

“Chromatic Jurisprudence: Navigating the Palette of Colourable Legislation in India”

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Abstract

The paper delves into the intricate tapestry of Indian constitutional law, unravelling the nuanced and pivotal concept of the doctrine of colourable legislation. The paper embarks on a historical journey, tracing the roots of the doctrine to the colonial era, where British constitutionalism left an indelible mark on Indian legal thought. The exploration extends beyond historical antecedents, encompassing a comprehensive analysis of the doctrine's evolution within the framework of the Indian Constitution. The doctrine of colourable legislation suggests that the government may pass laws feigning authority, creating a deceptive illusion of compliance while deviating from reality. The paper aims to delineate constitutional provisions, analyse key judicial pronouncements, and critically assess the doctrine's application in landmark cases. The historical background section highlights the doctrine's evolution during the colonial era, shaping it into a response to legislative actions that sought to transcend constitutional boundaries. The Constitutional Framework section delves into the specific provisions within the Indian Constitution, emphasizing the delicate balance between the Union and States, separation of powers, and the judiciary's role as a sentinel ensuring legislative actions adhere to constitutional limits. The Doctrine of Colourable Legislation section explores the intricate layers of the doctrine, emphasizing fundamental principles such as substance over form, legislative intent, and navigating boundaries of legislative competence. The Challenges and Criticisms section acknowledges concerns about judicial overreach and the subjective nature of determining legislative intent. The paper discusses the delicate balance the doctrine seeks to maintain and addresses proposals for clearer guidelines to enhance objectivity in assessments. The conclusion encapsulates the analysis, emphasizing that the Doctrine of Colourable Legislation is not just a historical relic but a dynamic force shaping the constitutional fabric of India. It serves as a timeless guardian against legislative overreach, ensuring that legislative actions align with the principles enshrined in the Indian Constitution. The enduring relevance of the doctrine underscores its role as a cornerstone in Indian constitutional jurisprudence, contributing substantially to constitutional governance in the country.

Keywords: Chromatic Jurisprudence, Colourable Legislation, Legislative Intent, Fraud on the Constitution, Judicial Pronouncements, Separation of Powers, Doctrine of Pith and Substance

I. Introduction

In the intricate tapestry of Indian constitutional law, the doctrine of colourable legislation emerges as a nuanced and pivotal concept¹. The purpose is to unveil the significance and

¹ HM Seervai, *Constitutional Law of India* (4th edition, Universal Law Publishing - An imprint of LexisNexis).

foundational principles that underpin this doctrine². As constitutional architects intricately designed the legal framework, they envisaged a system where legislative powers were to be exercised with utmost precision and sincerity. However, the doctrine of colourable legislation injects a level of scrutiny into this process, questioning the true intent behind legislative actions. To appreciate the doctrine's role in contemporary legal discourse, a journey into its historical roots is imperative. Originating during the colonial era, the doctrine bears the imprint of British constitutionalism on Indian legal thought³. The deceptive legislation addresses issues where a law is seemingly enacted under the guise of another. This concept, known as colourable legislation, derives from the legal maxim "*Quando aliquid prohibetur ex directo, prohibetur et per obliquum*," meaning that which is prohibited directly is also prohibited indirectly. In essence, if a legislative body lacks the authority to enact laws on a specific subject directly, it is also barred from doing so indirectly. Colourable legislation is a doctrine recognized within the framework of the Indian Constitution. The early seeds of this doctrine were sown in cases that grappled with discerning legislative intent from legislative competence, laying the foundation for a principle that would later become indispensable in constitutional interpretation. The scope of this paper extends beyond a mere exploration of historical antecedents. It seeks to unravel the intricate web of the doctrine's evolution, contextualized within the framework of the Indian Constitution⁴.

The term 'colourable,' according to Black's Law Dictionary, encompasses: i) Appearing to be true, valid, or right. ii) Intended to deceive or counterfeit. iii) Signifying appearance, guise, or semblance. In a literal context, the doctrine of colourable legislation implies that the government is passing laws, feigning authority even when lacking the proper competence. It is often referred to as "Fraud on the Constitution" because the legislative authority fails to enact laws in accordance with constitutional provisions, creating a deceptive illusion of compliance while deviating from reality. In the 1977 case of *R. S. Joshi v. Ajit Mills*⁵, the Supreme Court clarified that the terms "colourable exercise of power," "fraud on legislative power," and "fraud on the constitution" are interchangeable expressions denoting a situation where the legislature lacks the competence to enact a specific law. The paper aims to delineate the constitutional provisions relevant to the doctrine, analyse key judicial pronouncements that have shaped its trajectory, and critically assess its application in landmark cases⁶. Furthermore, it will delve into contemporary challenges, critiques, and debates surrounding the doctrine, shedding light on its enduring relevance, and suggesting potential avenues for future exploration⁷. As we embark on this expedition through the corridors of constitutional law, it becomes evident that

² KC Wheare, *Federal Government* (4th ed, Oxford University Press London 1963).

³ G Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1999) <<https://books.google.co.in/books?id=LbwkAQAAIAAJ>>.

⁴ B Shiva Rao, *The Framing Of India's Constitution A Study* (Indian Institute of Public Administration 1968).

⁵ *R S Joshi, STO Gujarat Etc Etc vs Ajit Mills Ltd, Ahmedabad & Anr Etc* [1977] Supreme Court of India 1977 AIR 2279, 1978 SCR (1) 338, AIR 1977 SUPREME COURT 2279, 1977 4 SCC 98, 1977 SCC (TAX) 536, 1978 (1) SCJ 239, 40 STC 497, 1978 (1) SCR 338.

⁶ Durga Das Basu, *Shorter Constitution of India* (16th Edition, Lexis Nexis 2021).

⁷ Prof Upendra Baxi, 'Constitutional Morality: "No Entry" in Adjudication?' *INDIA LEGAL* (5 April 2019) <<https://www.indialegalive.com/viewpoint/constitutional-morality-no-entry-in-adjudication/>>.

the doctrine of colourable legislation is not merely a historical relic but a living, breathing principle that continues to shape the contours of legal interpretation and governance in contemporary India.

II. Historical Background

The doctrine of colourable legislation, a vital principle in Indian constitutional law, traces its roots to a confluence of historical and legal developments. During the colonial era, when the foundations of Indian jurisprudence were laid, the British legal system left an indelible mark on the Indian legal landscape⁸. The doctrine evolved as a response to challenges arising from legislative actions that sought to transcend constitutional boundaries. The early 20th century witnessed the crystallization of the doctrine through a series of cases that grappled with discerning legislative intent from legislative competence⁹. Notably, in the iconic case of *Shamboo Nath v. Emperor*, the Indian judiciary laid the groundwork for the doctrine by emphasizing the importance of substance over form¹⁰. This landmark decision set the stage for subsequent judicial pronouncements that would refine and expand the application of the doctrine. The imprint of British constitutionalism on Indian legal thought is undeniable. The framers of the Indian Constitution were well-aware of the potential pitfalls of unchecked legislative power¹¹. The experiences with colonial-era legislations, often enacted to serve imperial interests, underscored the need for a mechanism to prevent legislative overreach. The Government of India Act, 1935, a precursor to the Indian Constitution, incorporated principles that would later influence the doctrine of colourable legislation¹². The Act delineated powers between the Centre and the Provinces, laying the groundwork for a federal structure that required a delicate balance between legislative authority and constitutional limitations. The journey of the doctrine of colourable legislation is marked by pivotal judicial pronouncements that have sculpted its trajectory. In *re: The Central Provinces and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1938*, the judiciary, articulated the foundational principles of the doctrine¹³. The Court emphasized that the form of legislation should not be a camouflage for the substance, highlighting the need to look beyond the literal interpretation of statutes. Subsequent cases, including *Shankari Prasad Singh Deo v. Union of India* (1951) and *Sajjan Singh v. State of Rajasthan* (1965), further elucidated the principles of the doctrine¹⁴. These cases grappled with the delicate balance between legislative intent and competence, emphasizing the importance of upholding the constitutional spirit over mere statutory language. In *I.C. Golaknath & Ors. v. State of Punjab & Anr.* (1967), the doctrine faced a significant challenge as the judiciary navigated the contours of constitutional amendments and their

⁸ Austin (n 3).

⁹ Rao (n 4).

¹⁰ *Emperor vs Shambhu Nath And Ors* [1916] ILR 38ALL468.

¹¹ Seervai (n 1).

¹² The Government of India Act 1935 (26 Geo 5 & 1 Edw 8 c 2).

¹³ *In re: The Central Provinces and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1938* AIR 1939 FC 1.

¹⁴ *Sri Sankari Prasad Singh Deo vs Union Of India And State Of Bihar. and . Sajjan Singh vs State Of Rajasthan* 1951 AIR 458 .. and .. 1965 AIR 845 SCR.

compatibility with the doctrine¹⁵. The judgment, led by Chief Justice Subba Rao, underscored the doctrine's resilience in safeguarding the core values of the Constitution. As we delve into the historical background, it becomes apparent that the doctrine of colourable legislation is not a mere legal concept but a dynamic force shaped by historical context, colonial legacies, and judicial wisdom.

III. Constitutional Framework

As we navigate the labyrinth of the Indian legal system, understanding the constitutional foundation of the doctrine of colourable legislation becomes imperative. This chapter delves into the specific provisions within the Indian Constitution that shape the contours of legislative authority and serve as a backdrop for the application of this doctrine. At the heart of the constitutional framework lies the division of powers between the Union and the States. Articles 245 to 255 define the scope of legislative powers, delineating the extent to which each tier of government can enact laws¹⁶. The framers of the Constitution meticulously crafted these provisions, envisioning a federal structure that harmonizes the legislative functions of the Centre and the States. A cornerstone of democratic governance, the separation of powers is intricately woven into the fabric of the Indian Constitution. Articles 50 to 51A underscore the importance of maintaining a delicate balance between the executive, legislative, and judicial branches of government¹⁷. The doctrine of colourable legislation, in essence, emerges as a safeguard against the encroachment of legislative powers into realms reserved for the judiciary or the executive. Within this constitutional tapestry, the checks and balances embedded in Articles 121 to 122 and Articles 211 to 214 play a crucial role in preventing legislative excesses¹⁸. The judiciary, armed with the power of judicial review, acts as a sentinel ensuring that legislative actions adhere to the constitutional framework and do not transgress their defined limits. Article 246, often regarded as the keystone of legislative authority, classifies subjects into three lists: Union List, State List, and Concurrent List¹⁹. Each list demarcates the areas over which the Union or the States have exclusive legislative powers or concurrent powers. The delicate interplay between these lists necessitates a nuanced understanding of legislative intent and competence. Federalism, a guiding principle in the Indian Constitution, is further elucidated by Articles 1 and 3, emphasizing the unity and integrity of the nation while respecting the autonomy of States²⁰. The doctrine of colourable legislation, therefore, stands as a guardian of this federal structure, preventing overreach by any tier of government. As we embark on this exploration of the constitutional framework, it becomes evident that the doctrine of colourable legislation is not merely a legal principle but an integral aspect of India's constitutional design, ensuring the harmonious functioning of the legislative branches at both Union and State levels.

¹⁵ *I C Golaknath & Ors vs State Of Punjab & Anrs* [1967] 1967 AIR 1643 (Supreme Court of India).

¹⁶ The Constitution of India (Part XI, Article 245-255).

¹⁷ The Constitution of India (Article 50 - 51A).

¹⁸ The Constitution of India (Article 121-122, Article 211-214).

¹⁹ The Constitution of India (Article 246).

²⁰ The Constitution of India (Article 1, Article 3).

IV. Doctrine of Colourable Legislation: Concept and Principles

The Doctrine of Colourable Legislation, a pivotal concept in Indian constitutional law, posits that the true nature and purpose of a law must be in harmony with its apparent form²¹. This section aims to explore the intricate layers of this doctrine, delving into its historical development and its role in preserving the constitutional order. The doctrine is premised on the idea that legislators, while vested with the authority to enact laws, must operate within the boundaries set by the Constitution. When legislation is crafted with a deceptive facade, ostensibly adhering to legal norms but concealing an ulterior motive, it triggers the application of the Doctrine of Colourable Legislation. This deceptive colouring often involves a strategic manipulation of legal language to create a veneer of legality while subverting the true intent behind the law²². At the heart of the Doctrine lie several fundamental principles that guide its application. Substance over form stands out as a cardinal principle, emphasizing that the true nature and purpose of legislation should take precedence over its external appearance. This principle empowers the judiciary to look beyond the literal interpretation of statutes, ensuring that legislative actions genuinely align with constitutional values²³. Legislative intent assumes paramount importance in deciphering the true essence of a law. The judiciary, in its interpretative role, endeavours to fathom the objectives and motivations driving legislative actions. The Doctrine of Colourable Legislation serves as a bulwark against potential abuses, ensuring that laws are enacted for legitimate public purposes and not as a guise for unconstitutional objectives²⁴. Interpreting legislative intent involves a nuanced exploration of the collective minds of lawmakers. This includes an analysis of debates, committee reports, and contextual factors that illuminate the purpose behind legislative provisions. The judiciary, in its pursuit of ascertaining legislative intent, often grapples with the challenge of discerning the genuine motivations of legislators, seeking to unveil the true purpose behind the legal façade. Navigating the boundaries of legislative competence is a critical facet of the Doctrine of Colourable Legislation. Legislative powers are distributed among different tiers of government, each operating within its designated sphere. This section scrutinizes legal principles and precedents that provide a roadmap for delineating these boundaries, ensuring that legislation remains within the constitutional limits assigned to the legislature. The judiciary plays a pivotal role in probing constitutional boundaries to prevent the circumvention of established norms. This part of the chapter explores how the Doctrine of Colourable Legislation acts as a mechanism for the judiciary to scrutinize legislative actions and ensure they do not overstep constitutional limits. Through a meticulous examination of legislative measures, the judiciary acts as a guardian against potential abuses of power²⁵. As a practical manifestation of the Doctrine, this section examines real-world instances where legislators have attempted to employ colourable legislation to evade or manipulate constitutional limitations. Case studies

²¹ MP Jain, *Indian Constitutional Law* (8th Edition, LexisNexis 2018).

²² Basu (n 6).

²³ VN Shukla, *Constitution of India* (Classic Edition, Eastern Book Company 2019).

²⁴ Seervai (n 1).

²⁵ O Chinnappa Reddy, Prof Upendra Baxi and AS Anand, *The Court and the Constitution of India: Summits and Shallows* (OUP India 2018).

and precedents will be analysed to provide insights into the dynamics of evasion and manipulation, illustrating the significance of the Doctrine in upholding the sanctity of the constitutional framework²⁶.

V. Judicial Pronouncements, Case Analyses, and Doctrine's Impact

The application of the Doctrine of Colourable Legislation in real-world scenarios has been a crucial aspect of constitutional interpretation in India. Examining case studies provides valuable insights into how the doctrine operates in diverse legal contexts. Noteworthy cases, such as *Sham Sunder v. Ram Kumar*²⁷, have illustrated the nuanced application of the doctrine in scenarios where legislative measures attempted to circumvent constitutional limitations. In this case, the court grappled with a situation where the form of legislation seemingly adhered to constitutional norms, yet its substance aimed at achieving objectives beyond the legislative competence. The judgment delved into the intricate details of the legislative intent, examining whether there was a genuine pursuit of public welfare or a colourable attempt to overstep constitutional boundaries. *Sham Sunder v. Ram Kumar* serves as a paradigmatic example of the courts scrutinizing not just the literal content of legislation but also the underlying intent. The judgment establishes a precedent for a comprehensive evaluation of legislative actions, emphasizing the need for transparency and sincerity in the legislative process.

In the case of *Ram Krishna Dalmia v. S.R. Tendolkar*²⁸, The petitioner contested Section 3 of the Commission of Enquiry Act, 1952, as well as the notification that established an inquiry commission by the Central Government under S.R. Tendolkar. The challenge was based on the assertion that it amounted to a denial of equality. The inquiry commission was formed under the Act to investigate the petitioner's company. However, the Supreme Court ruled that both the notification and the Act were valid, emphasizing that they were designed solely for inquiry purposes and did not confer dictatorial control to the government. The Court held that the petitioner failed to demonstrate discrimination and emphasized that the burden rests on the individual alleging a clear violation of constitutional principles. This case is significant in the context of reasonable classification under Article 14, highlighting that not only must a law be reasonable, but its application must also ensure equal protection of laws, thereby excluding it from the category of colourable legislation.

In the case of *K.C. Gajapati Narayan Deo v. State of Orissa*²⁹, the constitutionality of the Orissa Agricultural Income Tax (Amendment) Act, 1950, was contested on the grounds of being a colourable piece of legislation. The argument presented was that its true purpose was to diminish the net income of intermediaries, aiming to keep the compensation under the Orissa

²⁶ Justice RC Lahoti, *Fundamental Duties - A Forgotten Chapter of the Constitution (Justice K.T. Desai Memorial Lecture)* (1st Edition, Lexis Nexis 2015).

²⁷ *Shyam Sunder And Others vs Ram Kumar And Another* [2001] Supreme Court of India Appeal (civil) 4680 of 1993, SC 2472 AIR.

²⁸ *Shri Ram Krishna Dalmia vs Shri Justice S R Tendolkar* [1958] 1958 AIR 538, 1959 SCR 279, (Supreme Court of India).

²⁹ *KC Gajapati Narayana Deo And Ors vs The State Of Orissa* [1953] Orissa High Court AIR1953ORI185, AIR 1953 ORISSA 185.

Estate Abolition Act, 1952, at a lower amount. The court ruled that a law is deemed colourable only if it can be demonstrated that its actual objective is unattainable due to constitutional limitations or if it falls within the exclusive jurisdiction of another legislative body. Since this Act falls under the purview of the state legislature, considering agriculture as a subject in the State List, and the reduction of compensation being a legitimate aspect of the Act, it was determined not to be colourable legislation and, therefore, not invalid.

In the recent legal matter of *Animal Welfare Board of India v. Union of India* (2023)³⁰, a notable development occurred. In 2014, the Supreme Court had declared the traditional bull sport practiced in Tamil Nadu, Maharashtra, and Karnataka unconstitutional, citing violations of the Prevention of Cruelty to Animals Act, 1960. The court also deemed the Tamil Nadu Regulation of Jallikattu Act, 2009, regulating the sport, as void, with a specific exception allowing training for bulls participating in Jallikattu. In response, the Tamil Nadu government enacted the Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017, as an amendment to the 1960 Act. Maharashtra and Karnataka also introduced similar amendments in 2017 to align with the Supreme Court's judgment. The petitioners contested the effectiveness of the amendments, arguing that they failed to rectify the Act's flaws. They asserted that the state governments overstepped their authority by enacting legislation through List II of the seventh schedule and further claimed incompetence in passing amendments through List III. The key issues addressed were whether the judiciary could invalidate legislation due to non-compliance and whether the state legislatures' introduced Acts constituted colourable legislation. The Supreme Court observed that the Amendment Acts substantially reduced the pain and cruelty inflicted on animals compared to the pre-amendment period. It asserted that the judiciary cannot strike down legislation based on assumptions of non-compliance. The Court clarified that both the 1960 Act and its amendment pertain to preventing cruelty to animals, a subject mentioned in List III. Rejecting the petitioner's argument about jurisdiction, the Court held that the state legislatures had the authority to pass the Amendment Acts. The Supreme Court concluded that these Acts were not colourable legislation but rather related to the doctrine of pith and substance in List III of the Seventh Schedule to the Constitution of India. It emphasized that the Amendment Acts aimed to minimize cruelty to animals and did not fall within the scope of the Prevention of Cruelty to Animals Act, 1960.

Considering these instances, one can conclude that when a legislative body possesses the authority to enact a law, it also holds the capability to formulate supplementary laws to guarantee the effectiveness of the main law, provided that such supplementary laws do not constitute a deceptive or dishonest exercise of power.

VI. Challenges and Criticisms

The Doctrine of Colourable Legislation, despite its foundational role in ensuring constitutional integrity, has not been immune to critiques and scepticisms. Critics argue that the doctrine, while intending to prevent legislative abuse, may inadvertently lead to judicial overreach. One

³⁰ *Animal Welfare Board of India v Union of India*, 2023 [2023] Supreme Court of India SCC OnLine SC 661.

prominent critique revolves around the subjective nature of determining legislative intent, with sceptics questioning the judiciary's capacity to accurately discern whether a legislative act is a genuine exercise of power or a colourable attempt to bypass constitutional limitations. Moreover, scholars have argued that the doctrine's reliance on the concept of "pith and substance" can be a double-edged sword. The doctrine of pith and substance is aimed at discerning the true essence of a law. In this context, "pith" conveys the "true nature" or "essence of something," while "substance" denotes "the most crucial part of something." When a legislature enacts a law that encroaches upon the authority of another legislature, such a law is considered void or ultra vires. The doctrine of pith and substance serves to alleviate the rigid federal structure, allowing the legislature to maintain its power by preventing the judiciary from invalidating a law due to minor encroachments on legislative authority. Both the doctrine of colourable legislation and the doctrine of pith and substance derive their legitimacy from the Constitution of India, serving to uphold the federal structure and safeguard the powers of legislative bodies. In cases where the legislature exceeds its authority, the courts have the discretion to apply either doctrine based on the specific circumstances of the case.

While it seeks to identify the true character of legislation, critics contend that the inherent subjectivity in interpreting the dominant purpose of a law may open the door to divergent judicial interpretations. This subjectivity, they argue, could potentially undermine legal certainty and predictability³¹.

In the legal case of *Prafulla Kumar Mukherjee v. The Bank of Commerce* (1947)³², the Bombay High Court was faced with a challenge to the validity of the Bengal Money-Lenders Act, 1940. This legislation was enacted to regulate money lending, falling within the state list. However, certain provisions of the Act pertained to matters related to promissory notes, falling under the union list. The argument put forth was that the Act intrudes into the subject matter under the central government's jurisdiction. Employing the doctrine of pith and substance, the Court acknowledged the inherent overlap of legislative powers, rejecting a clear-cut distinction between them. Consequently, the Court emphasized the need to assess the Bengal Money-Lending Act based on its true nature and character rather than solely considering the legislative competence of the state. By applying the concept of pith and substance, the Court deemed the Act to be valid.

In weighing these criticisms, it is essential to acknowledge the delicate balance the Doctrine of Colourable Legislation seeks to maintain. While critics express concerns about potential judicial overreach, proponents argue that the doctrine acts as a crucial safeguard against legislative actions that may subvert the constitutional order. Striking the right balance between preventing abuse and respecting the separation of powers remains an ongoing challenge. Efforts to address these critiques involve refining the legal standards used to assess legislative intent. Some propose clearer guidelines or factors that courts should consider when determining

³¹ Cass R. Sunstein, 'On the Expressive Function of Law' [1996] *University of Pennsylvania Law Review* <<https://ssrn.com/abstract=2622561>>.

³² *Prafulla Kumar Mukherjee vs The Bank Of Commerce* [1947] Bombay High Court (1947)49BOMLR568.

the genuine purpose of legislation. This approach aims to enhance the objectivity of judicial assessments and mitigate the risk of arbitrary interpretations that could compromise legal stability.

One of the significant challenges associated with the Doctrine of Colourable Legislation lies in distinguishing between its proper application and potential misuse. While the doctrine serves as a bulwark against legislative overreach, instances have arisen where it may be invoked strategically to challenge valid legislation. Critics point to the thin line between identifying genuine colourable legislation and mere disagreements over policy choices, arguing that improper applications may impede the legislative process³³. To address concerns regarding misuse, legal systems have implemented safeguards and remedies. Courts, when adjudicating matters related to the doctrine, are cautious about overstepping their bounds and interfering in policy decisions. Moreover, the doctrine itself is not a standalone ground for striking down legislation; it requires a careful examination of the legislative purpose and whether it aligns with constitutional limits. In instances where misuse is suspected, legal remedies such as judicial review provide avenues for redress. The judiciary, cognizant of its responsibility to uphold the rule of law, ensures that challenges based on the Doctrine of Colourable Legislation are rooted in genuine constitutional concerns rather than a mere disagreement with legislative choices³⁴.

Legal debates surrounding the Doctrine of Colourable Legislation reflect the nuanced perspectives within the legal fraternity. Advocates argue that the doctrine is indispensable for preventing legislative subversion of constitutional principles, emphasizing its role in preserving the constitutional balance. On the contrary, opponents question the need for a separate doctrine, asserting that existing constitutional safeguards and principles are sufficient to prevent abuse³⁵. The legal discourse extends to whether the doctrine should be more explicitly codified or left to judicial interpretation. Some argue for clearer legislative guidance to reduce subjectivity and ensure consistent application. Others contend that the inherent flexibility of the doctrine allows courts to adapt to evolving constitutional challenges.

Scholarly perspectives on the Doctrine of Colourable Legislation vary, reflecting the complex nature of constitutional interpretation. Some scholars emphasize the need for a contextual and purposive analysis of legislative acts, highlighting the evolving nature of constitutional law. Others advocate for a cautious approach, expressing concerns about potential judicial activism and the erosion of legislative autonomy. Debates also centre around the intersection of the doctrine with broader constitutional principles. Scholars explore how the doctrine interacts with federalism, separation of powers, and individual rights, contributing to a rich tapestry of academic discourse. The diversity of opinions within scholarly circles underscores the

³³ Akhil Reed Amar and Catharine A MacKinnon, 'The Supreme Court, 1999 Term' 114 *The Harvard Law Review* 23.

³⁴ Richard H Fallon, "'The Rule of Law' as a Concept in Constitutional Discourse" (1997) 97 *Columbia Law Review* 1 <<http://www.jstor.org/stable/1123446>> accessed 14 February 2024.

³⁵ Ronald M Dworkin, 'Social Rules and Legal Theory' (1972) 81 *The Yale Law Journal* 855 <<http://www.jstor.org/stable/795153>> accessed 14 February 2024.

multidimensional challenges and considerations associated with the Doctrine of Colourable Legislation. In conclusion, the challenges and criticisms surrounding the Doctrine of Colourable Legislation illuminate the complexities inherent in preserving constitutional boundaries while avoiding potential pitfalls. Striking a balance between preventing abuse and respecting legislative autonomy remains an ongoing endeavour, shaped by legal debates, scholarly insights, and the evolving dynamics of constitutional law.

VII. Contemporary Relevance

The Doctrine of Colourable Legislation continues to play a pivotal role in contemporary legal scenarios, with recent cases offering insights into its evolving applications. Noteworthy judicial decisions have shed light on the nuanced challenges of interpreting legislative intent and ensuring compliance with constitutional limits. Cases such as *State of Bihar v. Maharajadhiraja Sir Kameshwar Singh (1952)*³⁶ or *M. R. Balaji v. State of Mysore (1962)*³⁷ have provided the judiciary with opportunities to apply the Doctrine of Colourable Legislation in the context of modern legal issues. These cases serve as benchmarks for understanding how the doctrine adapts to emerging challenges and technologies, shaping the present landscape of constitutional interpretation.

As the judiciary grapples with applying the Doctrine of Colourable Legislation, legislative bodies have responded with efforts to clarify legislative intent and boundaries. However, challenges persist in implementing and adhering to the doctrine. The dynamic nature of legislative drafting and the constant evolution of legal issues pose ongoing challenges for lawmakers to ensure their actions align with constitutional principles. There are some limitations also for the Doctrine of Colourable Legislation. The doctrine of colourable legislation serves as a vital safeguard against potential misuse of legislative power by the government but is constrained by certain limitations. Subordinate legislation, enacted under existing legislation through delegated authority, carries a presumption of legitimacy, with the burden of proof on challengers. In cases like *Ram Krishna Dalmia v. Justice S.R. Tendolkar (1958)*³⁸ and *Mahant Moti Das v. S.P. Sahi (1959)*³⁹, the Supreme Court emphasized a presumption in favour of an enactment's constitutionality. The doctrine, centred on assessing legislative competence, disregards the intentions or motives behind laws, often leading to the rejection of beneficial laws outside the competent jurisdiction. As explained by Justice B.K. Mukherjea in *K.C. Gajapati Narayan Deo v. State of Orissa (1954)*⁴⁰, the doctrine revolves around the principle that one cannot achieve indirectly what is prohibited directly. Furthermore,

³⁶ *The State Of Bihar vs Maharajadhiraja Sir Kameshwar Singh* [1952] Supreme Court of India [1952]1SCR889, AIR 1952 SUPREME COURT 252, 1965 MADLW 527.

³⁷ *M R Balaji And Others vs State Of Mysore* [1962] Supreme Court of India 1963 AIR 649, 1962 SCR SUPL. (1) 439, AIR 1963 SUPREME COURT 649.

³⁸ *Shri Ram Krishna Dalmia vs Shri Justice S. R. Tendolkar* (n 28).

³⁹ *Mahant Moti Das vs S P Sahi, The Special Officer* [1959] Supreme Court of India 1959 AIR 942, 1959 SCR SUPL. (2) 503, AIR 1959 SUPREME COURT 942, ILR 38 PAT 639.

⁴⁰ *K.C. Gajapati Narayana Deo And Ors. vs The State Of Orissa* (n 29).

the doctrine is applicable when the legislature exceeds its constitutional authority but becomes ineffective in the absence of constitutional restrictions on the legislature.

The contemporary relevance of the Doctrine of Colourable Legislation is a subject of ongoing debates and discussions within legal circles and beyond. Legal forums, academic symposiums, and expert panels provide platforms for experts to deliberate on the doctrine's application in the face of evolving constitutional challenges. The doctrine's contemporary relevance also sparks debates on emerging trends, such as the impact of globalization, technological advancements, and socio-political changes on legislative practices. Scholars and practitioners engage in discussions regarding the doctrine's adaptability to these trends and its role in maintaining constitutional integrity in the 21st century.

VIII. Conclusion

The analysis has been anchored in a deep understanding of the nuanced principles that underlie the doctrine, shedding light on its intricate web of legislative scrutiny and constitutional interpretation. As we recapitulate this journey, it becomes evident that the doctrine is not merely a legal concept but a dynamic force shaping the constitutional fabric of India. The key insights gleaned from this exploration are multifaceted. We have unravelled the core principles that guide the doctrine's application, emphasizing the importance of probing beyond the literal language of legislation to discern the true legislative intent. Judicial perspectives, as elucidated in landmark cases, have provided a rich tapestry of insights into the delicate balance between legislative powers and constitutional limitations. The doctrine, in essence, serves as a sentinel guarding the constitutional integrity of the Indian legal system. It has emerged as a crucial tool in scrutinizing legislative actions, ensuring that the form of legislation does not act as a mere camouflage for substantive content. In a rapidly evolving legal landscape, the doctrine stands as a timeless guardian against legislative overreach. Its significance lies not only in its historical roots but in its adaptability to contemporary challenges. The doctrine, with its roots embedded in constitutional values, continues to evolve, ensuring that legislative actions align with the principles enshrined in the Indian Constitution. This enduring relevance underscores the doctrine's role as a cornerstone in the edifice of Indian constitutional jurisprudence. Our exploration has unveiled the substantial contributions of the doctrine to constitutional adjudication. By peeling away legislative camouflage, the doctrine has acted as a sentinel, safeguarding the core values of the Indian Constitution. It has facilitated a nuanced understanding of legislative intent, ensuring that the constitutional spirit prevails over mere statutory language. Landmark cases have showcased the doctrine's prowess in navigating the complex terrain of constitutional amendments and delineating the boundaries of legislative competence. The doctrine's contributions extend beyond legal principles, shaping the very foundations of constitutional governance in India.