



## Important Judgements of Independent India: Part II

### Part I

- The [Constitution of India](#), enacted in 1950, has been the cornerstone of India's democracy. After its enactment, it has **undergone several amendments**.
- The Supreme Court is the **ultimate interpreter of the Constitution** and, by its creative and innovative interpretation, has been the protector of our constitutional rights and fundamental freedom.
- These [judgements](#) are to be appreciated not only as precedents but also as having laid down the law on issues of paramount importance—a law that is binding on all courts and authorities in the country.

### **A.K. Gopalan v. State of Madras (1950)**

**Main Theme:** In the **A.K. Gopalan v. State of Madras (1950)** case, the Supreme Court interpreted the **Fundamental Rights under Part III of Indian Constitution**.

- In this case, it held that the protection under [Article 21](#) is available only against arbitrary executive action and not from arbitrary legislative action.
  - This means that the State can deprive the right to life and personal liberty of a person based on a law.
  - This is because of the expression '**procedure established by law**' in Article 21, which is different from the expression '**due process of law**' contained in the American Constitution.
  - Hence, the validity of a law that has prescribed a procedure cannot be questioned on the ground that the law is **unreasonable, unfair, or unjust**.
- Secondly, the Supreme Court held that '**personal liberty**' means only liberty relating to the person or body of the individual.

### **Shankari Prasad v. Union of India (1951)**

**Main Theme:** In this case, the constitutional validity of the [First Amendment Act \(1951\)](#), was challenged.

- The Supreme Court ruled that the power of the Parliament to amend the Constitution under [Article 368](#) also includes the power to amend Fundamental Rights.
- The word 'law' in [Article 13](#) includes only ordinary laws and not the constitutional amendment acts (constituent laws).
  - Therefore, **the Parliament can abridge or take away any of the Fundamental Rights** by enacting a constitutional amendment act and such a law will not be void under Article 13.

### **Berubari Union Case (1960)**

**Main Theme:** In this case, the issue was resolved about whether **the Preamble is part of the**

## Constitution or not.

- According to the Supreme Court, in [the Berubari Union case](#) (1960), the Preamble shows the general purposes behind the several provisions in the Constitution and is thus **a key to the minds of the makers of the Constitution**.
- Further, where the **terms used in any article are ambiguous** or capable of more than one meaning, some assistance at interpretation may be taken from the objectives enshrined in the Preamble.
- Despite this recognition of the significance of the [Preamble](#), the Supreme Court specifically opined that Preamble is not a part of the Constitution.
  - Therefore, **it is not enforceable in a court of law**.

## Golaknath v. State of Punjab (1967)

**Main Theme:** In that case, the Supreme Court ruled that the Parliament cannot take away or abridge any of the Fundamental Rights.

- The Court held that the **Fundamental Rights cannot be amended** for the implementation of the Directive Principles.
- The Parliament reacted to the Supreme Court's judgement in the Golaknath Case (1967) by **enacting the 24<sup>th</sup> Amendment Act (1971) and the 25<sup>th</sup> Amendment Act (1971)**.
- The 24<sup>th</sup> Amendment Act declared that the Parliament has the power **to abridge or take away any of the Fundamental Rights** by enacting Constitutional Amendment Acts.
- The 25<sup>th</sup> Amendment Act inserted a new Article 31C which contained the following **two provisions**:
  - No law which seeks to implement the socialistic [Directive Principles specified in Article 39 \(b\) and \(c\)](#) shall be void on the ground of contravention of the Fundamental Rights conferred by Article 14, Article 19, or Article 31.
  - No law containing a declaration for giving effect to such a policy shall be **questioned in any court** on the ground that it does not give effect to such a policy.

## Indira Nehru Gandhi v. Raj Narain case (1975)

**Main Theme:** [The doctrine of the basic structure](#) of the constitution was reaffirmed and applied by the Supreme Court in the Indira Nehru Gandhi case (1975).

- In this case, the Supreme Court invalidated a provision of the [39<sup>th</sup> Amendment Act \(1975\)](#) which kept the election disputes involving the Prime Minister and the Speaker of Lok Sabha **outside the jurisdiction of all courts**.
- As per the court, this provision was beyond the amending power of Parliament as it **affected the basic structure** of the constitution.
- The Parliament reacted to this judicially innovated doctrine of 'basic structure' by enacting the [42<sup>nd</sup> Amendment Act \(1976\)](#).
- This Act amended [Article 368](#) and declared that there is no limitation on the constituent power of Parliament and **no amendment can be questioned in any court** on any ground including that of the contravention of any of the Fundamental Rights.

## Minerva Mills v. Union of India (1980)

**Main Theme:** The Supreme Court reiterated that Parliament can amend any part of the Constitution but it cannot change the "Basic Structure" of the Constitution.

- In the [Minerva Mills 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.
  - They together constitute the **core of the commitment to social revolution**.

- The goals set out by the Directive Principles have to be achieved without the abrogation of the means provided by the Fundamental Rights.
- Therefore, the present position is that the Fundamental Rights enjoy supremacy over the **Directive Principles**.
- Yet, this does not mean that the Directive Principles cannot be implemented.
- 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.

## MC Mehta v. Union Of India (1986)

**Main Theme:** The judgement is considered as one of the major ruling in the field of environmental law in our country. The judgement took up various new situations and ways of interpretation of the laws and Fundamental Rights.

- The Supreme Court, in the M.C. Mehta vs Union of India 1987, found the **strict liability principle** inadequate to protect citizens' rights and replaced it with the absolute liability principle.
  - This judgement came on the **Oleum gas leak case of Delhi in 1986**.
- In this case, the Supreme Court introduced **compulsory learning of lessons on protection and improvement** of the natural environment in all the educational institutions of the country as a part of Fundamental duty under **Article 51-A (g)**.

## S. R. Bommai v. Union of India (1994)

**Main Theme:** In this case, the Supreme Court laid down that the Constitution is federal and characterised **federalism as its 'basic feature'**.

- It observed the fact that under the scheme of our Constitution, greater power is conferred upon the Centre vis-a-vis the states does not mean that the **states are mere appendages of the Centre**.
- The states have an independent constitutional existence. They are **not satellites or agents of the Centre**. Within the sphere allotted to them, the states are supreme.
- The fact that during an emergency and in certain other eventualities their **powers are overridden or invaded** by the Centre is not destructive of the essential federal feature of the Constitution.
- They are exceptions and the exceptions are not a rule. Let it be said that the federalism in the Indian Constitution is **not a matter of administrative convenience**, but one of principle-the outcome of our own process and a recognition of the ground realities.

## Shayara Bano v. Union of India & Ors. (2017)

**Main Theme:** In this case, the Supreme Court ruled that Instant **Triple talaq or talaq-e-biddat is unconstitutional and illegal**.

- To enforce the Supreme Court ruling, the government brought **The Muslim Women (Protection of Rights on Marriage) Bill, 2017**.
- The bill was passed by Lok Sabha, but the bill remains pending in Rajya Sabha.
- The ordinance **gives effect to the amended version** of The Muslim Women (Protection of Rights on Marriage) Bill, 2017 as presented in Rajya Sabha by the government.

## Mains Question

**Q.** 'Constitutional Morality' is rooted in the Constitution itself and is founded on its essential facets. Explain the doctrine of 'Constitutional Morality' with the help of relevant judicial decisions.

**Q.** Divorce is a civil matter and making Triple Talaq a criminal offence is disproportionate to criminal jurisprudence. Comment.

**Q.** What is the Doctrine of Basic Structure'? Discuss its evolution and significance in strengthening the spirit of constitutionalism. (250 words)

### **Prelims Questions**

**Q.** Which of the following cases does not deal with constitutional amendability power of the Parliament?

1. Shankari Prasad case
2. Sajjan Singh case
3. S R Bommai case
4. Golaknath case

Select the correct option using the codes given below.

A. 1 and 2 only

**B. 3 only**

C. 2 only

D. 3 and 4 only

**Q.** Recently in news, Shayara Bano vs. Union of India case is related to:

A. Rights of Muslim woman to marry the person of her choice

B. Ban polygamy

C. Ban on female genital mutilation

**D. Make instant triple 'talaq' (divorce) as illegal**

**Q.** Which of the following is/are correct regarding the Preamble of India?

1. It was held as a part of the Constitution in the Berubari Union case.
2. It is a part of the basic Structure of the Constitution.
3. It is not a source of power nor a source of limitations.

Which of the statements given above is/are correct?

A. 1 and 2 only

**B. 2 only**

C. 3 only

D. 1, 2 and 3 only