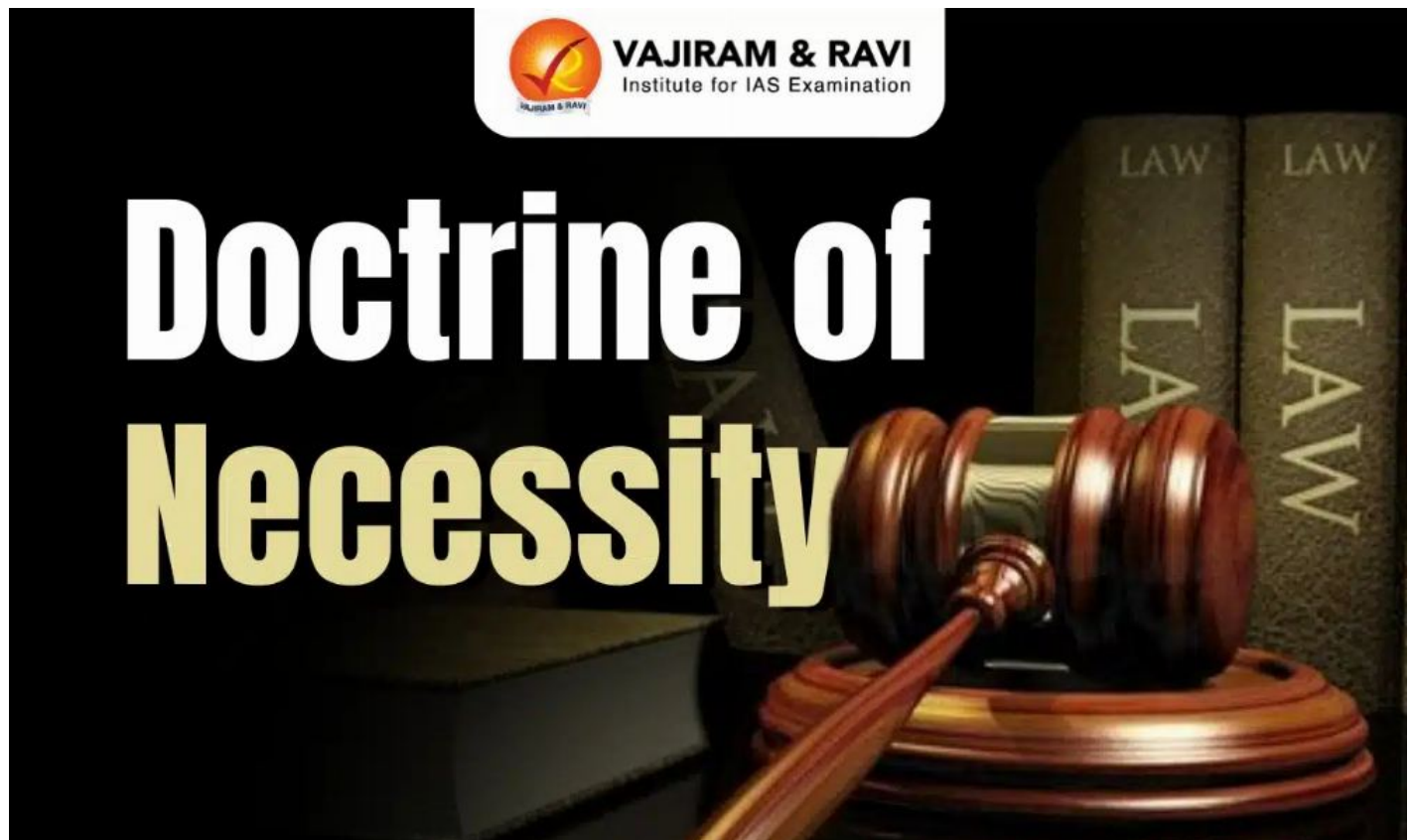


Doctrine of Necessity, Meaning, Cases, BNS Section 19 & Limitations

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The **Doctrine of Necessity** is a **legal principle** that allows actions which are normally illegal to be justified in **emergency situations**. It is based on the idea that **urgent need or crisis** may require **exceptional measures** to prevent greater harm. This doctrine is used when **normal laws cannot be followed**, and immediate action is necessary to maintain **public safety and order**. However, it must be applied **carefully and only in genuine necessity**.

Doctrine of Necessity

- The **Doctrine of Necessity** is an **exception to the principle of natural justice**, especially the **rule against bias**, which normally requires decisions to be fair and impartial.
- It allows authorities to **take necessary actions in urgent or unavoidable situations**, even if such actions may not strictly follow the law under normal circumstances.
- This doctrine is applied **only when there is no alternative authority available** to decide a case, meaning the decision cannot be delayed or avoided.

- In certain cases, if the only choice is between a **biased decision or no decision at all**, the law permits a **biased authority to decide**, so that justice is not completely denied.
- The concept has its origins in **common law** and dates back to the 13th century, where jurist **Henry de Bracton** stated that **what is otherwise unlawful becomes lawful due to necessity**.

History of the Doctrine of Necessity

- The **Doctrine of Necessity** has its origin in the writings of **Henry de Bracton**, a medieval jurist, who stated that **an act which is otherwise unlawful can become lawful if it is necessary**. This idea laid the foundation of the doctrine in common law.
- However, even while applying this doctrine, courts have emphasized that **justice must not only be done but must also appear to be done**, meaning fairness should still be maintained as far as possible.
- The doctrine is considered an **exception to the principle of *nemo judex in causa sua*** (no one should be a judge in their own case), allowing limited relaxation of the rule against bias in unavoidable situations.
- In India, the doctrine was recognized in **Gullapalli Nageswara Rao v. APSRTC (1958)**, where its application in administrative decision-making was discussed.
- Later, in **Election Commission of India v. Dr. Subramaniam Swamy (1996)**, the **Supreme Court** refined this concept into the **Doctrine of Absolute Necessity**, stating that it should be used **only when it is completely unavoidable and no other option exists**.

Legal Provisions in Relation to Doctrine of Necessity

- The **Doctrine of Necessity** in India is reflected in **Section 19 of the Bharatiya Nyaya Sanhita (BNS)**, which forms part of the **general exceptions under criminal law**. This section provides legal recognition to acts done out of necessity.
- **Section 19 of the Bharatiya Nyaya Sanhita (BNS)** deals with situations where an act is **likely to cause harm**, but is done **without any criminal intention** and **in good faith** to prevent a greater harm. In such cases, the act is **not treated as an offence**.
- The law clearly states that if a person acts **knowing that harm may occur**, but does so **honestly and only to avoid a bigger danger to life or property**, then such an act can be legally justified.
- Whether the protection of this section applies depends on the **facts of each case**, especially whether the harm avoided was **serious and immediate enough** to justify taking such a risk.
- For example, if a person **destroys property during a fire** to stop it from spreading and to **save lives or other property**, the law may excuse such an act, provided it was done **in good faith and out of necessity**.
- Thus, this provision shows that the law recognizes that in certain urgent situations, **preventing a greater harm becomes more important than strictly following the law**, which is the basic idea behind the Doctrine of Necessity.

Limitations of the Doctrine of Necessity

- The **Doctrine of Necessity** is mainly used to **prevent failure of justice**, but it does not mean that authorities can **freely act with bias in every situation**. Its use is limited and carefully controlled.

- One important exception is when **no other competent authority is available** to decide a matter. In such cases, even a **biased adjudicator may be allowed to decide**, because leaving the issue unresolved would be worse.
- Another situation arises when, without a particular decision-maker, **the required quorum cannot be formed**. Here, the participation of that person becomes necessary to ensure that the decision-making body can function.
- The doctrine may also apply when **it is not possible to create or appoint another competent tribunal or authority**, making it unavoidable for the existing authority to proceed with the case.
- At the same time, overuse of this doctrine can be problematic. If applied in every case, it may **unfairly benefit the defaulting party**, while completely ignoring it could result in **no decision at all**, thereby denying justice to both sides.
- Therefore, before applying the doctrine, it is important to **carefully examine whether its use is truly necessary**, so that decision-making remains fair and justified.
- The doctrine also allows individuals to **challenge administrative actions in courts**, but such actions are not considered invalid unless there is **clear evidence that bias has actually influenced the decision**.

Judicial Approach towards the Doctrine of Necessity

- **Tata Cellular v. Union of India (1994)**: The Supreme Court applied the doctrine where **no alternative authority was available**. Even though there was a chance of bias, the decision was **not set aside** due to necessity. This case showed a **liberal use of the doctrine in administrative matters**.
- **Election Commission of India v. Dr. Subramaniam Swamy (1996)**: The court held that the doctrine should be used **only in cases of absolute necessity**. If bias is possible, the concerned person should **step aside if alternatives exist**. This case refined the concept into the **Doctrine of Absolute Necessity**.

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