



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.

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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 **25th 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)***

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- **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 **42nd 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 24th 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 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](#); **1st, 4th, 7th, 25th, 39th, 40th and 42nd 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)

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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