

Doctrine of Eclipse - UPSC Notes

The Doctrine of Eclipse is an important topic for the UPSC exam. It is important to know the salient features and the significance of this doctrine, especially for the UPSC polity & governance segments. In this article, you can learn all about this important doctrine for the [IAS exam](#).

Doctrine of Eclipse

The Judiciary is the guardian of the rights provided for in the Constitution of India. It is the job of the judiciary to restrain the actions of the Legislature and the Executive where they are infringing upon these rights. When the Constitution was adopted on January 26, 1950, with it came the [fundamental rights](#) that are guaranteed to the citizens. There were several existing laws at the time when the Constitution was adopted, some of which were in direct conflict with fundamental rights, so in order to determine the validity of these laws the Supreme Court came up with certain principles/doctrines, one of which was the Doctrine of Eclipse.

- This doctrine emanates directly from Article 13(1) of the Constitution that is a part of the fundamental rights, which states, “all laws in force in the territory of India immediately before the commencement of this Constitution in so far as they are inconsistent with the provisions of this Part, i.e. Part III, shall, to the extent of such inconsistency, be void.”
- The doctrine of eclipse envisages fundamental rights as prospective in nature.
- It states that a pre-constitutional law inconsistent with the fundamental rights is not a nullity or void *ab initio* but only remains unenforceable i.e., remains in a dormant state.
- They exist for all past transactions i.e., for rights and liabilities that were acquired before the Constitution came into being.
- These laws also remain applicable to individuals who have not been given fundamental rights, for example, non-citizens.
- Therefore, the impugned law remains hidden behind the fundamental rights and can become operative again if and when the fundamental right it is inconsistent with is amended.

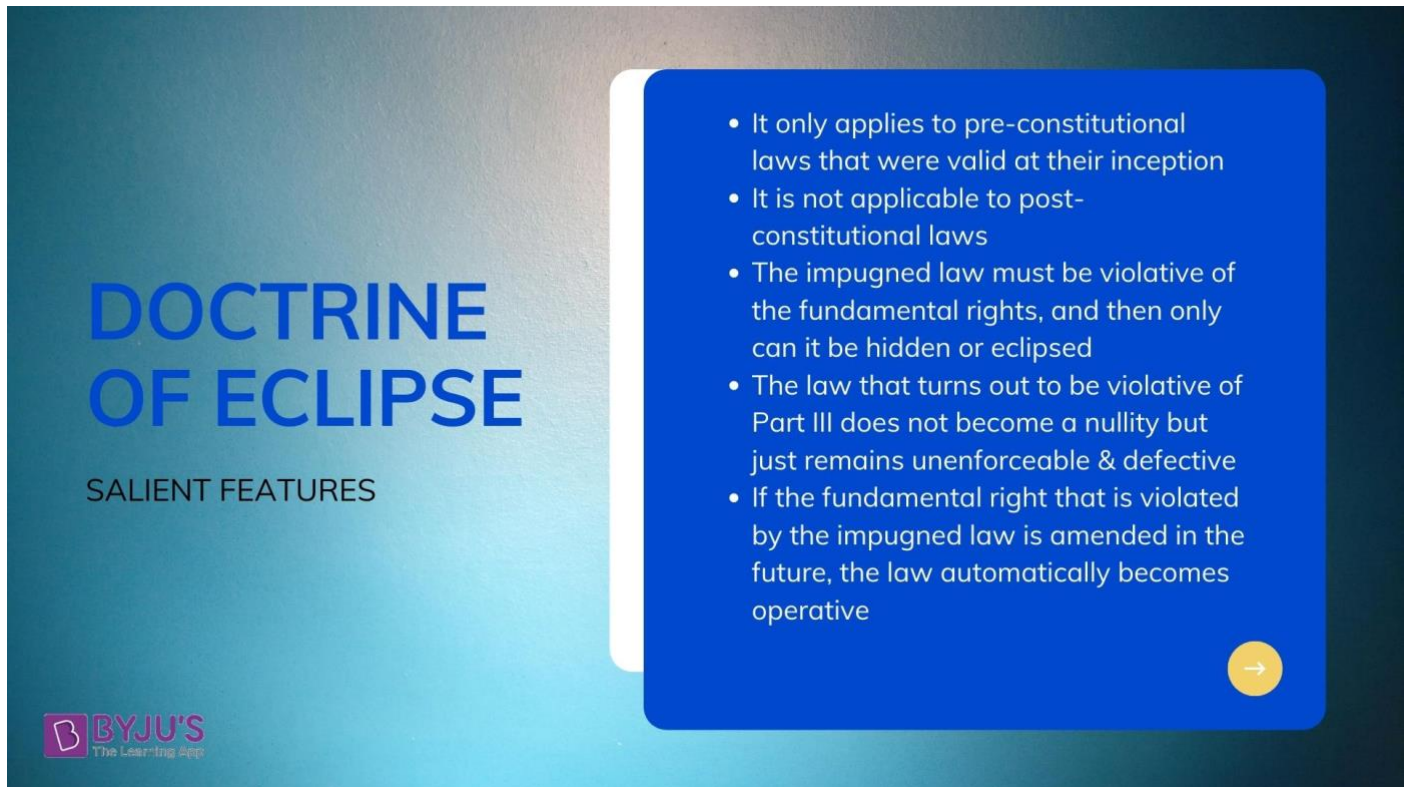
Court Rulings related to Doctrine of Eclipse

The Doctrine of Eclipse has evolved through various Supreme Court rulings after the adoption of the Constitution.

- In the **Keshav Madhav Menon v. State of Bombay case**, the petitioner was prosecuted under the provisions of the 1931 act, the Indian Press (Emergency Powers) Act, for publishing a pamphlet with no permission. The case was still pending when the Constitution came into force and thus raised questions regarding the prospective and retrospective nature of Article 13(1) and the word “void”. The question before the Court was whether the impugned Act was violative of Article 19(1) (a) and if so whether it should be declared void. The Court answered the first part in affirmative adding that the Act is void only to the extent of violation and that the word “void” used in Article 13 does not mean that statutes or provisions shall be repealed altogether.
- In the case of **FN Balsara**, the Court declared Section 13(b) of the Bombay Prohibition Act of 1949 as void because it violated Article 19(1) (f) of the Constitution. The Court again held that only the part of the statute that is violative of Part III is inoperative and not the whole Statute.
- It is generally agreed, however, that the actual genesis of this doctrine occurred in **Bhikaji Narain Dhakras v. State of Madhya Pradesh**. In this case, the C. P. and Berar Motor Vehicles Amendment Act of 1947 was challenged for being violative of Article 19(1) (g). This amendment act was a pre-constitutional law. Thus, the Doctrine of Eclipse was applied and the Act’s provisions were made inoperative.

However, in the year 1951, by virtue of the 1st Constitutional Amendment Act, Article 19(1) (g) was amended and the eclipse was removed, rendering this law enforceable against citizens and non-citizens. According to the Court, “the effect of the amendment was to remove the shadow and to make the impugned Act free from all blemish or infirmity”.


Doctrine of Eclipse - Salient Features



DOCTRINE OF ECLIPSE

SALIENT FEATURES

- It only applies to pre-constitutional laws that were valid at their inception
- It is not applicable to post-constitutional laws
- The impugned law must be violative of the fundamental rights, and then only can it be hidden or eclipsed
- The law that turns out to be violative of Part III does not become a nullity but just remains unenforceable & defective
- If the fundamental right that is violated by the impugned law is amended in the future, the law automatically becomes operative

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- The doctrine only applies to pre-constitutional laws that were valid at their inception.
- The doctrine is not applicable to post-constitutional laws since they are invalid from the very inception because of being inconsistent with Part III; the same was held by the Supreme Court in **Deep Chand v. State of Uttar Pradesh**. However, non-citizens can't take any advantage of the rule as the violation doesn't impact them.
- The impugned law must be violative of the fundamental rights, and then only can it be hidden or eclipsed.
- The law that turns out to be violative of Part III does not become a nullity but just remains unenforceable & defective.
- If the fundamental right that is violated by the impugned law is amended in the future, the law automatically becomes operative.

The judgments of Bhikaji and Deep Chand were upheld in the cases of Mahendra Lal Jain v. State of Uttar Pradesh, State of Gujarat v. Ambica Mills, Sagir Ahmed v. State of Uttar Pradesh and P. L. Mehra v. D. R. Khanna.

Conclusion

The Doctrine of Eclipse is one of the fairly subtle principles of the rule of law that has helped the pre-constitutional laws from being wiped out altogether. It is imperative to mention here that the applicability of this doctrine to post-constitutional laws is still somewhat of a grey area. However, this doctrine has been effective in harmonizing the pre-constitutional and post-constitutional positions with respect to various laws, such harmonization has ensured the triumph of constitutionalism in every sense of the word.