constitution was necessary to set boundaries for the newly established independent government. It gave people rights and access to courts so they could defend themselves.

Keywords: Constitution, Fundamental Rights, doctrine, legislation.

I. INTRODUCTION

The concept of any constitution is very simple. It is to limit the government. With the advent of liberal democracies in the 19th and 20th centuries, many countries became democratic from the erstwhile autocratic and communist forms of governments, where tyranny prevailed. So, it was natural for the people to protect the newly formed democracy against the tyranny of the newly formed government. So, constitutional democracy was the only option available to achieve this check on the government.

Indian constitution follows the same concept. After being free from the clutches of the British Raj, Indians can't rise again under tyranny. So, a constitution was very much necessary to limit the newly formed independent government. It provided citizens with Rights and courts to protect themselves from the government. It also accommodated various sections of the diverse country by facilitating affirmative action.

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Basic Concept of Indian Constitution

In examining the core principles, it is crucial to take into account...The Constitution articulates that India embodies the principles of sovereignty, socialism, secularism, and democracy, establishing it as a republic. India functions as a union of states, distinguished by its parliamentary governance structure and an integrated judiciary. The constitution guarantees justice, liberty, equality, and fraternity, promoting a sense of unity among all citizens of India.

Fundamental Concept

Acting as the core or pivotal component upon which other elements depend: fundamental beliefs/principles. This pertains to the essential idea that emerges within our cognition.

Doctrine

Doctrines are a standard, guideline, hypothesis, or fundamental of the law; such as such, the regulation of consolidation, the tenet of connection, and so forth.

These are the rules that are made by the courts and then follow for a particular case that was decided earlier in any of the cases.

II. DOCTRINES OF UNDER INDIAN CONSTITUTION

A. Doctrine of Basic Structure

The Indian Constitution explicitly restricts the parliament from modifying or abolishing specific fundamental elements of the constitution.

The essential elements of the Indian Constitution remain to be clarified by the Judiciary. The Court has not definitively established whether a specific element of the Constitution qualifies as "fundamental" based on the cases reviewed.

Landmark cases: *Shankari Prasad vs Union of India*,^[1] "It was challenged that Amendment that takes away the fundamental right of the citizens is not allowed by article 13. It was argued that "State" includes parliament and "Law" includes Constitutional Amendments. It was held that 'Law' in Article 13 is ordinary law made under the legislative powers. And therefore, the parliament has the power to amend the constitution."

Moreover, in the *Golaknath V State of Punjab*, The Supreme Court has adopted a fresh viewpoint on the authority of Parliament, declaring that it lacks the ability to amend Part III of the Constitution, which includes Fundamental Rights.

The court, in the matter of *Keshavanada Bharti versus State of Kerala*, concluded that

Parliament lacks the authority to alter or interfere with the fundamental structure of the Constitution. The parliament has been found to hold the power to amend the constitution without restrictions; however, it is not permitted to change or compromise the core structure or fundamental principles of the constitution, as its function is confined to amending rather than completely rewriting it.

B. Doctrine of Eclipse

It is managed under Article 13(1) of the Indian Constitution.

It expresses that any standard which obstructs basic freedoms is invalid.

The regulation concerning overshadowing indicates that a dominant regulation, which is at odds with a fundamental right, continues to function in part even though it has been problematic since the constitution's inception. Amending the pertinent central rights in the constitution can effectively resolve the dispute, clarifying the ambiguity and ensuring the legal framework operates as intended. The main case in which this convention was applied was *Bhikaji versus the State of Madhya Pradesh*.

C. Doctrine of Severability

The principle of severability dictates that if a part of a statute is found to be invalid, only that specific portion is rendered void, while the rest of the law remains effective. The remainder continues to be employable. As stated in article 13, if a culpable party is identified, only the specific provision in question is rendered void, leaving the remainder of the resolution intact. The Supreme Court has clearly stated this principle: If the valid and invalid provisions are indistinguishable, the entire act is deemed invalid.

When assessing the valid and invalid elements of a unified design aimed at overall functionality, the malfunction of one part adversely affects the entire system. If the substantial and invalid elements are independent and fail to form a cohesive plan, then ignoring the invalid segment would lead to a remainder that markedly diverges from what was initially generated by the council, thus rendering it completely invalid. If the remaining provisions, after the invalid one has been excluded, cannot be enforced, then the entire Act is deemed invalid.

If the invalid part is discrete in its activity from different parts then just the invalid part is so pronounced. The rest is cut off and stays employable. The impact of the use of the tenet is that the Act is void in parts. That segment that isn't void gets by. In *RMDC versus UOI*, the Supreme court expresses that the convention of severability involves substance and not structure.

D. Doctrine of Waiver

An individual intentionally gives up their right or privilege or chooses not to utilize the rights or privileges conferred upon them by the state.

In the matter of *Basheshar Nath v. Commissioner of India*, the Supreme Court concluded that a person is unable to waive their fundamental rights.

In the matter of *Jaswantsingh Mathurasingh & Anr. v. Ahmedabad Municipal Corporation & Ors*, [13] the court emphasized that every person has the right to waive an advantage or protection designed for their benefit. In the context of a dispute between a tenant and an owner, if a notice is issued without the presence of the owner, tenant, or sub-tenant, it would signify a forfeiture of opportunity, thereby barring that individual from altering their stance in the future.

E. The doctrine of Colourable Legislation

It depends on the regulation of force partition. Detachment of force orders to figure out some kind of harmony between various state parts.

It depends on the adage that "what isn't possible straightforwardly, isn't possible in a roundabout way".

The legislation regarding colorable legislation is applied when a Legislature does not explicitly reserve the authority to legislate on a specific subject yet indirectly creates one in the process.

The Court has set forth specific criteria to assess whether a particular Act qualifies as a colorable regulation.

- a. The court should prioritize the fundamental principles of the law as established by the council, instead of scrutinizing its framework or the specific indicators.
- b. The court should take into account both the article and the legal implications involved.
- c. If the governing body continues to operate within a regulatory framework, the court must review all resolutions that form that framework and evaluate their overall impact.

Utilization of this Doctrine: *K.C. Gajapati Narayana Deo and Other v. The State Of Orissa*, [2]

"If the Constitution of a State disperses the regulative powers among various bodies, which need to act inside their separate circles set apart out by unambiguous authoritative sections, or on the other hand if there are impediments on the official expert looking like essential privileges, questions do emerge concerning whether the council in a specific case has or has

not, regarding the topic of the resolution or in the strategy for sanctioning it, violated the restrictions of its sacred powers".

F. Doctrine of Laches

Laches suggests a lag. The adage "value helps the watchful and not the people who sleep on their rights" is the foundation for this. It suggests that a legitimate right or guarantee won't be upheld or allowed if a protracted delay in proclaiming the right or guarantee hosts a negative gathering. Anyone in need of a remedy should go nearby at a reasonable hour when the court is watching them closely.

The question arises as to whether Article 32 permits the denial of significant rights on the grounds of delay.

It is wrong to deny major liberties only on the basis of delay. For a person to progress, it is fundamental.

The high court said in *Ravindra Jain v. UOI* that the cure under article 32 may be refused due to an unreasonable delay. Nevertheless, the Supreme Court has not requested a case to overrule the aforementioned case regulation. Delays are implied by laches. As the proverb goes, "value helps the watchful and not the people who sleep on their rights." It suggests that a legitimate right or guarantee won't be upheld or allowed if a protracted delay in proclaiming the right or guarantee fosters a prejudiced gathering. Anyone in need of a remedy should go nearby at a reasonable time when the court is watching them closely.

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G. The doctrine of Judicial Review

It originated in America. The legal survey regulation references the judiciary's power to interpret the law and declare regulations that violate the constitution invalid.

This principle states that the judiciary has the authority to audit the legislative and executive branches. Its purpose is to monitor the actions of public experts, whether they are legislative, semi-legal, or holy. For example, if a regulation is formed and its constitutionality is

examined, the judiciary has the authority to overturn the statute. This suggests that the legal branch is keeping an eye on the Constitution and protecting it from any legislative or executive action that would ignore it.

The High Court and the Supreme Court both exercise the power of judicial review. The Supreme Court of India, however, has the last say on whether a regulation is sacredly legitimate.

It may very well be in charge of all federal and state rules, the chiefs' instructions and directives, and established changes. It cannot be led with reference to the Indian Constitution's Schedule 9 rules.

H. The doctrine of Due process of law

It does not just look at that there is any regulation to deny life and individual opportunity yet additionally checks assuming the law made is sensible, just, and not erratic.

Assuming the Supreme Court views any regulation as not fair, it will pronounce it void. Individual freedoms can be dealt with all the more decently with the assistance of this tenet.

Under this principle, the state ought to regard every one of the legitimate privileges owed to an individual by the state as a lawful prerequisite, and regulations state order should adjust to the rules that everyone must follow like - reasonableness, central freedoms, freedom, and so forth.

In *Maneka Gandhi versus Union of India*, the court while conveying the judgment utilized "Technique laid out by regulation" rather than "Fair treatment of regulation" but it should be 'right and endlessly fair' and 'not erratic, whimsical or harsh,' any other way it wouldn't be a strategy by any means and the necessity of Article 21 wouldn't be met. It does not just look at that there is any regulation to deny life and individual opportunity yet additionally checks assuming the law made is sensible, just, and not erratic.

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Difference between procedure established by law and due process of law.

The procedure established by law	Due process of law
It means that a law that is duly enacted by the legislature or the concerned body is valid if it has followed the correct procedure.	It not only checks if there is a law to deprive the life and personal liberty of a person but also sees if the law made is fair, just, and not arbitrary.
It does not assess whether Parliament's laws are fair, just, and not arbitrary.	It checks laws made by the parliament are just, fair and arbitrary.
A law duly enacted is valid even if it's contrary to principles of justice and equity.	If the Supreme Court finds that any law is not fair, it will declare it null and void.
It means that a law duly enacted is valid even if it is contrary to the principles of justice and equity.	It is the legal requirement that the State respect all the legal rights due of a person and the laws enacted by the State must comply with the laws of the land.

I. The doctrine of Constitutional Morality

Despite opposition from majoritarian state-run administrations, the Supreme Court of India is committed to protecting all minorities, according to the principle of established deep quality. Second, the Court's decision to find that it has a counter-majoritarian role within the holy plan was motivated by the principle of established deep quality.

III. CONCLUSION

These doctrines change over time and in response to changing circumstances. The constitution becomes more flexible as a result of The Indian constitution being unique in that it evolves in response to societal doctrines, allowing it to adapt to the various characteristics of a dynamic society.

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