



## Question on Existence of Article 31C

**For Prelims:** [Article 31C](#), [Supreme Court](#), [Kesavananda Bharati Case \(1973\)](#), [Fundamental rights](#)

**For Mains:** Article 31C, Legal and constitutional challenges associated with Article 31C.

**Source:** [IE](#)

### Why in News?

Recently, a **nine-judge Bench** of the [Supreme Court](#) has chosen to address the question regarding the **existence of Article 31C**, while hearing a case to decide whether the government can acquire and redistribute private property.

### What is Article 31C?

- **About:**
  - Article 31C **protects laws** enacted to **ensure social goals:**
    - The “material resources of the community” are distributed to serve the common good (**Article 39B**)
    - The wealth and the means of production are not “concentrated” to the “common detriment” (**Article 39C**).
- **Introduction of Article 31C:**
  - It was added to the Indian Constitution in 1971 through the **25<sup>th</sup> Constitutional Amendment**, primarily in response to the Supreme Court’s decision in the **R.C. Cooper v. Union of India (Bank Nationalisation Case, 1969)**.
    - In this case, the court **invalidated the [Banking Companies \(Acquisition and Transfer of Undertakings\) Act, 1969](#)** due to issues with the compensation offered.
- **Purpose of Article 31C:**
  - Article 31C **protects directive principles (Articles 39B and 39C)** from being challenged by the right to equality (Article 14) or rights under Article 19 (freedom of speech, right to assemble peacefully, etc).

### What are the Legal and Constitutional Challenges Associated with Article 31C?

- **Kesavananda Bharati Case (1973):**
  - The Supreme Court established the **["basic structure doctrine,"](#)** asserting that certain fundamental elements of the Constitution are immune to modification by Parliament.
  - The **court invalidated a portion of Article 31C** stating that **laws claiming to be based on a specific government policy cannot be challenged in court** for failing to achieve that policy's goals.
  - This **opened the door for the court to examine laws** that had been **enacted to further Articles 39(b) and 39(c)**, to determine whether the purpose of those laws actually lined up with the principles espoused in these provisions.
- **Constitution (Forty-second) Amendment Act, (CAA) 1976 and Minerva Mills Case (1980)**

- **CAA, 1976 extended the protective ambit of Article 31C** to encompass all directive principles of state policy outlined in Articles 36-51 of the Constitution.
  - **Clause (4) of the CAA,1976**, deprived the courts of their power to call in question any amendment of the Constitution.
  - Also, **Clause (5) of the CAA,1976** tried to **remove all limitations** on the amending power.
  - It aimed to **prioritise the implementation of directive principles over certain fundamental rights**, particularly in the pursuit of socio-economic reforms..
- In a subsequent legal ruling of **Minerva Mills Case (1980)**, the Supreme Court **struck down clauses 4 and 5** of the Constitution (Forty-second) Amendment Act,1976.
- This **judicial pronouncement** underscored the **limitations on Parliament's authority to amend the Constitution extensively**.
- Consequently, questions arose regarding the continued validity and applicability of Article 31C following the Minerva Mills case.

## What are the Arguments Regarding Article 31C?

- **Argument Against Automatic Revival:**
  - The original Article 31C was completely **'substituted' by an expanded version** in the **42<sup>nd</sup> Amendment**. Therefore, when the new version was struck down in the Minerva Mills case, the original could not automatically revive.
  - This argument is based on the legal principle that once replaced, the **original provision ceases to exist unless explicitly reinstated**.
- **Argument for Doctrine of Revival:**
  - The original **Article 31C** should automatically be revived based on the doctrine of revival.
  - This view is supported by precedents like the ruling on the **National Judicial Appointments Commission**, where **struck-down amendments led to the revival of previous provisions**, suggesting that the pre-amended Article 31C should resurface if the subsequent amendments are invalidated.

## Conflicts Between Fundamental Rights and DPSP

- **Champakam Dorairajan v the State of Madras, 1951:**
  - In this case, the **Supreme Court** ruled that in case of any **conflict between the Fundamental Rights and the Directive Principles**, the **former would prevail**.
  - It declared that the **Directive Principles** have to conform to and **run as subsidiary** to the Fundamental Rights.
  - It also held that the **Fundamental Rights** could be amended by the Parliament by enacting constitutional amendment acts.
- **Golaknath v the State of Punjab, 1967:**
  - In this case, the **Supreme Court** declared that Fundamental Rights could not be amended by the Parliament even for implementation of Directive Principles.
  - It was contradictory to its own judgement in the 'Shankari Parsad case'.
- **Kesavananda Bharati v the State of Kerala, 1973:**
  - In this case, the **Supreme Court overruled its judgement** in the **Golak Nath case**. It **upheld the validity of the 24<sup>th</sup> Amendment Act** and stated that Parliament is empowered to abridge or take away any of the **Fundamental Rights**.
    - At the same time, it laid down a new doctrine of the **'basic structure'** (or 'basic features') of the Constitution.
  - It ruled that the constituent power of **Parliament under Article 368** does not enable it to alter the 'basic structure' of the Constitution.
- **Minerva Mills vs. Union of India, 1980:**
  - In this case, the Supreme Court held that 'the Indian Constitution is founded on the **bedrock of the balance** between the **Fundamental Rights** and the **Directive Principles**'.
  - The Parliament can amend the Fundamental Rights for implementing the Directive Principles, so long as the **amendment does not damage or destroy the basic structure of the Constitution**.

## Article 31, 31A, 31B and 31C

### ▪ About:

- Originally, the [right to property](#) was one of the seven fundamental rights and provided that no person shall be deprived of his property except by authority of law.
- However, being one of the most controversial rights, the [44th Amendment Act of 1978](#) abolished the right to property as a Fundamental Right and made it a legal right (constitutional right) **under Article 300A in Part XII of the Constitution.**
- Article 31 led to a number of [Constitutional amendments](#); **1<sup>st</sup>, 4<sup>th</sup>, 7<sup>th</sup>, 25<sup>th</sup>, 39<sup>th</sup>, 40<sup>th</sup> and 42<sup>nd</sup> Amendments.**
  - The **First Amendment Act, 1951** inserted Articles **31A** and **31B** to the Constitution.
  - **Article 31C** was inserted in the Constitution by **25th Amendment Act, 1971.**

### ▪ Article 31A:

- It saves **five categories of laws from being challenged** and invalidated on the ground of contravention of the fundamental rights conferred by [Article 14](#) and [Article 19.](#)
- It also provides the **guaranteed right to compensation** in case of acquisition or requisition of the private property by the state.
- **It includes:**
  - Acquisition of estates and related rights by the State;
  - Taking over the management of properties by the State;
  - Amalgamation of corporations;
  - Extinguishment or modification of rights of directors or shareholders of corporations
  - Extinguishment or modification of mining leases.

### ▪ Article 31B:

- It **protects the acts and regulations included in the Ninth Schedule** from being challenged and invalidated on the ground of contravention of any of the fundamental rights.
- The scope of [Article 31B](#) is **wider than Article 31A** as it immunises any law included in the Ninth Schedule from the Fundamental Rights (**unlike article 31A that protects only five categories**).
- However, the Supreme Court in its judgement in the [I.R. Coelho case, 2007](#) ruled that even laws under the **Ninth Schedule would be open to scrutiny** if they violated Fundamental Rights or the **basic structure of the Constitution.**
- The Supreme Court first propounded the doctrine of 'basic structure' of the constitution in the [Kesavananda Bharati on April 24, 1973.](#)

### Drishti Mains Question:

Q. Discuss about the legal and constitutional challenges associated with Article 31C?

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

### Prelims

Q. With reference to the Indian judiciary, consider the following statements: (2021)

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

Which of the statements given above is/are correct?

(a) 1 only

(b) 2 only

(c) Both 1 and 2

(d) Neither 1 nor 2

**Ans: (c)**

**Q. What was the exact constitutional status of India on 26th January, 1950? (2021)**

(a) A Democratic Republic

(b) A Sovereign Democratic Republic

(c) A Sovereign Secular Democratic Republic

(d) A Sovereign Socialist Secular Democratic Republic

**Ans: (b)**

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### **Mains**

**Q. Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to the appointment of judges of higher judiciary in India. (2017)**

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