



FACULTY OF LAWS

in collaboration with

ILI LOCAL CHAPTER, P&H HIGH COURT & RGNUL, PUNJAB

organises

NATIONAL CONFERENCE

on

CELEBRATING 50 YEARS OF THE THEORY OF BASIC STRUCTURE

26th NOVEMBER, 2022

on the occasion of

CONSTITUTION DAY 2022

at

**DEPARTMENT OF LAWS
PANJAB UNIVERSITY, CHANDIGARH**

**CHIEF PATRON
Prof. (Dr.) Raj Kumar
Vice Chancellor
Panjab University**

PATRON

Professor (Dr.) Devinder Singh, Chairperson, Department of Laws, Panjab University, Chandigarh.

COORDINATOR

Professor (Dr.) Shalini Marwaha, Department of Laws, Panjab University, Chandigarh.

CONVENOR

Dr. Babita Pathania, Associate Professor, Department of Laws, Panjab University, Chandigarh.

ABOUT US

One of the oldest Universities in India, the Panjab University (PU) initiated at Lahore in 1882, has a long tradition of pursuing excellence in teaching and research in science and technology, humanities, social sciences, performing arts and sports. The University supports excellence and innovation in academic programmes, and promotes excellence in research, scholarship and teaching. Panjab University is committed to attracting and supporting the best students and faculty, who excel at teaching and research. In independent India, Panjab University with its Campus at Chandigarh and nearly two hundred colleges in Punjab state and Chandigarh U.T., has served various societal needs with distinction. The glorious traditions of the University established during the period of more than 133 years of its long service to the nation since its inception are a source of inspiration for the present generation of faculty members and students. By virtue of its history, experience, achievements and philosophy, the Panjab University has a national character and it enjoys an international stature drawing both faculty and students from all over the country and different parts of the globe. Its faculty includes some of the most distinguished scientists and academicians. It continues to attract celebrated scholars at the campus. Over the years, the reputation of the Panjab University has grown to emerge as an institution at the pinnacle in innovative teaching, research and community outreach.

The Department of Laws, originally established in Lahore in 1899 was re-located at the Chandigarh campus in 1959 which makes it the oldest as well as an eminent Law Institute in North India. The Department is the alma mater of various legal luminaries which include Judges of the Supreme Court and High Courts, Union Cabinet Ministers, State Chief Ministers, Cabinet Ministers, Ambassadors, Senior Bureaucrats, and Police Officers. The vigorous vision and strong commitment make it a popular choice for students. The Law department formerly known as University Law College is committed to playing an important role in the legal system of India. The number of its alumni, which rose to the bench of the Supreme Court and in many High Courts of this country, is too large to mention. Chief Justice of India Dr. A.S. Anand, the

former Chief Justice of India taught in this department for a number of years. The former Chief Justice of India Hon'ble Mr. Justice J.S. Khehar has also been our proud alumnus and taught in the department as well. The Law Department is always in action to create new opportunities along with providing practical training to its students and the Department would continue to remain focused and committed to creating newer opportunities for learning and innovation for its students.

INTRODUCTION

“Of the people, for the people and by the people” was the touchstone on which the Constitutional values and principles have been enshrined. Numerous changes viz. social, political, and economic have been seen yet the Constitution of India has withstood the test of time. A distinctive document with many extraordinary features, the Constitution of India is the longest written Constitution of any sovereign nation in the world and provides a comprehensive framework to guide and govern the country, keeping in view her social, cultural and religious diversity. The original text of the Constitution contained 395 Articles in 22 Parts and 8 Schedules. It came into effect on January 26, 1950, the day that India celebrates each year as Republic Day. The number of Articles has since increased to 448 due to 100 amendments. One of the strengths of the Constitution of India is that it is a dynamic instrument that can evolve with time either by its interpretation or amendment. An impartial judiciary, independent of the legislature and the executive, is one of the main features of the Constitution. The Supreme Court of India is the highest Court in the country and acts as the guardian of the Constitution and serves as the final Court of Appeal. Each state has a High Court as its highest Court. Under powers of judicial review, the Supreme Court and High Court can declare a law as unconstitutional or ultra vires if it contravenes any provisions of the Constitution. This power of judicial review constitutes a middle path between American judicial supremacy on one hand and British Parliamentary supremacy on the other. In order to ensure the impartiality of the judiciary, the judges are appointed by a process free of the influence of the executive. It is

through various judicial interpretations that a great number of social and economic principles have been implemented in actuality and hence the judiciary continues to do the task for which it had been established viz. not only interpretation of the Constitution but also the implementing the Constitutional principles and values.

ABOUT THE CONFERENCE

Department of Laws, Panjab University proposes to organize a 3-day National Conference/Symposium on “Celebrating 50 Years of the Theory of Basic Structure in the Constitution of India”. Article 368 enshrines the power to amend the Constitution. After *Golaknath’s* judgment, it was established that “*Article 368 in terms only prescribes various steps in the matter of the amendment. The article assumes the power to amend found elsewhere. The completion of the procedural steps cannot be said to culminate in the power to amend for if that was so the Constitution makers could have stated that in the Constitution. Nor can the power be implied either from Article 368 or from the nature of the Articles sought to be amended; the doctrine of necessary implication cannot be invoked if there is an express provision. There is no necessity to imply any such power as Parliament has the plenary power to make any law including the law to amend the Constitution subject to the limitations laid down therein.*” After the said decision a debate had initiated concerning the amendability of the Constitution and the extent to which the legislature could amend the Constitution of India. Following this came the landmark judgement of *Kesavananda Bharti v. State of Kerala*, delivered on 24th April 1973, delivered by the thirteen judges, with respect to their observations concerning the power of Parliament to amend the Constitution under Article 368 can be classified into three categories, namely, judgments identifying inherent and implied limitation under Article 368; judgments identifying no limitations on amending power under Article 368 and judgment delivered by Justice Khanna which belong to neither of the above categories. All this effort was to answer just one main question i.e., was the power of Parliament to amend the Constitution unlimited? In other words, could Parliament alter, amend, or

abrogate any part of the Constitution even to the extent of taking away all fundamental rights? The majority held, “verdict of Golaknath case was not correct and Parliament can amend the Fundamental Rights by virtue of Articles 13(4) and 368(3) and the Constitution of India by Article 368, but without changing the basic structure and the nature of the Constitution”. The basic structure doctrine was invoked by the Court in the *Indira Gandhi vs Raj Narain* case, in which there was a challenge to Article 329A, introduced in the Constitution through the 39th Amendment Act in 1975. The Amendment was an attempt to take Indira Gandhi’s election in 1971 beyond judicial purview. The court struck down certain clauses in Article 329A, making the existing election law applicable to the election of the prime minister. It was again referred to while deciding the *Minerva Mills vs Union of India* case, in which the constitutionality of the 42nd Amendment, carried out by the Indira Gandhi government in response to the *Kesavananda Bharati* case, was challenged. Certain sections of the Article were struck down by the Court as they were held to be violative of the basic structure of the Constitution. More recently, the basic structure doctrine was invoked by the Court as it struck down the law passed by the Parliament for the setting up of the National Judicial Appointment Commission. A five-member bench held the law as being unconstitutional, ruling that it violated the basic structure of the Constitution, which it said, includes the independence of the judiciary.

Thus, the theory of “basic structure” has thrived since and is an important aspect of the Indian Constitution. The theory ensues several principles on the touchstone of which it is to date decided that the Constitution of India is supreme. The *Kesavananda Bharati* judgment continues to have a profound impact on Constitutional jurisprudence and is pivotal to the delicate balance of powers between the Judiciary and the Parliament.

SUB-THEMES OF THE CONFERENCE

1. Basic Structure Theory- Origin and Reasons
2. Theory of Basic Structure and Constitution of India
3. Amending Power of the Parliament
4. Basic Structure Theory and Constitutionalism

5. Application of Basic Structure Theory in different cases
6. Tug of War: Amending Power of Legislature versus Judicial Review.

CALL FOR PAPERS

Research papers are invited from academicians, practitioners, professionals, research scholars, and students on the issues related to the themes. The quality-based selected papers will be published in the form of a Book with National Standards Book Number. Only full papers submitted on or before the deadline shall be considered for publication. The authors will be given an opportunity to present their papers during various sessions on the day of the conference

SUBMISSION GUIDELINES

Authors are requested to adhere to the following guidelines to enable the submission of papers:

1. Abstract Submission

Authors are requested to send an abstract of 250 to 300 words (with five key words) summarising the research paper/article and its significance as an attachment in a soft copy in word document with information as to full name/s, designation, email, contact number and correspondence address to constitutionday2022@gmail.com.

2. Full-Length Paper Submission

- The author is required to take note of: (i) the Originality of Title (checked on Turnitin software) (ii) the Relevancy, novelty, and clarity of the idea (iii) the Systematic presentation (iv) the Conclusion suggesting some suggestions.
- Manuscripts maximum of 3000 words with proper footnoting and acknowledgments, 12 font size in Times New Roman, line spacing 1.5 with one-inch margin on all four sides in MS Word format be emailed to constitutionday2022@gmail.com.
- Authors are requested to adhere to the ILI pattern of Footnoting and Citations.
- The author must certify that the paper is his/ her original work and has not been published wholly or partly or accepted for publication elsewhere.
- Manuscripts submitted after the due date shall not be considered for publication.
- Participants must also bring duly filled copy of registration forms which is attached with the brochure (subject to the acceptance of their abstract) at the time of depositing their registration fee which shall be taken at the registration desk on the day of conference from 8:30 A.M to 10.30 A.M in the form of cash or Demand Draft made in

favour of Chairperson, Department of Laws, Panjab University, Chandigarh payable at Chandigarh.

- No TA/DA will be provided.

3. Submission Deadline

- **Abstract:** 23rd November 2022
- **Acknowledgment of Abstract:** 24th November 2022
- **Full Paper:** 25th November 2022

4. Registration Fee (Per Participant)

- Academicians, Practitioners and Professionals: Rs. 1000/-
- Research Scholars and LLM Students: Rs. 500/-
- Students: 300/-

PAYMENT DETAILS

Head Deptt of Law Misc.

Law Department

Panjab University, Sector-14, Chd

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FOR FURTHER QUERIES, CONTACT

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REGISTRATION FORM

Name of Institution/University/ College:.....

Number of Presenters/Authors:.....

Title of Research Paper:.....

Name of Participant:.....

Designation of Participant (Academician, Research Scholar, Student):.....

Contact Details:..... Email.....

Details of Co-Presenter/Author:

Name of Participant:.....

Designation of Participant (Academician, Research Scholar, Student):.....

Contact Details:..... Email.....

Details of Fee Submitted:

Participant 1:

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Online Bank Deposit Receipt (NEFT/RTGS) _____ Dated _____

Participant 2:

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Name & Signature with Date:

Participant 1:

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