

LANDMARK JUDGMENTS OF THE SUPREME COURT OF INDIA

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The Organic Element of Law

“The inevitable truth is that law is not static and immutable but ever increasingly dynamic and grows with the ongoing passage of time.”

- **S. Ratnavel Pandian, J.**
in **Supreme Court Advocates on Record Association Vs. Union of India (1993) 4 SCC 441**

The Supreme Court of India

- The Supreme Court of India is the highest Constitutional court of the Country which can be accessed directly by a citizen under Article 32 of the Constitution for redress of fundamental rights. Commencing with **eight judges**, the sanctioned strength of the Court presently stands at 34.

Great judgment vs. Landmark judgment

- A **great judgment** is one that restores the constitutional values of a polity from the waywardness into which it may have fallen, while a **landmark judgment** is one which opens up new directions in our constitutional thinking and, in the process, adds new dimensions to what are regarded as established constitutional principles. If “great” restores the centrality of constitutional values, “landmark” revitalises them.”-

Peter Ronald deSouza, Professor at the Centre for the Study of Developing Societies, Delhi

Landmark Judgments

- **“..... When histories of nations are written and critiqued, there are judicial decisions at the forefront of liberty. Yet others have to be consigned to the archives, reflective of what was, but should never have been.”**

D.Y Chandrachud J.

In Justice K.S. Puttaswamy (retd.) Vs. Union of India and ors. , (2017) 10 SCC 1

1. Personal Liberty: Procedure Established by Law:

- **A.K.Gopalan VS. State of Madras** ,[1950] SCR 88
- The petitioner, detained under the Preventive Detention Act challenged the legality of detention under [Art. 32](#) of the Constitution on the ground that the said Act contravened Arts. 13, 19, 21 and 22 of the Constitution and was, therefore, ultra vires.
- The S.C. held- that [Article 22](#) was a self-contained Code and if personal liberty is taken away by the State in accordance with the procedure established by law i.e. ***if the detention was as per the procedure established by law***, then it cannot be said that the law was violative of provisions contained in Articles 14 ,19 and 21 of the Constitution.

Personal Liberty: Procedure Established by Law: Fair, Just and Reasonable

Maneka Gandhi v. Union of India (AIR 1978 SC 597) (1978).

- The view expressed in **A. K. Gopalan's case** was revisited in this case after about 28 years.
- The main issues were whether the right to go abroad is a part of the right to personal liberty under Article 21 and whether the Passport Act prescribes a 'procedure' as required by Article 21 of the Constitution.
- The SC held that the right to go abroad is a part of the right to personal liberty under Article 21.
- The SC also ruled that the mere existence of an enabling law was not enough to restrain personal liberty. "The procedure prescribed by law has to be **fair, just and reasonable, not fanciful, oppressive or arbitrary.**"

LIFE AND LIBERTY: ADM Jabalpur v. Shivakant Shukla, (1976) 2 SCC 521

- A Constitution Bench by a majority of 4:1, ruled that while a **proclamation of emergency is in operation**, the right to move High Courts under Article 226 for Habeas Corpus challenging illegal detention by State will stand suspended. The apex Court said “ If extraordinary powers are given, they are given because the Emergency is extraordinary, and are limited to the period of the Emergency.”
- The judgment is more recognised for the dissenting opinion of Justice **HR Khanna** in which he said - *"detention without trial is an anathema to all those who love personal liberty... A dissent is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting Judge believes the court to have been betrayed"*.

LIFE AND LIBERTY: ADM Jabalpur v. Shivakant Shukla- OVERRULED

- **In Justice K.S. Puttaswamy (retd.) Vs. Union of India and ors. , (2017) 10 SCC 1 para 121 (Nine Judges), the apex Court overruling the majority view expressed in ADM Jabalpur v. Shivkant Shukla (1976) 2 SCC 521, held-**
- **“The view taken by Justice Khanna must be accepted, and accepted in reverence for the strength of its thoughts and the courage of its convictions...”**
- **Sanjay Kishan Kaul, J. in his concurring judgment said: “...the ADM Jabalpur case which was an aberration in the constitutional jurisprudence of our country and the desirability of burying the majority opinion ten fathom deep, with no chance of resurrection.”**

2. Amendability of Fundamental Rights

Shankari Prasad v. Union of India , [1952] SCR 89 (1951): This case dealt with the amendability of Fundamental Rights (the First Amendment's validity was challenged).

- The SC Court held that the power conferred on Parliament by Art. 368 to amend is a very wide power and includes the power to take away the fundamental rights guaranteed by Part III. , and
- that in the context of Art. 13 (2), "law" must be taken to mean rules or regulations made in exercise of ordinary legislative power and not amendments to the constitution made in the exercise of constituent power with the result that Art. 13(2) does not affect amendments made under Art. 368.
- This view was reiterated in **Sajjan Singh vs State Of Rajasthan, AIR 1965 SC 845**

Amendability of Fundamental Rights

The issues regarding power of the Parliament to amend Part III of the Constitution was re-examined in **I. C. Golak Nath v. State of Punjab, AIR 1967 SC 1643**

- The questions in this case were whether amendment is a law within the meaning of Art.13(2) of the Constitution of India, and
- whether Fundamental Rights can be amended by the Parliament?
- Overruling *Sajjan Singh* by a **majority of six to five** the Supreme Court held that amendment under Article 368 is “law” within the meaning of Article 13(2);
- It further ruled that Legislature does not enjoy the power to amend Part III of the Constitution to take away or abridge fundamental rights .

3. The Doctrine of Basic Structure

His Holiness Kesavananda Bharati Sripadagalavaru v. State of Kerala, AIR 1973 SC 1461 (decided by a Bench of 13 Judges)

- The most celebrated case in the history of Indian Constitutional law in which the apex Court dealt with the issue - **whether the Parliament can amend any part of the Constitution and what was the limit to that power?**
- The Bench by a majority of 7-6 **Overruled** the proposition of law propounded in **I. C. Golak Nath v. State of Punjab, AIR 1967 SC 1643** and held that Constitutional amendment is not “law” within the meaning of Article 13 and that although no part of the Constitution, including Part III comprising of fundamental rights, was beyond the Parliament’s amending power, the **“basic structure of the Constitution”** could not be abrogated even by a constitutional amendment.”
- As regards the basic structure, the Court held that **it would be decided from case to case** .

The Doctrine of Basic Structure- Application

Indira Nehru Gandhi v. Raj Narain 1975 SC 2299

- The validity of **39th Constitution amendment** enacted in 1975 which (Article 39-A) sought to place the election of the President, the Vice President, the Prime Minister and the Speaker of the Lok Sabha beyond the scrutiny of the constitutional courts was challenged in this case. The S.C. resorting to the theory of basic structure of the Constitution struck down Clause (4) of Article 329-A on the grounds that it was beyond the Parliament's amending power as it destroyed the basic structure of the Constitution.

The Doctrine of Basic Structure- Minerva Mills case, (1980) AIR 1980 SC 1789

Validity of Constitution (42nd Amendment) Act, 1976 ,which inter alia provided for exclusion of judicial review of constitutional amendments and expressly conferred unlimited amendment power to the Parliament, was challenged on the ground that they are **violative of the 'basic structure'** of the Constitution.

- The Court by a majority of 4 to 1 struck down clauses (4) and (5) of article 368 holding that they violated the basic structure of the Constitution.
- The Court ruled that Parliament's power to make Constitutional amendments is limited which **itself is a basic feature of the Constitution**. The judgement makes it clear that the **Constitution, and not the Parliament is supreme**.

The Doctrine of Basic Structure: IR Coelho's Case (2007) 2 SCC 1 (Known as 9th Schedule Case) (Nine Judge Bench)

- **Basic Structure** : A land mark judgment on the interpretation of the doctrine of basic structure of the constitution.
- The **supremacy of the Constitution** mandates all constitutional bodies to comply with the provisions of the Constitution.
- **Judicial Review** : A mechanism for testing the validity of legislative acts through an independent organ, viz. the judiciary is part of basic structure.
- The Court held that any law inserted in the Ninth Schedule on or after **April 24, 1973** (date on which *Keshavananda* was pronounced) can be subject to judicial review and will be struck down if it violates the basic structure doctrine.

4. Public Interest Litigation- The Beginning

Mumbai Kamgar Sabha, Bombay ,AIR 1976 SC 1455

This case is considered to be the foundation of public interest litigation in India.

- In this case Justice V.R. Krishna Iyer speaking for the Court held that- ***“Procedural prescriptions are handmaids, not mistresses, of justice... . Our adjectival branch of jurisprudence, by and large, deals not with sophisticated litigants but the rural poor, the urban lay and the weaker societal segments for whom law will be an added terror.***
- Test litigations, representative actions, **pro bono publico** and like broadened forms of legal proceedings are in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass the real issues on the merits by suspect reliance on peripheral procedural, shortcomings.

Public Interest Litigation: Sunil Batra v. Delhi Administration & Others, AIR 1978 SC 1675

A landmark decision on prison reforms , in this case the apex Court held that a convict is entitled to the precious right guaranteed by [Art. 21](#) that he shall not be deprived of his life or personal liberty except according to the procedure established by law.

- The Court ruled that fundamental rights do not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration. Our Constitutional culture has now crystallised in favour of prison justice and judicial jurisdiction.
- The intervention of social welfare organisations in litigative processes pregnant with wider implications is a healthy mediation between the people and the rule of law.
- The Court issued a number of direction for improving the conditions of jail inmates.

Public Interest Litigation: Bandhua Mukti Morcha v. Union of India [(1984) 3 SCC 161]

In a matter concerning release of bonded labour raised by way of PIL the Supreme Court issued direction for their release.

- Explaining the philosophy underlying PIL the Court ruled that where a person or class of persons to whom legal injury is caused by reason of violation of a fundamental right is unable to approach the court of judicial redress on account of poverty or disability or socially or economically disadvantaged position, any member of the public acting *bona fide* can move the court for relief under Article 32 and *a fortiori* also under Article 226, so that the fundamental rights may be meaningful not only for the rich but also for the deprived people who by reason of lack of awareness, assertiveness and resources are unable to seek judicial redress.

5. Human Rights; Art.21- Right to Die With Dignity

- In this case the victim of rape continued to be in persistent vegetative state (PVS) for a period of 36 years. This case triggered the debate on need to change euthanasia laws.
- In a writ petition under Article 32 it was prayed that the hospital where she is laying for last 36 years be directed to stop the life support system.
- The Supreme Court ruled that individuals had a right to die with dignity.
- Issuing guidelines regarding passive euthanasia the court ruled that a decision to discontinue life support can be taken either by the parents or the spouse or other close relatives, or in the absence of any of them, even by a person or a body of persons acting as a next friend or in their absence by the doctors attending the patient, subject to approval of the High Court.

Human Rights : Common Cause (A Regd. Society) vs. Union Of India on 9 March, 2018 -Right to Die With Dignity

- The apex Court held that right to life and liberty as envisaged under Article 21 of the Constitution encompasses within its sphere individual dignity and that the right to live with dignity also includes the smoothening of the process of dying in case of a terminally ill patient or a person in PVS with no hope of recovery, and
- that a competent person who has come of age has the right to refuse specific treatment or all treatment or opt for an alternative treatment, even if such decision entails a risk of death.
- Detailed directions issued by the apex Court in this regard.

Human Rights: Recognition of Transgender Persons as a Third Gender

National Legal Services Authority vs Union Of India & Ors. (2014)

Held:

- Gender identity is integral to the dignity of an individual and is at the core of “personal autonomy” and “self-determination” and Article 14, 19 and 21 of the Constitution within their sweep include transgender and are not as such limited to male or female gender.
- Eunuchs, therefore, have to be considered as Third Gender, over and above binary genders under our Constitution and the laws.
- The apex Court directed the Centre and the State Governments to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments. (W.P.(civil) no.400 of 2012 dt.15.04.14)

Human Rights: Right to Privacy a Fundamental Right under Article 21

Justice K.S. Puttaswamy (retd.) Vs. Union of India and ors. , (2017) 10 SCC 1 (2017) (Right To Privacy)

- In this case , popularly known as Aadhaar Case, the SC held that privacy is a constitutionally protected right which emerges primarily from the guarantee of life and personal liberty in Article 21 of the Constitution.
- Further held that elements of privacy also arise in varying contexts from the other facets of freedom and dignity recognised and guaranteed by the fundamental rights contained in Part III .

Human Rights: Decriminalising Homosexuality

Navtej Singh Johar vs. Union Of India , (2018) 10 SCC 1(2018)

- A five-judge SC bench gave a historic, unanimous decision on **Section 377 of the Indian Penal Code, decriminalising homosexuality.**
- The S.C ruled that sexual orientation is an intrinsic element of liberty, dignity, privacy, individual autonomy and equality and that intimacy between consenting adults of the same-sex is beyond the legitimate interests of the state.
- Section 377 was the product of the Victorian era, with its attendant moral values. Victorian morality must give way to constitutional morality.
- That insofar as Section 377 criminalises consensual sexual acts of adults (i.e. persons above the age of 18 years who are competent to consent) in private, is violative of Articles 14, 15, 19, and 21 of the Constitution.

6. Gender Justice : Shah Bano's Case [(1985) 2 SCC 556] A Milestone in the Journey of Gender Justice

- Petitioner **Shah Bano Begum** prayed for grant of maintenance under Section 125 of Cr.P.C.
- The Constitution Bench of the apex Court considering the provision of **Section 125 of the Cr.P.C.**, opined that the said provision is truly secular in character and is different from the personal law of the parties.
- The Court further held that such provisions are essentially of a prophylactic character and cut across the barriers of religion.
- The Court also held that the liability imposed by Section 125 to maintain close relatives, who are indigent, is founded upon the individual's obligation to the society to prevent vagrancy and destitution.

Gender Justice-Preventing Sexual Harassment at Workplace: Vishaka vs. State of Rajasthan,(1997) 6SCC 241

Bhanwari Devi, a social worker from Rajasthan, was brutally gang-raped by five men for preventing a child marriage .

- The trial court acquitted all five accused.
- Vishaka, a Group for Women's Education and Research, took up the cause of Bhanwari Devi and filed a petition before the Supreme Court on the issue of sexual harassment at the workplace.
- On August 13, 1997, the apex Court issued guidelines that defined sexual harassment and put the onus on the employers as well as other responsible persons or institutions to provide a safe working environment for women.
- These guidelines are called '**Vishaka Guidelines**'. These were to be considered law until appropriate legislation was enacted.

Gender Justice: Triple Talaq Unconstitutional

Shayara Bano vs Union Of India And Ors. Vs. Union of India 22 August, 2017 (5 Judge)

- The Court held by a majority of 3:2 that triple Talaq is manifestly arbitrary in the sense that the marital tie can be broken capriciously and whimsically by a Muslim man without any attempt at reconciliation so as to save it. This form of Talaq must, therefore, be held to be violative of the fundamental right contained under Article 14 of the Constitution of India.

Gender Justice: Entry of Females in Sabrimala Temple

Indian Young Lawyers Association vs. The State Of Kerala on 28 September, 2018:

- In **Sabrimala Temple**- a Hindu pilgrimage centre in Kerala, female devotees between the **age group of 10 to 50** years were denied entry on the basis of certain custom and usage.
- A Constitution bench of the apex Court led by CJI Dipak Misra overruled the Kerala High Court's 27-year-old decision that had upheld the restriction on entry of women into the temple.
- The court said, "The dualism that persists in religion by glorifying and venerating women as goddesses on one hand and by imposing rigorous sanctions on the other hand in matters of devotion has to be abandoned. Such a dualistic approach and an entrenched mindset results in indignity to women and the degradation of their status."

Gender Justice :Sec.497 IPC Unconstitutional

Joseph Shine vs. Union Of India , (2019) 3 SCC 39

- The apex Court struck down **Section 497** of IPC **which** criminalised adultery holding that it is violative of Articles 14, 15 and 21 of the Constitution.
- The Supreme Court called the law unconstitutional because it **“treats a husband as the master”**.
- The Court held- **“Any provision of law affecting individual dignity and equality of women invites the wrath of the Constitution. It’s time to say that the husband is not the master of the wife. Legal sovereignty of one sex over other sex is wrong”**.

7. Constitutional Democracy: Power Under Art.356- Imposition of President's Rule in States.

- **S. R. Bommai v. Union of India , AIR 1994 SC 1918**
- In this judgement, the SC attempted to curb the blatant misuse of Article 356 of the Constitution of India, which allowed President's rule to be imposed in States.
- The first and most important question which the Supreme Court had to determine was whether the Presidential Proclamation under Article 356 was justifiable and if so to what extent.
- Answering the question the apex Court held , the Judicial Review will involve three questions only:
 - Is there any material behind the proclamation.
 - Is the material relevant.
 - Was there any mala fide use of power.
- The majority enjoyed by the Council of Ministers shall be tested on the floor of the House.

Constitutional Democracy: Election Reforms

Right Not to Vote- NOTA Case

- The S.C. dealing with the issue of election reforms held that democracy and free elections are part of the basic structure of the Constitution.
- In a parliamentary democracy A positive **‘right not to vote’** is a part of voter’s right to expression under Article 19(1)(a) and it has to be recognized and given effect to in the same manner as **‘right to vote’**.
- The only way by which it can be made effectual is by providing a button in the EVMs to express that right. Therefore, the voter must be given an opportunity to choose none of the above (NOTA) button, which will indeed compel the political parties to nominate a sound candidate.

Constitutional Democracy: Election Reforms

Lily Thomas vs Union Of India & Ors., (2013) 7 SCC 653:

- In this case the Supreme Court in a PIL declared **subsection (4) of Section 8 of the Representation of the People Act, 1951**, which allowed convicted members of legislative bodies a 3 month time period for appeal against the conviction and sentencing, as ultra vires the Constitution.
- The Court ruled that Members of Parliament, Legislative Councils and Legislative Assemblies convicted of crimes where they had been **awarded a minimum sentence of 2 years imprisonment would cease to be members** of the house to which they were elected from the date of sentencing.

9. Independence Of Judiciary: First Judges Case - 'in consultation' – Interpretation

S P Gupta Vs. Union of India And Ors. AIR 1982 SC 149 (First Judges Case(1981):

- In this cast the S.C. was called upon to examine as to what does the word **“consultation”** in Article 124(2) and in Article 217(1) of the Constitution actually imply?
- The apex court held by a majority of 4-3 that in the appointment of a judge of the Supreme Court or the High Court, **the word “consultation” in Article 124(2) and in Article 217(1) of the Constitution does not mean “concurrence”** however the “consultation” with the CJI must be full and effective.
- The apex Court rejected the idea that the CJI’s opinion should have primacy. and held that In the event of a disagreement, the “ultimate power” would rest with the Union Government and not the CJI.

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Independence Of Judiciary: Second Judges Case- Birth of Collegium System

- **Supreme Court Advocates on Record Association Vs. Union of India (1993) 4 SCC 441**
- This verdict gave birth to the concept of Collegium System.
- A 9 Judges Bench of the apex Court re-examining the view expressed in the First Judges case by a majority of 7:2 ruled that Articles 124 and 217 of the Constitution had to be interpreted in a “purposive and contextual” manner .
- The Court held that there should be a collegium consisting of Chief Justice and two other senior most judges of the Supreme Court for making proposal and appointment of judges.
- The apex Court held that in the event of conflict between the President and the CJI with regard to appointments of Judges, it was the Chief Justice of India whose opinion **would not only have primacy, but would be determinative** in the matter..

Independence Of Judiciary: Third Judges Case- Strengthening of Collegium

- **In Re Special Reference Case AIR 1999 SC 1**
- This case arose out of a reference made by the President of India under Article 143 of the Constitution for advisory opinion of the Supreme Court.
- A nine-Judge bench of the Supreme Court delivered a unanimous opinion and reaffirmed its verdict rendered in second Judges case (1993) .
- The only thing that this reference introduced from the Second Judges case was to increase the number of the judges in the collegium.
- The collegium was now to consist of the CJI and the four other senior most judges of the Supreme Court.

Independence Of Judiciary: Fourth Judges Case

- **Supreme Court Advocates-on-Record Association v. Union of India, [(2016) 5 SCC 1] [‘NJAC Case’]**
- The Constitution (Ninety-Ninth Amendment) Act, 2014 and the NJAC Act, 2014 sought to replace the Collegium system with the National Judicial Appointments Commission (**NJAC**), a body comprising of the CJI, two senior judges, the Law Minister and “two eminent personalities” appointed by the Prime Minister, Leader of Opposition and CJI.
- The constitutional validity of the Ninety-Ninth Constitutional amendment and NJAC Act, 2014, was challenged before the apex Court .
- A constitution bench of five Judges with a majority of 4:1 struck down the Ninety-Ninth Constitutional Amendment Act and the NJAC Act as unconstitutional holding that the constitution of the Commission will amount to an infringement of judicial independence and a violation of the separation of powers.

10. Environmental Protection:

- **MC Mehta v. Union of India**, AIR 1987 SC 1086 (1986)
- In this case , popularly known as the '**Oleum gas leak case**', the Supreme Court disapproved the '**Strict Liability**' test enunciated in the English case of *Rylands v. Fletcher* for deciding the liability of an enterprise engaged in a hazardous or inherently dangerous activity and propounded the principle of '**Absolute Liability**'.
- The Court held that in the case of industries engaged in hazardous or inherently dangerous activities, absolute liability was to be followed.
- It also said that the amount of compensation must be correlated to the magnitude and capacity of the industry so that it will be a deterrent.

11. Social Justice: 50% Threshold in Reservations and Exclusion of 'Creamy Layer'.

- **Indra Sawhney etc. Vs. Union of India and others, AIR 1993 SC 477 (1992)** (9 Judges Bench)
- The apex Court examined the scope of Article 16(4) of the Constitution, which provides for the reservation of jobs in favour of backward classes and held that 'backward classes' mentioned in Article 16(4) can be identified only on the basis of caste and not economic conditions.
- It upheld the constitutional validity of 27% reservation for the OBCs with certain conditions.
- The propositions of 50% threshold in reservations, the bar against reservations in certain types of posts and the exclusion of 'creamy layer' were propounded in this case.