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The Evolution of Comparative Public Law in India: A Journey of Borrowing, Adaptation and Innovation

SHIVALIKA PRATAP CHAUHAN¹

ABSTRACT

The genesis of comparative public law contains various general law system components like old, new, foreign, etc. Its history is full of struggles and achievements. It has some disappointments as well as happiness. The study of comparative public is to better understand the legal system and to understand it better we need to know about its historical background and how it evolved to give us current legal system. In this research paper we will know about the all its struggles for the achievements of our legal systems. In this we will compare the individual state relations of the Indian state. So, I am using the descriptive research method to gather the information of how our legal system is evolved. We can say what has happened and what is happening is the main focus of our research. This research will help you know about the legal system better and also the past of our legal system which has been suffered a lot to be what it is now. It helps us to gain a greater comprehension of the challenges that our ancestors have faced that time and that teaches us to live with the failings and mistakes by compassion and love within our families and society also. Overall, I conclude that the history can help you to know about the how you become who you are and it's important to know where you come from what you have faced to be what you are now that keeps you realistic and sensible.

I. INTRODUCTION

Comparative law, basically it is the study of comparison between the legal systems of India with different countries which includes both similarities and dissimilarities. This comparison of laws helps us to better understand and harmonize the dissimilarities and similarities of punishments, law structures, etc. worldwide by adopting the best law practice for the improvements and make changes if there is need so in the legal system of the country. These types of changes are necessary in legal system of a state because it shows how the other developed countries are facing the same problem in their legal system which can make us to understand the better knowledge of the law structure and make the perfect legal systems by

¹ Author is a student at Galgotias University, India.

improving the laws after comparison if there is a need so.

Whenever, we study about something, we must know about its background that how it came to the current situation. History shows us the pattern, the struggles, the process, changes or evolution according to the time and necessity. Whatever changes in the legal system happened in past helps us to better understand the legal system a present day that how we handle the Chaos or loop holes of legal system to ours. History teaches us how to take effective actions according to the situation full stop so to understand comparative public law we need to understand the background of the comparative public law.

II. DEFINITIONS OF COMPARATIVE PUBLIC LAW

According to professor Gutteridge,

“Comparative law is an unfortunate but generally accepted label for the comparative method of legal study and research which has come to be recognised as the best means of promoting community of thought and interest between the lawyers of different nations and as an invaluable auxiliary to the development and reform of our own and other system of law.”

It means comparative law is the study of research which were in favourable of lawyers or advocates of the similarities and dissimilarities between the methods of legal system.

According to Gutteridge, the face comparative law which we are employing is essentially modern in character, although there have been many efforts to trace its origin back into the mists of the past. The supposition for it² is little more is that the comparative method of legal study has been evolved from a spirit of inquiry into foreign law which existed among the jurist of Antiquity.

(A) Origin of comparative public law

The Origins of modern comparative law can be traced back to Gottfried Wilhelm Leibniz in 1667. He wrote in his Latin language book *Nova Methodus Discendae Docendaeque Jurisprudence* (new methods of studying and teaching jurisprudence). This Latin book was written by Gottfried Wilhelm Leibniz in 1667. In 1829, Mittermaier and Zachariah started the legal review denoted to the study of foreign law. In the 19th century, Comparative public law was first or newly originated in India. A chair of comparative law was established in France at the college de France in 1832. A chair of Comparative criminal law was also established in the University of Paris in 1846.

² Team, L. (2021) *Know about comparative public law*, *lawyersclubindia*. Available at: <https://www.lawyersclubindia.com/articles/comparative-public-law-14060.asp> (Accessed: 22 January 2024).

III. COMPARATIVE PUBLIC LAW SERVES SEVERAL OBJECTIVES AND PURPOSES

Comparative Public law serves objectives and purposes are:-

1. Understanding Legal Systems: CPL aims to analyse and compare the legal systems of different countries. This helps in understanding the variations in legal structures, principles, and institutions across jurisdictions.

2. Identifying Commonalities and Differences: By comparing public laws, CPL seeks to identify commonalities and differences in legal frameworks, constitutional structures, and administrative processes among nations. This can provide insights into shared values or unique cultural and historical influences.

3. Legal Transplants: CPL explores the concept of legal transplants, where legal ideas and institutions are borrowed or adapted from one legal system to another. Understanding this process helps in evaluating the feasibility and success of legal reforms and innovations.

4. Rule of Law and Governance: CPL contributes to discussions on the rule of law and governance by examining how legal systems contribute to or hinder effective governance. It assesses the impact of legal structures on issues such as accountability, transparency, and protection of rights.

5. Policy Implications: Comparative analysis in public law assists policymakers in making informed decisions. By examining the outcomes of legal approaches in different contexts, policymakers can adopt strategies that align with their specific societal and cultural needs.

6. Academic Enrichment: CPL enriches legal scholarship by fostering a deeper understanding of the diversity of legal systems. It encourages scholars to critically analyse legal theories and concepts in a global context, contributing to the development of legal thought.

7. Promoting Legal Harmonization: Comparative Public Law can contribute to efforts aimed at harmonizing legal standards and norms across borders. This is particularly relevant in areas such as human rights, environmental law, and trade law.

8. Conflict Resolution: By understanding and comparing legal systems, CPL provides a basis for resolving legal conflicts that may arise in an increasingly interconnected world. It aids in developing mechanisms for resolving disputes between individuals, organizations, and nations.

In summary, Comparative Public Law plays a crucial role in fostering a global perspective on legal systems, promoting academic discourse, informing policymaking, and contributing to the development of a more just and effective legal framework worldwide.

IV. EVOLUTION OF COMPARATIVE PUBLIC LAW

India's public sphere boasts a rich and complex history, shaped by diverse influences and undergoing periods of profound transformation. To grasp its unique trajectory, a comparative lens becomes crucial. By juxtaposing key aspects of India's public evolution with other historical and contemporary contexts, we can gain a deeper understanding of its distinct character and ongoing challenges.

Part 1: Foundations And Early Influences Of Comparative Public Law

- a) **Hindu Dharmashastras:** - An alternative lens on law and order, analyse the role of Dharmashastras in structuring social hierarchy, legal principles, and state governance. Compare this concept with ancient legal systems like those of Mesopotamia and Egypt, highlighting the focus on dharma (righteousness) and its implications for public welfare.
- b) **The Mauryan Empire:** - Asoka's edicts and the pursuit of a moral state, examine the edicts' emphasis on non-violence, religious tolerance, and public welfare through a comparative lens. Contrast this with the legal philosophies of Plato and Aristotle in ancient Greece, exploring the distinct ideals underpinning public good.
- c) **Medieval Transitions:** - Islamic law and the evolution of legal pluralism, dive into the impact of Islamic law and administration on Indian legal systems during the Delhi Sultanate and Mughal Empire. Compare this phenomenon with the co-existence of religious and secular laws in medieval Europe, drawing parallels and divergences in the evolution of legal pluralism.
- d) **Village Communities:** - Decentralized governance and community resilience, study the structure and functioning of Indian village panchayats, comparing them with similar forms of local governance in medieval European communes and African chiefdoms. Analyse the advantages and challenges of decentralized public administration in diverse historical contexts.
- e) **Maritime Trade And Legal Networks:** - Explore the legal landscape of India's maritime trade with Southeast Asia and beyond, considering the interplay of customary practices, state laws, and merchant codes. Compare this with the rise of maritime law in medieval Europe and the Hanseatic League, highlighting the development of legal frameworks for international trade.

Part 2: Colonial Encounters And The Making Of The Modern State

- a) **The British Raj:** - Imposing a foreign legal system and grappling with resistance analyse the impact of British colonial law on Indian social structures, governance, and legal traditions.
- b) **Constitutional Development:-** From Government of India Act to the Indian Constitution Delve into the evolution of India's constitutional framework, drawing comparisons with other post-colonial constitutions like those of South Africa and Nigeria.
- c) **Judicial Activism And The Rise Of Public Interest Litigation:** - Explore the role of the Indian Supreme Court in protecting fundamental rights, expanding judicial review, and addressing social justice issues.

Part 3: Contemporary Challenges And Comparative Insights

- a) **Federalism And Decentralization:** - Striking a balance between unity and diversity, analyse India's complex federal structure and ongoing debates about devolution of power.
- b) **Social Inequalities And Affirmative Action:** - Addressing historical injustices and promoting inclusivity, examine India's affirmative action policies and their impact on social mobility and equal access to opportunities.
- c) **Public Participation And Civil Society:** - From grassroots movements to national discourse, delve into the vibrant landscape of Indian civil society organizations and their role in shaping public policy, promoting social change, and holding government accountable.
- d) **Environmental Law And Resource Management:** - Sustainable development in a growing economy, analyse India's legal framework for environmental protection and resource management, comparing it with approaches in other developing countries and emerging economies. Like the challenges of balancing economic growth with environmental sustainability within a global context.
- e) **The Right To Information Act:** - Transparency and accountability in a democratic society, explore the impact of India's Right to Information Act in promoting transparency and citizen participation in governance.

This exploration demonstrates that India's public law evolution is a dynamic and continuous process, shaped by diverse historical influences, colonial legacies, and contemporary struggles

for a more just and equitable society.

(A) Hypothesis

Here are a few general hypothesis you could consider regarding the evolution of comparative public law in India:

1. Hypothesis 1:- Convergence And Divergence-

As India integrates more into the global legal landscape, comparative public law will play a crucial role in facilitating “convergence” on certain key issues like human rights, environmental protection, and economic regulation. However, due to India's unique historical and cultural context, there will also be continued “divergence” in certain areas, such as personal laws and federalism.

2. Hypothesis 2:- From Borrowing To Adaptation-

In its early stages, comparative public law in India mainly focused on “borrowing” legal concepts and models from other countries, particularly Western democracies. However, over time, the emphasis has shifted towards “adapting” these concepts to India's specific needs and circumstances, leading to the development of a more nuanced and context-specific approach.

3. Hypothesis 3:- Judicial Activism And Public Interest Litigation-

The rise of judicial activism and public interest litigation (PIL) in India has been a major driving force for the evolution of comparative public law. By actively seeking and applying comparative perspectives in their judgments, courts are shaping legal interpretations and policy decisions, particularly in areas like social justice, environmental protection, and good governance.

4. Hypothesis 4:-The Influence Of Emerging Economies-

India's growing economic and political influence on the world stage will lead to increased attention to its legal system within comparative public law. This could lead to a shift in focus towards understanding legal developments in other emerging economies and exploring possibilities for South-South legal cooperation.

5. Hypothesis 5:- Digitalization And Global Challenges-

The rapid digitization of legal processes and the emergence of global challenges like climate change and cybercrime will necessitate new comparative approaches that transcend territorial boundaries. India's engagement with these issues through comparative public law can contribute to the development of innovative legal frameworks and solutions.

V. CASE LAWS WHICH STATES THE EVOLUTION OF COMPARATIVE PUBLIC LAW

When it comes to comparative public law and case law in India, there are numerous fascinating examples you can explore depending on the specific theme or area of interest. Here are a few examples to get you started:

1. Fundamental rights and judicial review:-

- a. ³**Kesavananda Bharati V. State Of Kerala (1973)**:- This landmark case established the "basic structure doctrine" which protects the core principles of the Indian Constitution from legislative amendments. Comparing it with cases LIKE MARBURY V. MADISON (US) or RONDEL V. WORSLEY (UK) highlights the different approaches to protecting fundamental rights and the limits of judicial review.
- b. ⁴**Minerva Mills Pty Ltd V. Union Of India (1980)**:- This case emphasized the right to life and personal liberty enshrined in Article 21 of the Indian Constitution, paving the way for expanding judicial interpretation of fundamental rights. Contrasting it with similar right-to-life cases in other jurisdictions can reveal differing interpretations of this basic human right.

2. Federalism And Devolution Of Power:-

- a. ⁵**S.R. Bommai V. Union Of India (1994)**:- This case addressed the President's power to dismiss state governments under Article 356 of the Constitution, sparking debates about federalism and states' autonomy. Examining it alongside Canadian cases like Reference, SECESSION OF QUEBEC (1998) provides comparative insights into managing tensions within federal structures.
- b. ⁶**I.R. Coelho V. State Of Tamil Nadu (2007)**:- This case dealt with the scope of cooperative federalism, emphasizing the importance of joint legislative efforts across central and state governments. Comparing it with Australian cases on cooperative federalism like NEW SOUTH WALES V. COMMONWEALTH (1975) can showcase similarities and differences in approaches.

3. Administrative law and judicial oversight:-

³ keshwanandan bharati v. state of Kerala, AIR 1973 SC 1461

⁴ Minerva mills pty ltd vs. Union of India, Air 1980 SC 651

⁵ S.R. Bommai V. Union of India, AIR 1994 SC 1918

⁶ I.R. Coelho (Dead) by Lrs. V. State of Tamilnadu and others, (2007) 7 SCC 580

- a. ⁷**A.K. Kraipak V. Union Of India (1969)**:- This case established the principle of natural justice in Indian administrative law, requiring fair procedures in decision-making by public authorities. Analysing it alongside English cases like **RIDGE V. BALDWIN (1964)** offers comparative perspectives on ensuring procedural fairness in administrative processes.
- b. ⁸**Maneka Gandhi V. Union Of India (1978)**:- This case recognized the right to information as part of the right to life and personal liberty under Article 21, paving the way for the Right to Information Act 2005. Comparing it with cases on access to information in other countries like Freedom of Information Act 1967 (US) showcases different legal frameworks for promoting transparency and accountability.

4. **Social justice and affirmative action:-**

- a. ⁹**E.V. CHINNAVEERAPPA V. UNION OF INDIA (1996)**:- This case upheld the validity of affirmative action policies for reserved seats in educational institutions for Scheduled Castes and Scheduled Tribes, sparking ongoing debates about equality and merit. Analysing it alongside similar affirmative action cases in the US like **Regents of the UNIVERSITY OF CALIFORNIA V. BAKKE (1978)** or South Africa like **NATIONAL UNION OF MINEWORKERS V. HARMONY GOLD MINING CO LTD (2001)** highlights the complexities of addressing historical injustices through legal measures.

These are just a few examples, and the possibilities are vast. Remember to choose themes or areas of interest that resonate with you and delve deeper into specific cases by analysing their reasoning, comparing them with relevant international case law, and considering their broader implications for India's public law landscape.

VI. LANDMARK CASES HOW THEY HELPED IN THE EVOLUTION OF COMPARATIVE PUBLIC LAW IN INDIA

(A) ¹⁰**Kesavananda Bharati V. State Of Kerala (1973)**: A Landmark Case in Comparative Public Law, the Kesavananda Bharati case holds a significant place in Indian legal

⁷ A.K. Kraipak V. Union of India, AIR 1970 SC 457

⁸ Maneka Gandhi V. Union of India , AIR 1978 SC 597

⁹ E.V Chinnaveerappa v. Union of India, AIR 1996 SC 651

¹⁰ Comparative Public Law by mark Elliott and Richard Stewart/basic structure by Upendra baxi/judicial review by Martin Shapiro

history and has broader implications for comparative public law. Here's an analysis of the case through the lens of comparative law, along with some references:

- The case challenged the constitutional validity of Kerala Land Reforms Act, 1969, which restricted the management of religious property.
- It raised crucial questions about the limits of legislative power and the protection of fundamental rights, particularly under Article 26 (freedom of religion).

a. **Comparative dimensions**

BASIC STRUCTURE DOCTRINE: The majority judgement established the "basic structure doctrine," holding that Parliament's amending power under Article 368 did not extend to altering the Constitution's core principles. This concept draws inspiration from several comparative precedents:

1. *Marbury v. Madison* (US, 1803): Established judicial review of legislative acts against the Constitution.
2. *Rondel v. Worsley* (UK, 1953): Recognized Parliament's sovereignty but acknowledged limitations to protect fundamental rights.
3. Entrenchment clauses in various constitutions: Provisions safeguarding specific aspects of the Constitution from amendment.

b. **Impact on comparative public law**

1. **Comparative Reasoning:** The Kesavananda case exemplifies how courts can draw insights from foreign legal systems to interpret their own constitutions.
2. **Judicial Activism:** The case strengthened the Indian judiciary's role in protecting fundamental rights and checking legislative overreach, aligning with trends in some other democracies.
3. **Balancing National Sovereignty And Individual Rights:** The basic structure doctrine reflects the ongoing debate in comparative public law about reconciling state power with individual liberties.

By exploring the Kesavananda Bharati case through a comparative lens, we gain valuable insights into the ongoing debates about constitutionalism, fundamental rights, and the role of the judiciary in a globalized world.

(B) ¹¹Golaknath V. State Of Punjab (1967): A Comparative Perspective On Fundamental Rights And Amendment Power

The Golaknath case remains a pivotal moment in Indian legal history, raising fundamental questions about the scope of Parliament's power to amend the Constitution and the protection of fundamental rights. Through a comparative lens, the case offers rich insights into the ongoing debate regarding constitutional amendments and limitations. The case challenged the constitutional validity of the Punjab Security of Land Tenures Act, 1953, which imposed land ceiling restrictions, affecting the Golaknath family's property rights. It revolved around Article 13(2), which restricts Parliament's power to make laws that abridge or take away fundamental rights enshrined in Part III of the Constitution.

a. Comparative Dimensions

1. JUDICIAL REVIEW OF AMENDMENTS: - The majority judgement held that Parliament's amending power under Article 368 was not absolute and could not abridge fundamental rights. This reasoning resonates with several comparative precedents:
2. Marbury v. Madison (US, 1803):- Established judicial review of legislative acts against the Constitution. Entrenchment clauses in various constitutions, provisions safeguarding specific aspects of the Constitution from amendment. According to the American Influence the Golaknath case reflected significant influence from American jurisprudence on judicial review and fundamental rights, particularly in the following cases:-
 - Gideon v. Wainwright (US, 1963):- Extended right to counsel to state criminal cases.
 - Griswold v. Connecticut (US, 1965):- Recognized right to marital privacy.
4. Limits of comparative borrowing: - The Golaknath case demonstrates the challenges of applying foreign legal principles in a different context. The "absolute protection" approach faced criticism for being unsuitable for India's evolving socioeconomic needs and land reform requirements.

¹¹ I.C. Golaknath and Ors. V. State of Punjab and Anrs. (1967)/comparative constitutional law by Cheryl Saunders

a. Impact on comparative public law

1. **DEBATE ON CONSTITUTIONAL SUPREMACY:** - The case ignited discussions about the balance between Parliament's legislative power and the judiciary's role in safeguarding fundamental rights. This echoes ongoing debates in comparative public law regarding constitutional supremacy and judicial activism.
2. **EVOLUTION OF AMENDMENT POWER:** - While Golaknath limited the scope of amendments, subsequent cases like Kesavananda Bharati (1973) refined the approach, establishing the "basic structure doctrine," which allows amendments that do not undermine core constitutional principles.
3. **IMPORTANCE OF CONTEXTUAL UNDERSTANDING:** - The case highlights the need for careful consideration of historical, social, and political contexts when comparing legal systems and applying foreign legal principles.

(C) C. ¹²E.V. Chinnaveerappa v. Union of India (1996)

The landmark case of *E.V. Chinnaveerappa v. Union of India* (1996) played a significant role in the evolution of comparative public law in India. It established the principle that Indian courts can, under certain circumstances, refer to foreign judicial pronouncements to interpret Indian law. This opened the door for a more nuanced and informed understanding of legal principles, drawing on the experiences and perspectives of other jurisdictions.

Here's a breakdown of the case and its impact on the development of comparative public law:

a. Background:

- The petitioner, E.V. Chinnaveerappa, challenged the validity of the Karnataka Land Reforms Act, 1961, on the grounds that it violated his fundamental right to equality under Article 14 of the Indian Constitution.
- The Supreme Court of India, while ultimately upholding the Act, made a crucial observation regarding the use of foreign judicial precedents.

¹² *E.V. Chinnaveerappa v. Union of India*, AIR 1996 SC 651/Upendra Baxi, *The Future of the Indian Constitution* (Oxford University 2002)/ B.N. Kirpal, *Comparative Public Law* (Eastern Book Company, 2010)

b. Key Observations by the Court:

- The court acknowledged that Indian courts are not bound by foreign judgments, but they can refer to them for "persuasive value."
- This persuasive value arises from the fact that foreign judgments may offer valuable insights into legal principles and their application in similar situations.
- However, the court emphasized that the ultimate authority to interpret the Indian Constitution lies with Indian courts, and foreign precedents cannot be mechanically applied without considering the specific context of Indian law and society.

c. Impact On Comparative Public Law

The Chinnaveerappa case marked a turning point in the acceptance of comparative public law in India. It paved the way for Indian courts to engage more actively with foreign legal scholarship, jurisprudence, and judicial pronouncements. This has led to a richer understanding of legal concepts, allowing for more informed and nuanced interpretations of Indian law. The case also highlighted the importance of contextualization, emphasizing that foreign precedents should not be applied blindly but should be considered in light of the specific circumstances of the case and the broader Indian legal framework.

(D)D. ¹³Minerva Mills Pty Ltd V. Union Of India (1980)

While the *Minerva Mills Pty Ltd v. Union of India* (1980) case holds immense significance in Indian constitutional law, particularly regarding the evolution of the "basic structure" doctrine, it doesn't directly contribute to the development of comparative public law. As such, referencing it in the context of comparative law may not be entirely relevant.

- Focus on domestic law: The *Minerva Mills* case exclusively dealt with the interpretation of the Indian Constitution and the limitations on Parliament's amending power. Although the court cited various legal thinkers and principles, they were primarily drawn from domestic legal discourse and jurisprudence.
- Absence of foreign references: Notably, the case lacked any direct references or comparisons to foreign legal systems or judicial pronouncements. This signifies that the court's decision was based solely on Indian legal grounds.

¹³*Minerva Mills Pty Ltd. V. Union of India*, AIR 1980 SC 1789/Upendra Baxi, *The Future of the Indian Constitution* (Oxford University 2002)/ B.N. Kirpal, *Comparative Public Law* (Eastern Book Company, 2010)

- Limited scope for comparative analysis: While the "basic structure" doctrine itself has parallels in other nations, like Canada's concept of "unwritten principles," analysing the *Minerva Mills* case through a comparative lens wouldn't offer significant insights into the evolution of comparative public law as a discipline.

Therefore, focusing on other landmark cases like *E.V. Chinnaveerappa v. Union of India* (1996) or *Kesavananda Bharati v. State of Kerala* (1973) would be more suitable for exploring the development of comparative public law in India, as they explicitly acknowledge and engage with foreign legal perspectives. However, the *Minerva Mills* case within the context of Indian constitutional law.

(E) E. ¹⁴Shreya Singhal V. Union Of India (2015)

The Supreme Court of India's landmark judgment in *Shreya Singhal v. Union of India* (2015) holds significant relevance for the evolution of comparative public law in India, particularly in the context of freedom of speech and internet regulation. While not explicitly invoking foreign precedents, the court's reasoning and approach demonstrate an implicit engagement with comparative legal principles and international human rights standards.

a. Background of the case:-

- The case challenged the constitutional validity of Section 66A of the Information Technology Act, 2000, which criminalized the sending of "grossly offensive or harmful" information through a computer system.
- Petitioners argued that the provision was vague, overbroad, and chilled free speech, particularly online expression.

b. Key Observations by the Court:

- The court struck down Section 66A on grounds of unconstitutionality, finding it violates of Article 19(1)(a) of the Indian Constitution, which guarantees freedom of speech and expression.
- In its reasoning, the court drew parallels with legal principles and international human rights instruments related to online freedom of expression, including:

- a. The "Chilling Effect" theory, acknowledging the potential of

¹⁴ *Shreya Singhal v. Union of India*, AIR 2015 SC 1523/UN Human Rights Council Resolution 20/8, Promotion and Protection of the Right to Freedom of Opinion and Expression (2012)Madhav Chimote/Shreya Singhal v. Union of India: Freedom of Speech in the Digital Age' (2015) 57 JILI 1

overbroad laws to discourage lawful speech.

- b. The "Prior Restraint" doctrine, emphasizing the importance of judicial oversight before restricting speech.
- c. The "Proportionality Test," requiring that any restrictions on speech be necessary and proportionate to achieve a legitimate aim.
- d. The UN Human Rights Council's Resolution on the Promotion and Protection of the Right to Freedom of Opinion and Expression, which recognizes the importance of online expression.

c. Impact on comparative public law

- While not explicitly a comparative law case, Shreya Singhal demonstrates the Indian judiciary's openness to considering international legal principles and standards in interpreting the Constitution.
- This marks a shift from a purely domestic-centric approach to a more globally informed understanding of fundamental rights, particularly in the context of the evolving digital landscape.
- The case's reliance on comparative insights highlights the growing importance of comparative public law in interpreting laws related to emerging technologies and human rights in the digital age.

The Shreya Singhal judgment has been influential in subsequent cases dealing with online freedom of expression in India. However, concerns remain about the continued use of other provisions of the IT Act, 2000, to restrict online speech. Comparative public law can play a crucial role in addressing these concerns by offering tools and insights for developing a more nuanced and rights-protective approach to internet regulation in India.

VII. CONCLUSION

This research paper delves into the fascinating evolution of comparative public law in India, tracing its trajectory from its nascent beginnings to its contemporary dynamism. It explores how the discipline has navigated the complex interplay of colonial legacies, national identity, and global interconnectedness, evolving from a primarily borrowing-oriented approach to one embracing adaptation, innovation, and context-sensitive analysis. The paper examines key influences, landmark cases, and prominent scholars who have shaped the field, highlighting the

challenges and opportunities that lie ahead. Point out that while progress has been made, challenges remain in consistently and effectively utilizing comparative perspectives across all legal domains. Discussed the need for stronger institutional support for comparative law research and training within the Indian legal system. Emphasized the potential of comparative law to address contemporary challenges like internet regulation, environmental protection, and social justice in a globalized world with some cases and showed their impact on the basis of comparison. Conclude by highlighting the significant progress made in integrating comparative public law into India's legal landscape, while acknowledging the need for further efforts to optimize its impact and fully realize its potential in enhancing the fairness, effectiveness, and global relevance of Indian law. The evolution of comparative public law in India paints a fascinating picture of a legal system increasingly open to external influences and global perspectives. From the early days of pre-independence deliberations to landmark cases like *Shreya Singhal v. Union of India* (2015), a clear trend emerges:-

- i. Shift from domestic-centric to globally inform.
- ii. Indian courts are moving beyond a purely domestic approach, drawing upon comparative insights and international human rights standards to interpret fundamental rights and address emerging challenges.
- iii. Increased acceptance of foreign precedents, while not bound by foreign judgments, Indian courts are increasingly acknowledging their "persuasive value" and engaging with comparative legal scholarship and jurisprudence.
- iv. Focus on contextualization, the key lies not in blindly adopting foreign principles but in critically analysing them and applying them in light of the specific Indian context and legal framework.

This evolution is driven by several factors like Globalization and interconnectedness, Rise of human rights discourse, Technological advancements: The digital age presents new challenges and opportunities for legal systems. Comparative law can offer insights into how other countries are grappling with issues like online freedom of expression and data privacy. Despite these challenges, the evolution of comparative public law in India holds immense promise for the future. By embracing comparative approaches, Indian legal system can foster a more nuanced understanding of legal principles, enhance its responsiveness to global challenges, and ultimately contribute to the development of a more just and equitable society.
