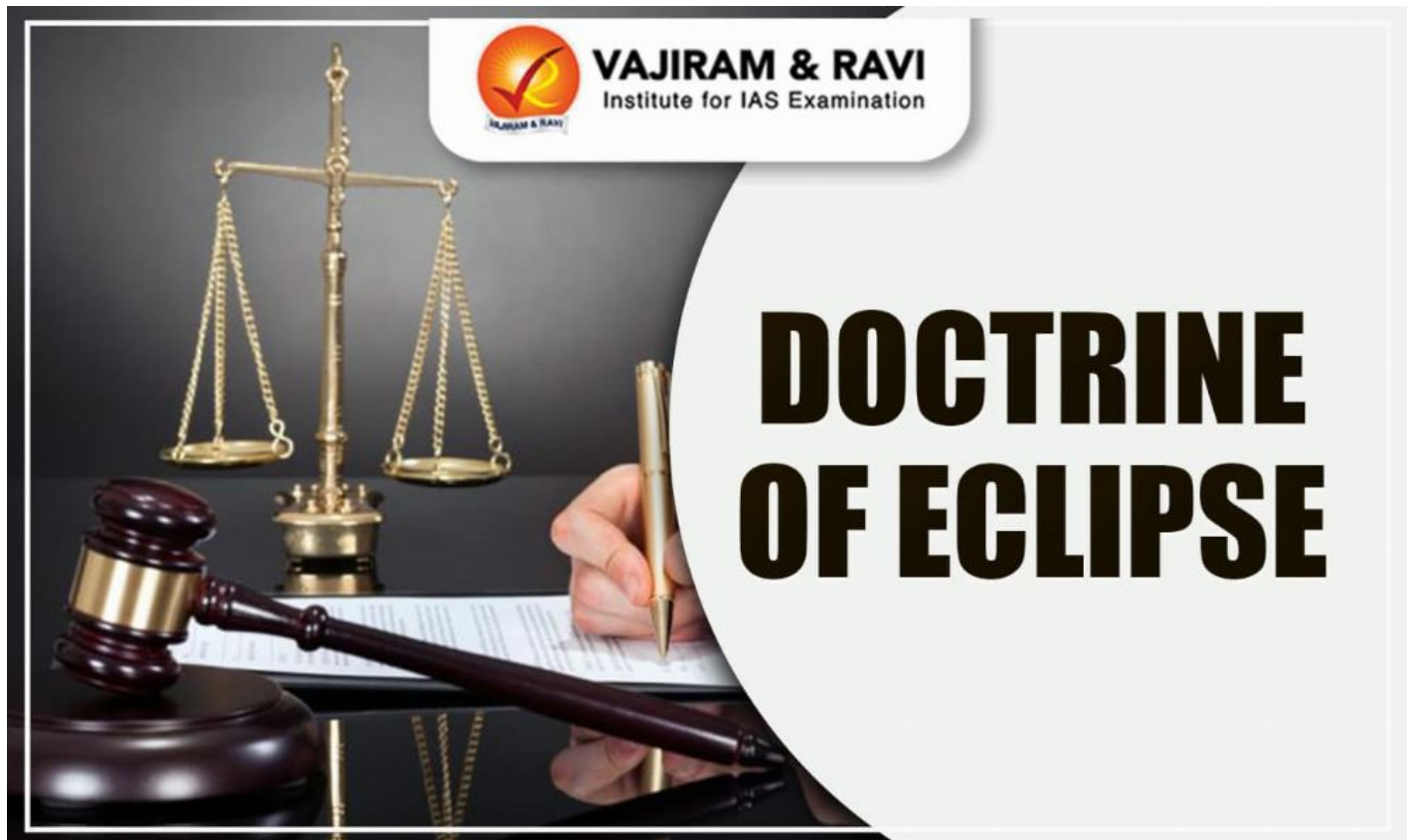


Doctrine of Eclipse, Elements, Features, Cases Related

August 5, 2025 • vajiramandravi.com



The Doctrine of Eclipse is discussed in Article 13(1) of the Constitution of India, which deals with pre-constitutional laws or existing laws. According to the Doctrine of Eclipse, if a law was valid when it was made but later became unconstitutional because it clashed with Fundamental Rights under the Constitution, it isn't completely dead, it's just in a dormant state. If the Constitution is later amended and the conflict is removed, the law comes back to life and can be enforced again.

Doctrine of Eclipse

When the Constitution of India was adopted various laws which were already existing faced legal challenges as they violated the Fundamental Rights. Just that way, the Doctrine of Eclipse was introduced to evaluate the judicial review. The legal document for Doctrine of Eclipse was declared in the Supreme Court by the judges in Bhikaji Narain Dhakras and Ors v. State of Madhya Pradesh (1955).

Also Read: [**Doctrine of Severability**](#)

Doctrine of Eclipse Elements

Doctrine of Eclipse included in the Constitution of India has various elements which includes:

- The Doctrine of Eclipse asserts that a constitutional amendment does not permanently eliminate a pre-existing fundamental right; rather, it places the right in temporary abeyance.
- The affected fundamental right remains overshadowed by the constitutional amendment, meaning it cannot be actively enforced while the amendment is in effect.
- If the constitutional amendment is subsequently repealed or declared unconstitutional, the suppressed fundamental right regains its enforceability and full legal effect.
- Even during its period of eclipse, the fundamental right may continue to apply indirectly in areas not specifically targeted or affected by the amendment.
- The doctrine does not deem the entire amendment invalid. It may still hold legal standing in circumstances where it does not directly conflict with the fundamental right in question.
- This doctrine maintains a balance between the authority to amend the Constitution and the sanctity of fundamental rights, ensuring that rights are not absolutely extinguished.

Doctrine of Eclipse Features

- The Doctrine of Eclipse is applicable to laws that were enacted before the commencement of the Indian Constitution on 26th January 1950. If such laws conflict with the Fundamental Rights, they are not void ab initio but become dormant.
- This doctrine does not extend to laws enacted after the adoption of the Constitution. Any post-Constitutional law that violates Fundamental Rights is considered void from inception and cannot be revived by subsequent constitutional amendments.
- Conflict with Fundamental Rights: When a law is inconsistent with the Fundamental Rights, it is overshadowed and rendered inoperative to the extent of the inconsistency, rather than being struck down entirely.
- The Doctrine does not annul the law. It merely suspends its enforceability until the constitutional inconsistency is resolved.
- If a constitutional amendment removes the inconsistency with Fundamental Rights, the previously eclipsed law automatically becomes operative and enforceable.

Doctrine of Eclipse and Article 368

The Punjab Security and Land Tenures Act, 1953, was challenged in *I.C. Golaknath v. State of Punjab* on the grounds that it violated the fundamental right to acquire and hold property and to practise any profession. The case brought into question the scope and validity of Article 368, which grants Parliament the power to amend the Constitution.

The Supreme Court held that Parliament did not have the authority to amend Part III of the Constitution, thereby placing a limitation on its amending power and rendering Article 368 partially inoperative in this context. This position was later overruled in the landmark case of *Kesavananda Bharati v. Union of India*, which clarified that Parliament does possess the power to amend fundamental rights, provided the basic structure of the Constitution remains intact. Consequently, the earlier restrictions on Article 368 were lifted.

Doctrine of Eclipse and Section 309

The Doctrine of Eclipse was invoked in the context of the Indian Penal Code in the landmark cases of Rathinam and Gian Kaur. In Rathinam v. Union of India, Section 309 of the IPC which criminalizes attempts to commit suicide was challenged and declared unconstitutional. The Court held that Article 21 of the Constitution, which guarantees the right to life, also binds the right to die. However, this interpretation was later overturned by a Constitution Bench in Gian Kaur v. State of Punjab, which upheld the validity of Section 309. Consequently, the Doctrine of Eclipse ceased to apply to Section 309, thereby restoring its enforceability.

Cases Related to the Doctrine of Eclipse

The table below discusses some major Cases Related to the Doctrine of Eclipse:

Cases Related to the Doctrine of Eclipse		
Case Name	Summary	Legal Relevance
Keshava Madhava Menon v. State of Bombay (1951)	This was the first case demonstrating the Doctrine of Eclipse. The petitioner faced charges under the Indian Press (Emergency Powers) Act, 1931, for a pamphlet issued in 1949. He claimed protection under Article 19(1)(a) of the Indian Constitution.	Held that pre-Constitution laws inconsistent with fundamental rights are not null but become dormant and can be revived if the inconsistency is removed.
Behram Khurshid Pesikaka v. State of Bombay (1955)	The appellant challenged Section 66(b) of the Bombay Prohibition Act, invoking precedent from F.N. Balsara's case to argue it violated Article 19 regarding alcoholic medicinal preparations.	Confirmed partial invalidity of laws inconsistent with fundamental rights and emphasized selective application.
Bhikaji Narain Dhakras v. State of Madhya Pradesh (1955)	Challenged a 1947 amendment granting a monopoly over motor transport to the state, arguing it violated Article 19(1)(g) of the Indian Constitution.	Established that such pre-Constitution laws are eclipsed and can revive upon constitutional amendment, affirming the Doctrine of Eclipse.

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