



SEMINAR FOR FOREIGN JUDGES [BANGLADESH]
(For Senior Assistant Judges, Assistant Judges and Magistrates)

Coordinators:

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SESSION 1, 2 and 3
OVERVIEW AND ARCHITECTURE OF THE INDIAN CONSTITUTIONAL
ARRANGEMENT;
INDIAN JUDICIARY: ORGANIZATIONAL STRUCTURE AND JURISDICTION; AND
GOALS, ROLE AND MISSION OF COURTS: CONSTITUTIONAL VISION OF JUSTICE

Speakers: Justice M.S. Sonak, Prof V.K. Dixit

The session began with discussion on the framing of the Constitution of India, wherein speaker discussed briefly the philosophy of the constitution and chronological events led in making of the Constitution of India right from World War II in 1945 to adoption of constitution by constitution assembly on 26th November 1949.

Thereafter, speaker's discussed the Preamble of the Constitution of India and emphasized on major similarities between Constitution of India and Bangladesh.

Broad scheme of the Constitution of India from Part I to Part XXI was also explained to participants during the session. Attention was drawn to important parts of the Constitution in comparison with the Constitution of Bangladesh.

The basic structure of the Constitution of India was also discussed in the session. Speakers highlighted and discussed in detail various landmark judgements of the Supreme Court of India in explaining and in context of nature of Fundamental Rights, Directive Principles, Judicial Review and Amendments in the Constitution. The following landmark Judgements discussed during the session.

Shankari Prasad V/S. Union of India (1952) 1 SCR 89

Sajjan Singh V/S. State of Rajasthan AIR 1965 SC 845

Golaknath V/S. State of Punjab AIR 1967 SC 1643

Keshavananda Bharati V/S State of Kerala 1973 (4) SCC 225

Raj Narain V/S. Indira Gandhi, (1975) AIR 865

Minerva Mills V/S. Union of India, AIR 1980 SC 1789

The session was based on the concept of justice in a broader sense with special emphasis on constitutional vision of justice. Various definitions and theories of justice were put forward in the session. It was observed that concept of justice is a very vague concept and a static concept. Justice can't be put into a definition. Definition of justice changes from time to time or the concept of justice changes with the change in society. Article 14, 19 and 21 of the Indian

Constitution (hereinafter referred to as Constitution) were touched upon. The goals, roles and mission of courts to uphold the same while deciding a case was emphasized. While deliberating upon the Constitution, special emphasis was given as to why amendments and interpretation of the Constitution is necessary; it was observed that there ought to be progressive interpretation of Constitution. The role of judiciary is to bring change in society was brought forward. Social issues were deliberated upon such as reservation in educational institutions, gender equality were viewed through the prism of fundamental rights and constitutional vision of justice. Role of Judiciary in an ever changing environment was discussed upon. It was further discussed how it is duty of every judicial officer to protect the dignity of judicial institution. Qualities that a judge must possess to make sure that constitutional vision of justice is achieved were discussed upon. It was observed that a judge must have a human touch with the case to make sure that justice is delivered. The final part of the session concluded with an interactive session with the participants expressing their views as to what is concept of justice according to them and the same was discussed upon.

SESSION 4

ELEMENTS OF JUDICIAL BEHAVIOR: ETHICS, NEUTRALITY and PROFESSIONALISM

Speakers: Justice Sanjeev Sachdeva, Justice A. MuhamedMustaque

The session started with light being shed upon the history and mythological characters such as Lord Krishna and Mohd. Prophet, that as to how the concept of justice has evolved. It was further discussed that how ethics, neutrality and professionalism became an integral part of judiciary. It was further observed that judicial behavior of a judge is often perceived as the identity of judiciary as an institution. It was deliberated that if people lose faith in justice dispensed to them, the entire democratic setup may crumble which makes judicial behavior of utmost importance. It was observed that judicial behavior was a part of the natural virtue which includes modesty; courtesy, justice, and compassion are some of the examples of natural virtue. It was deliberated upon the essential elements of judicial behavior which includes transparency, integrity, accountability, independence, commitment, professionalism all of them were held to be a part of judicial behavior. The Oath of a judge as contained in the Third Schedule of the Constitution of India was discussed and various conventions that aim to provide ethics for judges were taken into consideration. Conventions such as The Bangalore Principles of Judicial Conduct 2002, Canon of Judicial Ethics adopted by American Bar Association 1924 were discussed, personal values to be displayed by a judge were discussed. Concepts such as Independence, Accountability, Isolation and Involvement were discussed in depth. Impact and role of ICT on the judicial behavior was discussed, it was observed that a judge should not actively engage itself in the online sphere as it impacts ethics of the profession. The broader theme that was deliberated upon was “How ICT impacts judicial behavior”. A discussion took place upon the “impartiality and neutrality”. It was observed that “impartiality and neutrality” were two different concepts. It was further observed that a judge should be impartial and neutral at the same time. Emphasis was drawn on the fact that a judge should have an open mind while deciding a particular case otherwise a judgment given often leads to obstruction of justice and there is hindrance of justice. It was observed that there is a distinction between “individual values” and “institutional values”. A judge shouldn't mix his individual values with the institutional values as it impacts the reputation of judiciary as an institution. It was further

observed that for a justice to be accepted by the masses “a free and fair process” shall be followed.

SESSION 5:

JUDGING SKILLS: ART, CRAFT AND SCIENCE OF DRAFTING JUDGMENTS

Speakers: Justice Sanjeev Sachdeva, Justice A. MuhamedMustaque

The first part of the session started with a focus on jurisprudence. Light was shed upon jurisprudential thinkers and their philosophies related to law. Theories of HL Hart, Hans Kelsen, and Dworkin were discussed. While discussing the jurisprudence basic question were pondered upon such as “What is law”, “What is Justice” and “Theories of Justice”. Common law and Civil law was discussed in detail. Basic concepts of Jurisprudence such as possession and ownership, rights and duties were deliberated upon. The fundamental concepts of jural opposites and jural correlatives were discussed upon. The concept of “Restorative Concept of Justice” was discussed in brief. A timeline regarding the changes in Indian Judiciary was put forward i.e. a transformation from political to commercial rights; it was held that judges must adapt themselves to the changing nature of rights. Methods of legal reasoning such as analytical reasoning, deductive reasoning and syllogism were discussed as to how a judge should apply these methods when hearing a matter. It was observed that every method should be used in a creative manner. The second part of the session was based on the theme of “Science of Drafting Judgments”. It was observed that judgment writing is an art which is developed through experience. Judgment has been defined under section 2(9) of Civil Procedure Code. The format of judgment was discussed in detail which shall include the following:-

- a) Introduction
- b) Facts
- c) Points for determination
- d) Reason for the decision on a point of determination
- e) Conclusion
- f) Order
- g) Footnotes, Endnotes and Appendices

Various guidelines were brought forward as to how a good judgment should be drafted which included the following:-

- a) Plain and Simple language must be used
- b) Latin expressions should be avoided

- c) Facts and Issues should be well framed
- d) Facts should be mentioned in a relevant manner and in a chronological manner
- e) There should be clear applicability of law
- f) Pleadings should be avoided in a judgment
- g) One should use a writing style with which he is comfortable
- h) Limit the use of italics for emphasis.
- i) Minimise the use of Latin phrases.
- j) Use spot citations like exact pages.
- k) Be gender sensitive and avoid prejudices.
- l) Be respectful to the parties and others.
- m) Avoid the straight narrative style which never really poses the question to be answered until the end.
- n) A judgment is not a detective story; it should consist of posing of questions and thereafter of findings of facts relevant to the questions and the stating of the answers to those questions based on the applicable law.
- o) Proper use of Grammar and punctuation shows professionalism and makes writing easier to understand.
- p) Avoid repeating pleadings and the law.

SESSION 6:
JUDGE THE MASTER OF THE COURT: COURT MANAGEMENT AND CASE
MANAGEMENT

Speaker: Justice Sanjeev Sachdeva

The main theme of the session revolved around the role of ICT in court management and case management. It was deliberated that with proper mechanism of ICT can help in reducing the pendency of the case drastically. The ICT in court can be used in following areas

- a) To ensure court work effectively
- b) To effectively put cause list
- c) To identify cause list
- d) Judges have access to legal database from all around the world

The concept of e-courts was discussed in detail. It was observed that for speedy trial of justice the introduction of ICT is the need of the hour. The concept of paperless courts was discussed. Various essentials for setting up an e-court were discussed. A brief discussion took place on admissibility of e-evidence and how the digitization of courts can help in delivering justice where an e-evidence is produced. Various steps taken by Government and Judiciary were discussed as how they have helped in digitization of judiciary. The question of how a paper bound judiciary can transform itself to e-judiciary was discussed in detail. Various steps that have been taken were discussed such as:-

- a) Displaying District Boards where each court room and the case in progress in each court room is displayed on the board.
- b) SMS Filing was discussed wherein the status of the case whether it has been filed can be known through a message.
- c) Every case has CNR no, so the parties can get status of cases online and e-Court app is there to find the cause list, details of case.
- d) Every court has to maintain their websites wherein the matters scheduled, order; judgments can be searched through a keyword.
- e) The concept of e-filing of cases and its advantages were discussed that how it reduces the paperwork and makes preservation of records easy.

Electronic evidence was discussed through an interactive session with the participants, admissibility and authenticity of the evidence was deliberated upon. The benefits of electronic

evidence and how it can lead to speedy justice was deliberated upon. Upon the concept of e-FIR under motor vehicle wherein a theft has taken place was discussed, it was stated that a person can file an e-FIR and the same would be sent to the concerned authorities. The Prison Management System (PMS) was discussed wherein the rights and rehabilitation involving prisoners was discussed briefly.

SESSION 7:

PRINCIPLES OF EVIDENCE: APPRECIATION IN CIVIL AND CRIMINAL CASES

Speaker: Justice K. C. Bhanu

Session started with light being shed upon the development of Indian Evidence Act from colonial period to amendments that have taken place in Indian Evidence Act. It was observed that basic structure of Indian Evidence Act and Bangladesh Evidence Act are identical in nature. It was observed that Evidence Act must be read as a whole. The key provisions regarding for the appreciation of evidence was discussed with relevant illustrations. The session revolved around the basics in Evidence Act. Various basic concepts of Indian Evidence act such as fact, presumption of evidence, relevant, burden of proof, exclusion of oral evidence and other concepts of Evidence were discussed in detail. It was observed that appreciation of evidence should be based on facts. It was deliberated that a judge should take evidence into consideration keeping in mind the relevant facts, basic steps were observed that a judge should keep in mind while appreciating evidence. Appreciation of evidence from “child, elderly citizens, and police” was discussed in detail and it was observed that evidence from each source must be appreciated on facts. Rule of hearsay as mentioned under Evidence Act was discussed in detail. The concept of “opinion of experts” was discussed in detail, various methods through which an expert can give opinion was discussed and as to which method of forensic science can constitute an evidence, it was stated that nothing from forensic science could be taken as “conclusive evidence” apart fingerprint as it forms a part of exact science. The concept of “Burden of Proof” was discussed in detail; it was observed that Burden of Proof is always upon the plaintiff. It was observed that “Burden of Proof” shifts to defendant when it has been proved by the plaintiff. Exceptions were discussed wherein the “Burden of Proof” lies upon the defendant, these included cases of dowry death as an example. The concept of witness and types of witness was discussed in detail. It was observed that there are three types of witness namely:

- a) Wholly Reliable
- b) Wholly Unreliable
- c) Neither Reliable nor Unreliable

The concept of documentary evidence was discussed in detail where it was observed that documentary evidence may either be admissible or inadmissible in court of law. It was further

observed that a documentary evidence should only be admissible after it authentication has been verified.

SESSION 8:

EVIDENTIARY PRESUMPTION, ONUS AND BURDEN OF PROOF

Speaker: Justice K.C. Bhanu

Session commenced with revisiting legal concepts presumption, onus and burden of proof. Concepts such as who is a reasonable man and a prudent man was explored. It was explained as a standard used to judge the conduct of an ordinary person especially in cases of negligence by a hypothetical person “prudent or reasonable man” as a legal to determine whether an act was negligent. The course of discussion then shifted towards the concept of “presumptions”. The concept of “may presume” and “shall presume” as mentioned under Section 4 of Indian Evidence Act was discussed in detail. It was held that “may presume “constitutes the discretionary power of the court whereas “shall presume” constitutes an obligation on the court that a fact has been proved. In a case based on circumstantial evidence, it is well settled in law, the prosecution is required to prove the circumstances projected by it, beyond reasonable doubts and that such proved circumstances should form a complete chain, without any missing link, unerringly pointing to the guilt of the accused and that there is no other hypothesis which is inconsistent with the guilt of the accused. Various provisions of Indian Evidence Act such as Section 79, 105, 140 relating to evidentiary presumptions were discussed. Section 64 and 65 OF Indian Evidence Act was compared with the Bangladesh Evidence Act and same was deliberated upon. Further in the discussion the legal concepts of “Onus and Burden of Proof” as mentioned under Indian and Bangladesh Evidence Act was discussed in detail. It was observed that “Onus and Burden of Proof” is always upon the plaintiff apart from cases mentioned under section 105 of the act. Various sections such as section 41, 84, 86, 87, 105, 112, 140, 145 mentioned under Bangladesh Evidence Act were discussed in depth.

SESSION 9:
ELECTRONIC EVIDENCE: NEW HORIZONS, COLLECTION, PRESERVATION AND
APPRECIATION

Speaker: Mr. Harold D'Costa

Chair: Justice K. C. Bhanu

This Session was initiated with exhibition of practical problems in deciphering the genuineness of source of origin of electronic evidence. The importance of establishing as to whether an SMS or a WhatsApp message has been sent from the 13 device of the victim was demonstrated. A few smart procedures to investigate originality were shared with the judicial officers. It was observed that speed and observance of standard procedures to collect and preserve the electronic evidence are cardinal in nature. It was deliberated that how e-evidence can be used as a tool for speedy justice. "Source" and "Authenticity" of e-evidence was discussed in detail. It was observed that with an increase in the cyber-crimes, the concept of e-evidence is growing at a rapid rate. Various facets related to e-evidence were touched upon by the speaker. Concepts such as encryption, decryption, spoofed email, proxy servers were discussed by the speaker. How to preserve digital evidence, and the best practices to decipher and preserve the "digital foot prints" were discussed in detail. While discussing the types of electronic evidence viz. material; documentary; oral, what is "shadow evidence" was discussed. It was discussed that with the advancements in technology the electronic evidence to be considered by the Courts generally do not have a body in material form, it is binary in existence.

SESSION 10:

FORENSIC EVIDENCE IN CIVIL AND CRIMINAL TRIALS, DNA PROFILING

Speakers Mr. Abhishek Yadav & Ms. Nisha Menon

The session started with light being shed upon role of forensic evidence in civil and criminal trials, it was observed that there are two types of evidence namely i.e. direct and circumstantial evidence. It was deliberated that forensic evidence is science based information. The use of science and technology in the legal field was extensively discussed. Lockard's cardinal principle on which forensic science was discussed which states "when two objects come in contact with each other, they leave a trail on each other". Various techniques related to forensic sciences were discussed which included graphology, fingerprint analysis, voice modulation and various equipment used in forensic science were pondered upon. It was underscored that there exists two techniques which are normally followed to establish conclusive proof when it comes to a dead body viz. i) Superimposition examination, which has its own limitations and may sometimes lead to incorrect or imprecise conclusions, and ii) DNA profiling, which is more reliable and is 99.99% accurate. It was discussed as to how long a DNA can be preserved and how it is to be preserved from getting contaminated. Furthermore the concept of DNA profiling was discussed in detail. Various cases as to where DNA was used as evidence was discussed in detail and they included the following:

- a) State of UP vs Ramtej
- b) Priyadarshini Mantoo's Case
- c) Tandoor Case
- d) Sheena Bora Murder Case
- e) Aarushi Talwar Murder Case

The law relating to relating DNA i.e. DNA Technology (Use and Regulation) Bill, 2017 was discussed in detail. The notion of how DNA Profiling violates the right to privacy was deliberated upon.

SESSION 11:

CRIMINAL JUSTICE ADMINISTRATION AND HUMAN RIGHTS

Speaker: Prof. M.K. Ramesh

The session started with visiting the concept of “Criminal Justice Administration” during the period of colonial rule. It was observed that “Criminal Justice Administration” during the colonial period was enacted to serve the interests of the colonial government and not the society. It was observed that the methodology followed in British era is still being followed i.e. sending accused to prison whereas the concept of “Criminal Justice Administration” is a broader theme which involves giving the accused his dignity that he has lost due to the crime, in this context Mahatma Gandhi was quoted “Hid the sin, not the sinner”. It was deliberated that “justice administration” and “justice dispensation” were two different concepts but both were held to be a part broader theme i.e. “Criminal Justice Administration”. The role of judiciary as an authority for providing justice in criminal cases was deliberated upon. It was observed that “Criminal Justice Administration” needed to be viewed through the prism of human rights. It was pondered upon that rights of an accused does not stand terminated even when he is convicted, he is entitled to fundamental rights of an accused person and other basic human rights. Article 20(3) of the Constitution of India was discussed where an accused has privileged against “self-incrimination”. Article 21 of the Constitution of India was discussed in details with emphasis laid in cases such as:-

- a) AK Gopalan vs State of Madras
- b) Maneka Gandhi vs Union of India
- c) Sunil Batra vs Delhi Administration

All these cases involved the common element of “Criminal Justice Administration” viewed through the prism of human rights. It was observed that “Criminal Justice Administration” can also be termed as social engineering by judiciary. The session concluded with the main theme of session being “How robust is Indian Constitution and to what extent it guarantees “Criminal Justice Administration”.

SESSION12:

HUMAN RIGHTS: FAIR AND IMPARTIAL INVESTIGATION

Speaker: Prof. M.K. Ramesh

The session started with light being shed upon the investigation process being followed in India and Bangladesh. The concept of human rights was discussed and it was held that “fair and impartial investigation” is a facet of human rights. It was observed that “free and impartial investigation” is a right enshrined under Article 21 of the Constitution of India. The importance of “free and impartial investigation” in civil and criminal matters was discussed in detail. International conventions such as United Declaration for Human Rights and International Covenant on Civil and Political Rights were discussed as to how it is mentioned under both these conventions that an accused is entitled for a “fair and impartial investigation”. Emphasis was laid on the concepts of “procedure by law” and “due process by law”. AK Gopalan case popularly known as preventive detention case was discussed wherein it was held that “police can arrest any person followed by a procedure, even the procedure may stand to be arbitrary in nature”. Maneka Gandhi’s case was also discussed wherein the court held “police can only make an arrest in those cases where due procedure of law has been followed”. It was further observed that there are cases where proper investigation has been done, it was observed that in these type of cases the primary judiciary should have a pro-active role and it may order for a new investigation if it is not satisfied with the investigation.

SESSION 13:

ICT AND E JUDICIARY: INDIAN PERSPECTIVE

Speaker: Mr. Talwant Singh

The session started with light being shed upon the traditional paper being used in the Indian legal system. It was observed that being dependent on paper for use in legal system was getting complex day by day as paper was filling up the spaces and disposing of paper meant disposing old records without a backup. Further it was deliberated that preservation of records in paper format was difficult process. After discussing the background of use of paper in Indian legal system, the discussion shifted towards the concept of “ICT and E Judiciary”, the background and need for “E Judiciary” was discussed in detail. It was observed that no of cases in Indian courts were increasing at a rapid rate and therefore the pendency of cases was also rising day by day. It was further discussed that in 2005, the E-Committee for monitoring use of Information Technology in the Indian Judiciary was established. It was further observed that for implementation of ICT various phases had been created. It was further deliberated that the technology system in courts can be used in the following areas:-

- a) To ensure court work effectively
- b) To effectively put cause list
- c) To identify relevant matters
- d) Provide input to judges for expeditious issues
- e) Judges can refer judgments from Privy Council to latest cases

Various essentials as to what constitutes an e-court were discussed. It was deliberated as to why e-courts are the need of the hour. Concepts such as digitization of paper records, e-evidence, and video conferencing of the accused, e-filing, e-FIR under Motor Vehicle Act were discussed in detail. Essentials needed for an e-court were discussed in depth and following were held to be the essentials of any e-court.

- a) Case Information System
- b) Digitization of Paper Records
- c) E-Filing

SESSION 14:

IDENTIFICATION OF RATIO IN A PRECEDENT

Speakers: Mr. V. Sudhish Pai, Mrs. Hema Sampath

The speakers commenced the session by stating three principles including proof of fact, statutory provision and ratio decidendi. Ratio decidendi guide the judge to arrive to the right conclusion according to law. Indian judiciary follows the common law principle justice, equity and good conscience. The speaker explained the method of identifying ratio from a binding precedent. The difference between ratio decidendi and obiter dicta was explained to the participants. The issue of whether high court's decision is binding on all States was discussed with the participants. It was further observed that "ratio decidendi" becomes a law when there is absence of any law on the concerned subject matter. It was observed that there shall be unanimity among judges and consistency in judgments in order to make sure that chaos is not created in the legal system of the country. Various observations made by judges and jurists relating to "law of precedent" was deliberated upon. It was observed that precedent keeps a check on "judicial arbitrariness". The concepts of "per incuriam" and "stare decisis" were discussed in detail. Article 141 of the Indian Constitution and Article 111 and 112 of the Bangladesh Constitution were discussed by the speaker.

SESSION 15 AND SESSION 16:

LANDMARKS JUDGMENTS IN INDIA

Speakers: Mr. V. Sudhish Pai Prof. D.P. Verma

The session started with light being shed upon the development of legal system in India. Further the discussion moved on to the hierarchy of court system being followed. It was further deliberated that with the passage of time, there have been judgments which changed the landscape of political, civil, social and economic rights in India.

In the case of *K. Pettaway vs Union of India* it was held that “Right to Privacy was a fundamental right mentioned under Article 21 of the Constitution”. It was observed that it is not the majority judgments which have to be considered as landmark judgments; even the dissenting opinion of the judges could be considered as landmark judgments, in this regard while discussing *K. Puttaswamy* case reference was drawn to the judgments given in *MP Sharma* case where it was observed that “Right to Property is not a fundamental right. In *Gobind’s* case it was observed that “Right to property is not a fundamental right” while discussing *Gobind’s* case the dissenting opinion given by Justice Subbarao which stated that “ Fundamental Right to Privacy is hidden deep in the ocean of rights mentioned under Part III of the constitution of India”. The case of *PUCL (Telephone Tapping case)* was discussed in which it was held ‘ ’ telephone tapping does violate the fundamental right mentioned under Article 21 of the Constitution” though it was observed court did not recognize the “right to privacy as a fundamental right”. Issues related to right to privacy were extensively discussed and a wide range of interpretations drawn from interpretation of constitution were deliberated upon. International conventions such as Article 1 and 12 of Universal Declaration for Human Rights, Article 17 of International Covenant on Human and Political Rights, 2014 Report by United Nation Commissioner for Human Rights. The session concluded with an extensive discussion upon the issue of the security of state and its intersection with right to privacy with focus being upon the online horizon.

The discussion changed its course from the recent landmark judgments to judgments which have shaped the present day Indian legal system. The case of *ADM Jabalpur (Habeas Corpus Case)* was discussed and the dissenting opinion of Justice HR Khanna was discussed. The theme as to “how dissenting judgments can be treated as landmark judgments and how they contribute to socio and economic growth” were discussed in detail. Dissenting opinion of Fazal Ali was

discussed which stated that “no fundamental right can be viewed in isolation”. In RC Cooper (Bank Nationalization Case) it was observed that “the philosophy underlying Article 14, 19 and 21 states that while interpreting the court shall look at them as a whole and not in isolation.” In Romesh Thapar it was held that “Article 19(1) (a) within itself includes freedom of press”. In State of Madras vs Viji Rao it was held that “no fundamental right is absolute in nature, restrictions mentioned under 19(2) - 19(6) are constitutionally valid”. In Maneka Gandhi vs Union of India it was observed that “Gopalan is no longer a good law, fundamental rights are not exhaustive rights rather they are illustrative in nature. Article 21 taken within itself various facets of human rights”. In Gajpati Narayan’s case “the court introduced the concept of colorable legislation, every organ is limited by its power as guaranteed under constitution”. In Rattilal’s case “the court laid down the contours of right to religion”. In KK Kochuni case CJ Das held that “Article 32 of Constitution petitioned for the protection of fundamental rights, protection of fundamental is sacrosanct and it is duty of court to protect them”. In State of West Bengal vs Union of India “the federal structure of Indian polity was pronounced”. In Naresh Sridhar Miraj vs State of Maharashtra it was observed that “a judicial order cannot ever violate a fundamental right”, in this case dissenting opinion of Justice Hidayatullah was also discussed which stated “Courts also come under definition of Article 12 and they may violate fundamental rights as well”. The case of H.H Kesavananda Bharti vs State of Kerela was discussed wherein it was held by a ration 7:6 “the parliament can amend the constitution subject to basic structure”. In Rudul Shah it was observed that “the victim of public wrong is entitled for compensation”. In National Judicial Appointment Commission case, the doctrine of basic structure was invoked wherein it was held that “independence of judiciary forms the part of basic structure of constitution”.