

Doctrine of Eclipse

The Doctrine of Eclipse is a crucial judicial principle in Indian constitutional law that addresses the interaction between pre-constitutional laws and the fundamental rights enshrined in the Constitution of India.

This doctrine stipulates that any law inconsistent with the fundamental rights is not nullified but remains inoperative until it is amended to align with the Constitution.

Genesis of the Doctrine of Eclipse

The Doctrine of Eclipse is rooted in the interpretation of Article 13 of the Indian Constitution. Article 13(1) asserts that all laws in force prior to the Constitution, to the extent of their inconsistency with the fundamental rights, become unenforceable.

However, these laws are not erased from the statute books; they are merely overshadowed or "eclipsed" by the fundamental rights and can be revived if the inconsistencies are removed.

Landmark Case: Keshavan Madhava Menon v. State of Bombay

The case of Keshavan Madhava Menon v. State of Bombay (1951) significantly shaped the understanding and application of the Doctrine of Eclipse.

In this case, Keshavan was prosecuted under the Indian Press (Emergency Powers) Act of 1931 for a pamphlet published in 1949, post the enactment of the Constitution. He argued that the Act was void as it contravened Article 19(1)(a) (freedom of speech and expression).

The Supreme Court of India, through this case, addressed two critical issues:

- **Retrospectivity of Fundamental Rights:** The Court concluded that fundamental rights do not have retrospective effect. This means the rights enumerated in the Constitution could not be applied to laws or actions before its commencement. Hence, at the time of Keshavan's act, the fundamental rights were not in effect.

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- **Prospective Nature of Article 13(1):** The Court also affirmed that Article 13(1) is

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prospective, implying that only those laws that are inconsistent with the fundamental rights post-constitution are affected by this article.

Behram Khurshid Pesikaka v. State of Bombay

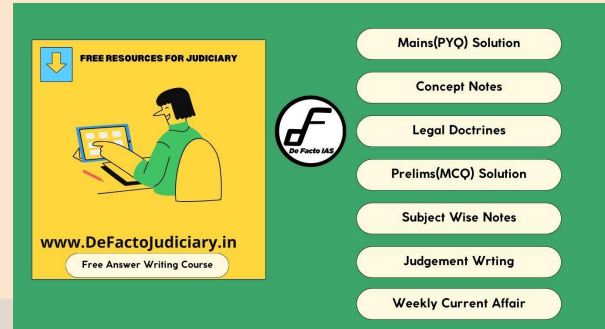
Following Keshavan, another significant case that dealt with the Doctrine of Eclipse was Behram Khurshid Pesikaka v. State of Bombay (1955).

This case involved Section 66(b) of the Bombay Prohibition Act, which was challenged based on a prior decision (State of Bombay v. F.N. Balsara) that declared part of the same Act unconstitutional.

The Supreme Court had to determine the effects of such a declaration on the enforceability of the Act.

The case highlighted a debate on whether an unconstitutional part of a statute is "notionally obliterated" from the statute book. Chief Justice Mahajan suggested that such parts are null and void and should be considered obliterated for assessing citizens' rights.

However, Justice Das disagreed, emphasising that the law remains until formally amended or repealed, aligning with the spirit of the Doctrine of Eclipse.



Adaptability and Continuity

The adaptability facilitated by the Doctrine of Eclipse is critical in a diverse and evolving society like India. Laws enacted during different historical contexts can often become outdated or incompatible with the progressive mandates of the Constitution. However, rather than invalidating such laws completely, the doctrine allows them to be eclipsed—rendered inactive until appropriately amended.

This process avoids the chaos and legal vacuum that might ensue from the sudden removal of established laws, providing a buffer that allows the legal system to adapt smoothly to new constitutional values.