

Case Analysis of Keshavan Madhava Menon v. The State of Bombay

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Abstract

Keshavan Madhava Menon was charged with violating the Indian Press (Emergency Powers) Act, 1931, for publishing a leaflet without proper authorization. He appealed to the High Court, challenging the constitutionality of Sections 15(1) and 18(1) as they infringed on his freedom of speech and expression under Article 19(1)(a). The High Court, citing Article 13(1) and the General Clauses Act, refused his plea. He subsequently appealed to the Supreme Court based on a certificate issued by the High Court under Article 132(1) of the Constitution. When the Constitution was enacted, an existing statute conflicted with Article 19(1)(g) and was invalidated under Article 13(1). The petitioners argued that it needed reenactment, but the Supreme Court ruled that a 1951 change to Article 19(6) had removed the barrier, making the statute valid. It was declared null and void only to the extent it conflicted with fundamental rights. In the case of Keshavan Madhava Menon v. State of Bombay, a 5:2 decision clarified the retroactive effect of Article 13(1), with Justice Mukherjee concurring with the majority. Justice Fazl Ali's dissenting view argued against proceeding with the case but was overruled to avoid unfairness to those already detained or punished under the invalidated law. This landmark case resolved the legal chaos arising from laws infringing on fundamental rights prior to the Constitution's adoption in 1950. It established a precedent for handling such cases efficiently, alleviating the burden on overloaded courts and offering relief to many individuals.

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Method of Analysis: FILAC (Facts, Issues, Law, Analysis, Conclusion)

Facts of the Case

Without the approval of a relevant authority, Keshavan Madhava Menon (the petitioner) published a leaflet in September 1949. He was therefore accused of violating Section 15(1) of the Indian Press (Emergency Powers) Act, 1931². The Constitution was ratified while the case was still being heard. He appealed to the High Court under Article 228³ to question the constitutionality of Sections 15(1) and 18(1)⁴ of the Act because they infringed upon his fundamental rights. Article 19(1)(a)⁵ deals with freedom of speech and expression.

According to this clause, every citizen is free to express oneself, just as the petitioner did by distributing his booklet. Nevertheless, the High Court refused to rule in favour of the petitioner, stating that "the word 'void' was used in article 13(1)⁶ in the sense of repealed and that consequently, it attracted section 6 of the General Clauses Act⁷, which Act by article 367⁸ was made applicable for the interpretation of the Constitution." So, they claimed that even if it infringes fundamental rights, the processes would not be altered. Based on a certificate issued by the High Court per Article 132 (1)⁹ of the Constitution, the claimant filed an appeal before the Supreme Court.

² Indian Press (Emergency Powers) Act, 1931, sec. 15(1).

³ INDIAN CONST. art. 228.

⁴ Indian Press (Emergency Powers) Act, 1931, sec. 18.

⁵ INDIAN CONST. art. 19(1)(a).

⁶ INDIAN CONST. art. 13(1).

⁷ General Clauses Act, sec. 6.

⁸ INDIAN CONST. art. 367.

⁹ INDIAN CONST. art. 132(1).

Issues Raised

1. When an Act is declared unlawful because it violates Articles 19(1)(a) and 19(2) of the Constitution, may a prosecution that was begun prior to the Constitution's adoption be continued?
2. Is the language of Article 13(1) prospective or retroactive?
3. Do these pre-constitutional laws immediately become invalid and unenforceable?
4. Was the statute book amended to eliminate such incompatible laws?
5. Whether or not Article 19(1)(a), read in conjunction with Article 19(2), conflicted with Sections 15(1) and 18(1) of the Indian Press (Emergency Powers) Act, 1931.
6. Should the actions started under 18(1) before the enactment of the Constitution be continued even if they contradict it?

Laws Applied

1. Section 6 of General Clauses Act, 1897.
2. Section 38 of Interpretation Act, 1889 (England).
3. Section 2(6), 2(10), 15 and 18 of the Indian Press (Emergency Powers) Act, 1931.
4. Section 1 of the Press and Registration of Books Act (XXV of 1867).
5. Articles 13, 19(1)(a), 19(2), 252, 254, 357, 372 and 395 of the Constitution of India.

Analysis of the Case

When the Constitution went into effect, the contested statute already existed. Per Article 13(1)¹⁰, that existing law was rendered invalid "to the extent of such inconsistency" because it placed restrictions on the exercise of the right guaranteed to Indian citizens by Article 19(1)(g)¹¹ that could not be defended as reasonable under clause (6) as it was at the time. The

¹⁰ INDIAN CONST. art. 13(1).

¹¹ INDIAN CONST. art. 19(1)(g).

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petitioners stated that because the contested Act was invalid under Article 13(1)¹², it had to be reenacted because a later constitutional change could not resurrect it.

In a ruling, the Supreme Court rejected this argument and ruled that the constitutional barrier had been lifted following the 1951 change to Article 19(6)¹³. As a result, the Act was no longer unconstitutional and was once again valid and enforceable. The court declared the statute null and void, but only "to the extent of such inconsistency," or more specifically, "to the extent it became inconsistent with the provisions of Part III, which conferred the citizens' fundamental rights." In the landmark decision *Keshavan Madhava Menon v. State of Bombay*, the court defines Article 13(1)¹⁴ and determines whether it is prospective or retrospective. Justice Mukherjee concurred with Justice Fazl Ali's dissenting view in the 5:2 decision that the court issued.

They said that since the statute was already considered dead, the procedure should not be proceeded. Nevertheless, we concur with the majority judgement because stopping the proceedings would be unfair to those currently detained due to offences committed under that Act. If the proceedings were to stop, what would happen to the person who was found guilty and incarcerated? They have already been punished for that law, which is invalid.

Conclusion

According to the court, the fundamental rights only have a forward-looking impact; if they were given a backward-looking impact, pre-existing legislation would no longer operate as intended. Most crucially, pre-existing laws cannot be invalidated only because they were made before the Constitution was adopted. Before legislation is declared to be unlawful and unconstitutional, its impact and intent must both be taken into account. The wording of Article

¹² INDIAN CONST. art. 13(1).

¹³ INDIAN CONST. art. 19(6).

¹⁴ INDIAN CONST. art. 13(1).

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13¹⁵ grants the Constitutional courts the authority to conduct judicial reviews and restricts their ability to declare a statute illegal to the extent of its legality.

Additionally, under criminal legislation, clauses of the benefits of the offender are made retroactively applicable, although in this case, no fundamental right existed while the prior law was in operation. As a result, the court determined that the appellant's persecution was legal and dealt with the vague rights, obligations, and punishments outlined in the Indian Press (Emergency Powers) Act. For some things, these laws are still relevant. They exist for pre-constitutional rights and obligations and continue to be effective against non-citizens long after the Constitution's inception. They only continue to be dormant or inactive due to the citizens. As a result, the Doctrine of Eclipse allows for the legitimacy of pre-constitutional laws that violate fundamental rights because they are not unconstitutional from the start and lose their enforceability only to the degree that they are inconsistent with those rights.

This case is conducive to us since many individuals were subject to legal processes before the Constitution was adopted in 1950. However, those laws were declared invalid once the Constitution was adopted because they infringed on fundamental rights. All of this led to commotion among the populace because so many sought reliefs in court, placing pressure on the court that had previously been unable to handle their earlier cases. However, this case served as a landmark decision. It set a precedent for subsequent cases, helping to resolve these problems quickly and lessen the burden on courts dealing with related issues.

¹⁵ INDIAN CONST. art. 13.