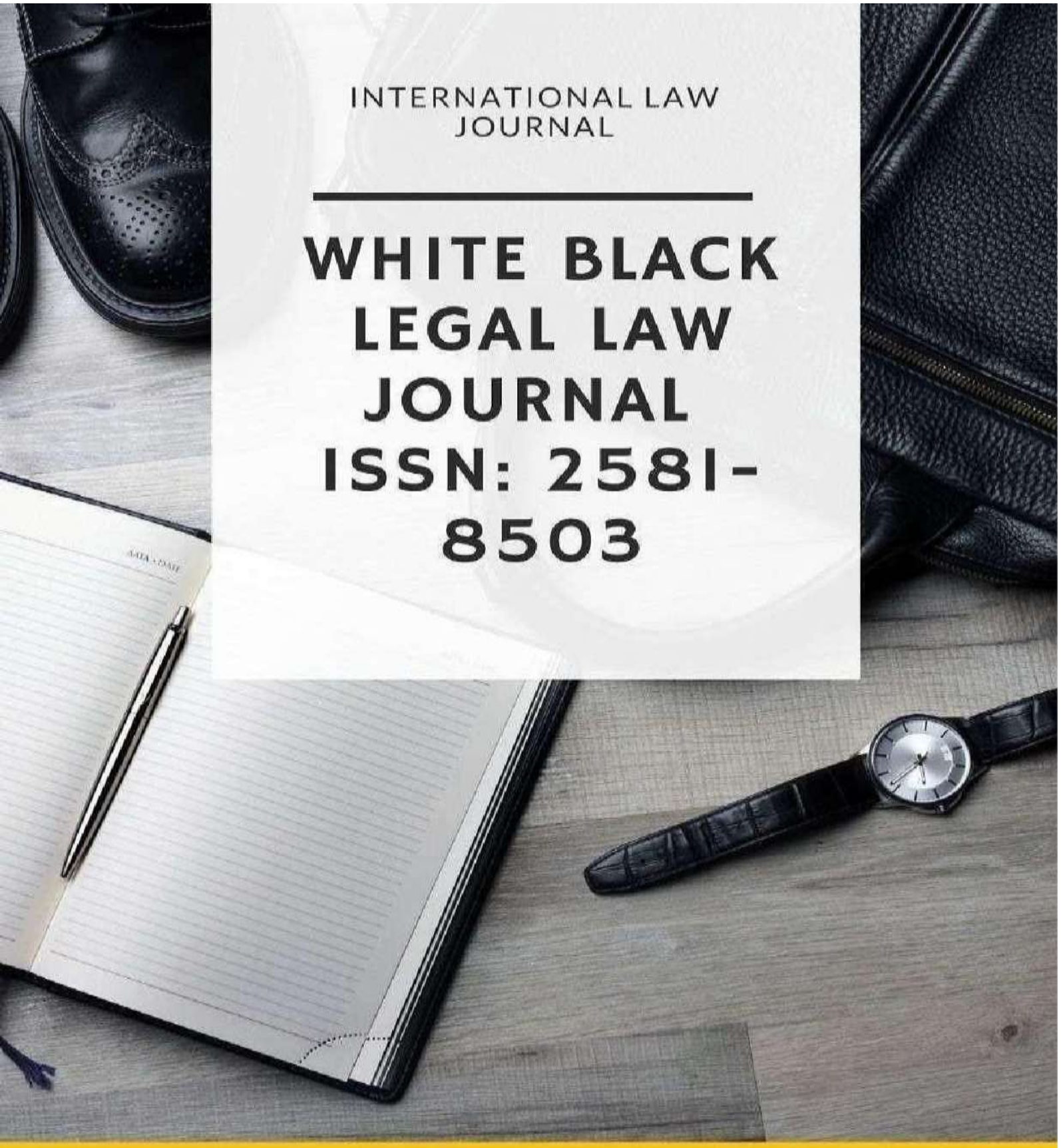

INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer

Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.

Senior Editor

Dr. Neha Mishra

Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.

Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM
Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.
More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.

Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and

refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CONSTITUTIONAL PROVISIONS ON AGRARIAN REFORMS

AUTHORED BY - PRANAV SUNDAR S

ABSTRACT

This paper examines the constitutional provisions and legislative measures pertaining to agrarian reforms in India, focusing on the abolition of the Zamindari system, land ceiling legislation, state enactments protecting tribal lands, and the consolidation of holdings. The Indian Constitution, through Articles 31-A, 39(b), 39(c), and the Ninth Schedule, provides a foundational framework for agrarian reform by empowering states to enact laws aimed at land redistribution, preventing wealth concentration, and improving agricultural efficiency. This study explores the historical context and implementation of these constitutional provisions and associated state laws, analyzing their effectiveness and impact on land ownership and agricultural practices. By evaluating the successes and challenges of these reforms, the research aims to offer insights into their role in promoting equitable land distribution and socioeconomic development in India. The findings contribute to understanding the evolution of agrarian policy and provide recommendations for enhancing the effectiveness of land reform measures.

INTRODUCTION

Since India had been ruled by several rulers from different parts of the world, that's why its land policies kept changing. The primary focus of all rulers was to earn more money by the exploitation of farmers and therefore, they kept changing the land policies and its distribution according to their needs. By the time British left India, a lot of damages was already done to our economy and society. One such damage was the distribution of land to a few hands by introducing the Zamindari System. Possession of major area of lands was in few powerful hands only. This uneven distribution of land led to the exploitation of farmers and also a hindrance to the economic development of the country.Agrarian Reforms was done in order to undo all the damages done to the agricultural resources. It aimed to reallocate the lands and distribute them equally. Land reforms are an attempt by the government to achieve social and economic equality and to utilize the land to its full capacity.

Over the course of the fifty years since the Constitution's adoption, the Supreme Court of India has played a major role in interpreting the right to property provisions of the Constitution, the legislation on agrarian reforms, and the directive principles of state policy while keeping in mind the vague notion that land belongs to the tiller. The Indian Constitution was written before the agrarian reform movement began. "Land to the tiller" was a component of the fight for our freedom. A comprehensive proposal on agrarian reforms had been prepared by the Congress Agrarian Reforms Committee. The intention was to rid the agricultural system of its exploitative components. It was necessary to revoke the Permanent Settlement that Lord Cornwallis had established in 1793 in what were then the provinces of Bengal, Bihar, and Orissa and had since expanded to additional places.

REVIEW OF LITERATURE

1. Land Reforms in India: Constitutional and Legal Approach by Pramoda Kumāra Agravāla
   The book 'Land Reforms in India: Constitutional and Legal Approach' is a landmark in the field of land reforms. It explores many new and important facts and principles of laws on the subject which are universally applicable. The author discovered a mathematical formula to concretize the concept of 'land reforms' and successfully applied it in his statistical study of implementation of land reforms in India with special reference to State of Uttar Pradesh. There is an imperative need to implement the land-laws in true spirit and with determination.

2. Legal Aspects of Agrarian Reform in India By Mangi L. Upadhyaya
   A Constitution by itself cannot create or bring about conditions necessary for the creation of a welfare State; it merely indicates the path by following which the State can attain the said objective. It is the various schemes of social and economic planning that result in the attainment of this goal. The Indian programme of Agrarian Reform, was one of the schemes, adopted for the social and economic transformation of rural India. This programme had to face major setbacks - on more than one occassion and had to overcome several legal and constitutional difficulties. Since the programme had to tread through one of the most sensitive areas, namely the one relating to the question concerning landownership, it found constant difficulties in complying with the provisions of the Constitution. To remedy this, the Constitution was amended, but there were other forces at work hostile to the programme, endeavouring to ensure that the scheme should not go

through in the form and at a speed it really merited. It is, therefore, not surprising that the question regarding the non-implementation of the programme is a burning issue of the day and the States are taking measures to give the subject top priority. The present thesis, as the title indicates, attempts at examining legal aspects of certain major schemes of agrarian reform.

3. Land Law in India By Astha Saxena

This book is a critical study of the laws regulating landownership patterns. Land and land law are woven into the fabric of our society and are therefore integral to the substantive questions of equality and developmental ideologies of the state. This volume uncovers the socio-economic realities that surround land and approaches the law from the standpoint of the marginalized, landless and the dispossessed. This book undertakes an extensive survey of existing legislations, both at the union and state level through a range of analytical tables; Discusses the issues of land reform; abolition of intermediaries and tenancy reform; need for redistribution; ceilings on agricultural holdings; law of land acquisition; legal construction of public purpose and displacement, dispossession, compensation, and rehabilitation to construct a case for redistribution; Inquires into the phenomenon of landlessness that widely prevails in India today and lays bare its causes. An invaluable resource, this volume will be an essential read for all students and researchers of law, political studies, sociology, political economy, exclusion studies, and development studies.

4. Land Policies in India:Promises, Practices and Challenges

This book examines how property rights are linked to socio-economic progress and development. It also provides a theoretical analysis, an economic/social analysis of planning, case studies of the implementation of planning and regulation instruments, practices related to law and planning, analysis of case laws in a particular segment. The interconnection between property, law and planning is a running theme throughout the book.

HISTORY OF AGRARIAN REFORM

The Government of India Act, 1935, had brought legislation on zamindari, talukdari, malgujari, jagirdari, and other intermediate tenures to the provinces. There was no fundamental rights protection in the Act. The Simon Commission denied the All Parties Conference's desire that

fundamental rights be incorporated into the new Constitution. Although the Joint Parliamentary Committee on the Government of India Bill, 1935 had rejected the proposal, they still believed that the Act of 1935 needed to include a relevant clause to safeguard the interests of zamindars and other holders of intermediate tenure. The Government of India Act, 1935's sections 299 and 300 provided the protection. Therefore, in order to abolish zamindaris and other similar practices, the provinces had to enact legislation that complied with these sections' requirements. The Federal Court and Privy Council's interpretation of these laws was intended to bolster the belief that the provincial legislatures. The Federal Court and the Privy Council interpreted these clauses in a way that supported the idea that the province legislatures had the authority to revoke the 1793 Permanent Settlement Regulations by passing appropriate legislation. The Constituent Assembly was aware of how sections 299 and 300 of the Government of India Act, 1935 operated and how the Federal Court and the Privy Council interpreted them in cases involving legislation on land tenures when they were drafting a suitable provision on the protection of the right to property as a fundamental right.

Thus, the clause referred to as the right to property in article 31 of the Constitution was accepted following a protracted debate and discussion. However, in clauses (4) and (6) of article 31, the framers of the Constitution created special provisions to safeguard agricultural reform legislation that was either on the verge of extinction or pending before provincial legislative assemblies. The previous zamindars, in which zamindaris had been outlawed, filed writ petitions in several high courts shortly after the Constitution went into effect. The legality of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, was maintained by the Allahabad High Court. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950, was also affirmed by the High Court of Nagpur.8

However, the Bihar Land Reforms Act, 1950 was ruled unconstitutional by the Patna High Court because it contravened article 14, which stipulates that compensation for former zamindars must be paid according to the fact that they were divided into several classes according to their yearly net income. The date of this decision was March 12, 1951. 9. The administration responded to this promptly. In order to ensure that agrarian reform laws would always be protected, it was decided to modify the Constitution.

Introducing the Constitution (First Amendment) Bill, 1951, B.R. Ambedkar, the then Union Law Minister stated in the Statement of Objects and Reasons: The validity of agrarian reform

measures passed by the State legislatures in the last three years has, in spite of the provisions of clauses (4) and (6) of article 31, formed the subject matter of dilatory litigation, as a result of which the implementation of these important measures, affecting large numbers of people has been held up. The main objects of this bill are to insert provisions fully securing the constitutional validity of Zamindari abolition laws in general and certain specified Acts in particular. The bill when passed by Parliament became the Constitution (First Amendment) Act, 1951. It came into force with retrospective effect from the date of commencement of the Constitution. The amendment inserted articles 31A and 3IB and the Ninth Schedule to the Constitution. Article 31A was in the nature of an exception to article 31. Acquisition by the State of rights in estate shall not be deemed to be void on the ground of being inconsistent with any of the provisions of Part III. The expressions 'estate' and 'rights in relation to an estate' were also defined therein. Article 3IB provided for validation of Acts and Regulations included in the Ninth Schedule notwithstanding any judgement, decree or order of any court or tribunal to the contrary. The Ninth Schedule at that time contained a list of thirteen enactments. The Bihar Land Reforms Act, 1950 was included at serial number one in this list. The constitutional validity of the (First Amendment) was challenged in the Supreme Court on various grounds. A Constitution bench by a unanimous judgement and order dated 5 October 1951 upheld the validity of the impugned Act.12 Two broad propositions laid down in this judgement may be noted. The court held that an amendment of the Constitution under article 368 is not law within the meaning of article 13 and as such the prohibition in article 13(2) does not apply to an amendment which takes away or abridges a fundamental right. Accordingly, the abridgement of article 31 by newly inserted articles 31A and 3IB was upheld as valid. The court also held that the provision made in articles 31A and 3IB did not directly affect the jurisdiction of High Court and the Supreme Court and as such ratification of the impugned amendment by not less than one half of the states was not required. This shows the court's anxiety to protect agrarian reform legislation against technical hurdles created by a narrow pedantic view of a constitutional provision.

CONSTITUTIONAL PROVISIONS ON AGRARIAN REFORM LEGISLATION

The programme of land reforms was one of the major considerations in the schemes of social and economic restructuring of Indian society. The constitution provides fundamental rights (Part-Ill) and Directive Principals of state policy (Part-IV). The programme of agrarian reform

was formulated to implement the directive of securing social and economic justice to those who worked on land.

The constitution of India has included the Land reform in State subjects. The Entry 18 of the State List is related to land and rights over the land. The state governments are given the power to enact laws over matters related to land.

The Entry 20 in the concurrent list also mandates the Central Government to fulfil its role in Social and Economic Planning. The Planning Commission was established for suggestion of measures for land reforms in the country. The specific articles of the constitution that pertain to land reforms are as follows: o Article 23 under fundamental rights abolished Begar or forced unpaid labour in India. o Article 38 contains the directive to the state that "State shall strive to promote the welfare of people by securing and promoting as effectively as possible. A social order in which justice, social, economic and political shall reform the institution of national life. And that it shall in particular, strive to minimize the inequalities in income"
o Article 39 says that "the state shall direct it policies towards securing the ownership and control of material resources of the community and distributed them as best to sub serve the common good and at the same time ensuring the operation of the economic system not resulting in the concentration of wealth and means of productions to the common detriment". o Article 48 directed the state to organize agriculture and animal husbandry on modern-scientific lines.

In the pursuance of these directives the land reforms laws aims at breaking the concentration of ownership of land by a few big land lords. The other articles are Articles 14, 19 (1) (f) and 31 and these are important as to the land reforms legislations. o Articles 14 "provide the state shall not deny to any person equality before law and equal protection of laws". o Article 19 which guarantees to all citizens a number of freedoms, including in clauses (i) (f) the right to acquire, hold and dispose of property which has been deleted by the by forty fourth amendment Act 1978). o Article 31 guaranteed right to property and contained six clauses of which clauses (4) and (6) were particularly designed to protect land reforms legislations.

Article 31 as originally enacted was in the following terms:

1. No person shall be deprived of his property saved by authority of law.
2. No property movable or immovable, including any interest in, or in any company owning and commercial or industrial undertaking, shall be taken possession of or

acquired for public purposes under any law authorizing the taking of such possession or such acquisition unless the law provides, for compensation for the property taken possession of acquired and either fixes the amount of the compensation or specified the principles on which and the manner in which, the compensation is to be determined and given.

3. No such law as is referred to in clause (2) made by the legislation of a state shall have effect unless such law having been reserved for the consideration of the president has received his assent.
4. If any bill pending at the commencement of the constitution in the legislature of the state has after it has been passed by such legislature been reserved for the consideration of the president and has received his assent then, with standing anything in this constitution the law so assented to shall not be called in question in any court on the ground that it contravene the provisions of clauses (2).
5. Nothing in clause (2) shall affect (a) the provisions to any existing law other than a law to which the provisions of clauses
6. Apply or (b) the provision of any law which the state may hereafter make:
   i For the propose of imposing or leaving any tax or penalty
   ii For promoting public health or prevention of danger to life. In pursuance if any agreement entered into between the Dominion of Indian and the Government of any other country or otherwise with respect to property declared by law to be evacuee property.
7. Any law of a state enacted not more than eighteen months before the commencement of this constitution may within three months from such commencement be submitted to the president for his certification and thereupon, if the president by public notification so certifies it shall not be called in question in any court on the ground that it contravened the provisions of clause (2) of this article or has contravened the provisions of such sections (2) of the section 299 of the Government of India Act, 1935. The provisions made in clauses (4) and (6) provide inadequate to protect the land reforms laws.

CONSTITUTIONAL AMENDMENT AND CASE LAWS

Hence the constitution (First Amendment) Act, 1951 amended article 31 and added new Articles 31 A and .31 B and also added the Ninth schedule to the constitution listing 13 states-

land reforms acts and providing that these acts would not be void merely on the ground that they infringed any of the Fundamental rights. The article 31 A, except from the operation of any of the safeguards conferred by the fundamental rights, law providing for acquisition of any "estate" or any right therein, but a state law making such provision required to be submitted to the president for his assent.

In *Shankari Prasad v. Union of India**[1]*** the constitutional validity of the first amendment was challenged. The Supreme Court upheld the Validity of the said amendment and in *State of Bihar v. Kameshwar Singh**[2]*** the Supreme Court observed that the land reforms legislation of Bihar was in conformity with Directive principles of state policy in order to achieve social justice. Article 31 A brought in by the constitution (First Amendment) Act, 1951 was substituted by a more elaborate article by the constitution (Fourth Amendment) act 1955.

The new article had the effect of taking out the protection of the fundamental rights. All those legislation providing for and reforms measures, That is The acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights that is legislation aimed at the abolition of Jagirdars, Zaminadars and other feudal tenures.

By taking over the management of any property by the state for a limited period either in the public interest or in order to secure the proper management of the property, such law is not void because in consistent with or takes away rights of property.

The constitution (Seventeenth Amendment) Act, 1964 inserted a further provision laying down that where law made provision for the acquisition of an estate, and where any land comprised in such estate was held by anyone under personal cultivation, the law had to provide a ceiling limit acquisition could be effected only by payment of compensation not less in amount than the market value. It also amended the definition of the term "estate" to include land under Ryotwari settlement of as well as land held or let for purpose of agriculture of ancillary purposes. The expression land has not been defined. It was to be deducted with reference to the meaning attached to the term "estate". The Supreme Court took a very liberal stand and proved itself as an active agent of social change. As the definition of an estate in the law relating to land tenures in the different local areas may differ, it is difficult to assign any meaning to the words "its local equivalent" when the estate itself has no fixed meaning.

In *Karimbil v. State of Kerala**[3]*** the Supreme Court made it clear that the definition of the term estate was not satisfactory. The provision in Article 31 A (1) (a) is not adequate to protect all measures of land reforms and further amendment of the provision called for. Hence, the Constitution (Seventh Amendment) Act, 1964 by which the definition of estate was further explained to include any land held under Ryotwari settlement. Any land held or let for the purpose of agriculture or for purposes any ancillary thereto, including waste land, forest land, land for posture or sites of buildings and other structure occupied cultivators of land agricultural labourers and village artisans.

None of the amendments to give effect to the aspects of land reform could deter the landlords from approaching the Supreme Court for questioning. The Constitutional validity of these constitutional amendments on legislative and technical grounds alleged that these are not adopted exactly in the Constitution in conformity with the procedure laid down in Article 368.

In *Waman Rao v. Union of India**[4]*** the validity of the Constitution (First Amendment) Act, 1951, which brought into being in the Constitution Article 31-A and 31-B and the Ninth Schedule was questioned. The Supreme Court declared that neither article 31-A and 31-B nor the Ninth Schedule destroyed or damaged the basic structure of the Constitution section 31-B in regarding the variation of certain acts and regulations.

None of the Acts, and regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void or ever to have become void on the ground that such Act, Regulation or provision is inconsistent with and takes away or abridges by any of the rights conferred by any provision of this part, and not withstanding any judgement, decree or order of any court or tribunal to the country each of the said Acts, and regulations shall, subject to the power of any competent legislature to repeal or amend it, continue in force.

The Constitution (Twenty-fifth Amendment) Act, 1971 had inserted a new Article 31 C which provided no law officiating social and economic reforms in the terms of Directive Principles contained in Article 39 (B) and (C) shall deem to be void for an alleged inconsistency with Fundamental Rights contained in Article 14, 19 & 31.

Writ petitions were also filed challenging the validity of the Mysore Land Reforms Act 1961 (as amended by Act, 14 of) 1965 which fixed the ceilings on the land holdings and conferred

the ownership of surplus land on tenants. The above writ petitions along with some other in challenging petitions were heard by special bench consisting of eleven judges of the Supreme Court. In this case, though the amending Articles were held valid but on different reasoning by majority.

Subba Rao C.J. held that:

i. The power of the parliament to amend the Constitution is derived from Article 245 and 248 and not from Article 368 there of which only deals with procedure for amendment is a legislative process.
ii. Amendment is law within the meaning of Article 13 of the Constitution and therefore if it takes away or abridges the rights conferred by the part III, it is void.
iii. On the application of the doctrine of prospective over ruling that our decision has prospective operation and therefore the said amendments will continue to be valid.
iv. As the Constitution (Seventh Amendment) Act, holds the validity of the Punjab and Karnataka Land Reforms Act 1961, it cannot be questioned on the ground that they offend article 13, 14 or 31 of the constitution. After this decision the Constitution (Twenty Fourth Amendment) Act, 1971 was passed. In article 13 after the clause (3) a new clause (4) has been inserted stating. "Nothing in this Article shall apply to any amendment of the Constitution made under article 368".

The Supreme Court manifested itself as an arm of social revolution and showed the need of protecting and preserving not only the land reforms measures against the challenges but also all the relevant amendments of the Constitution. Even though the first and seventeenth amendments were validated by the court by resorting to a novel doctrine of prospective overruling, by declaring that the said amendments and the law protected by them continued to be valid notwithstanding the abridgement of Fundamental Rights.

The Supreme Court contributed its due share in furthering the cause of agrarian reform. C.J. Subba Rao justified the need for protecting the amendments invalidated under the *Golak Nath* ruling primarily because of the concern for the land reform programmes and he observed that all these were done on the bases of the correctness of the decisions in *Shakari Prasad's case* and *Sajjan Singh's* case, namely that parliament had the power to amend the Fundamental Rights and the Acts, in regard to estates were outside judicial scrutiny on the ground that they infringed the said rights. The agrarian structure of our country has been revolutionized on the

base of the said laws. The court held that the Fundamental Rights are outside the amendatory process if the amendments take away or abridge any of the rights and in Shankari Prasad's and Sajjan Singh's case conceded the power of the amendment over part III on an erroneous view of article 13 (2) and Article 368 and to that extent they were not good laws. The judgement proceeded on the following reasoning:

1. The Constitution incorporates an implied limitation that the fundamental Rights are out of the reach of the parliament.
2. Article 368 does not contain the power to amend it merely provides procedure for amending the Constitution.
3. The power to amend the Constitution should be found on the plenary legislative power of the parliament.
4. Amendments to the Constitution under article 368 or under other articles are made only by parliament by following the legislative process adopted by making in laws.
5. The contention that the power to amend is a sovereign power and that power is supreme to the legislative power, that does not permit any implied limitations and amendments made in exercise of that power involve political questions which are outside the scope of judicial review cannot be accepted.

The validity of the (Twenty Fourth Amendment) came up for discussion in *Keshavanda Bharti v. State of Kerala*.[5] Wherein a writ petition was field initially to challenge the validity of the Kerala Land Reforms Act, 1963 as amended in 1969. The court held that the 24 amendment was valid and parliament had power to amend any or all the provisions of the constitution including those relating to the fundamental rights. And also the court held that power to amendment is subject to certain inherent limitations, and that parliament cannot amend these provisions of the constitution which affect the basic structure or framework of constitution.

The *Minerva Mills Ltd. v. Union of India*[6] Supreme Court tested the directive principles as a whole with basic structure theory as propounded in Kesavananda Bharati Case. It is observed that "They (the Fundamental 73 Rights in part III and the Directive Principles of State Policy in Part IV) are like a twin formulas for achieving social revolution. The Indian Constitution is founded on the bedrock of the balance between Part III and Part IV and one should give absolute primacy to over the other is the harmony of the Constitution. This harmony and balance between Fundamental Rights and Directive Principles is an essential feature of the basic structure of the Constitution. Those Rights are not an end to them but are means to an

end. The end is specified in the Part III of the Constitution.

The Constitution (Forty Second Amendment) Act, 1976, Article 31- C was amended and its protection was extended to all the laws passed in the furtherance of any directive principles. All the Directive Principles were granted supremacy over the Fundamental Rights contained in Articles 14 & 19. Section 31-C says "No law giving effect to the policy of state towards securing all or any of the principles laid down in part IV shall be deemed to be void on the ground that it is inconsistent which takes away or abridges any of the rights conferred by Article -14 or article 19. That it is giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such a policy. Now many Acts, passed by the parliament and the state legislature are constitutionally declared to be valid under Article 31 (b) although they may directly infringe the right to property. As a result of various amendments to the Constitution and by placing all land reforms laws in the Ninth Schedule of the Constitution, it has closed the door of challenging agrarian reform legislation in courts.

The Forty-fourth amendment made Right to property is no longer a fundamental right and article 300-A was added. The 44 Amendment removed the right to property from Part III of the chapter on Fundamental Rights by deleting article 19 (1) (f) and 31 and by inserting article 300-A. The reasons for 44″ amendment is as follows:

1. The special position sought to be given to fundamental rights, the right to property which has the occasion for more than one amendment of the constitution would cease to be a fundamental rights and become only a legal right. Necessary amendments for this purpose are being made to article 19 and article 31 is being deleted. It would be ensured that the removal of property from the list of fundamental rights would not affect the rights of minorities to establish and administer educational institutions of their choice.
2. Similarly, the right of persons holding land for personal cultivation and within the ceiling limit and to receive compensation at the market value would not be affected.
3. Property, while ceasing to be a fundamental right would however, is given express recognition as a legal right. Provision being made that no person shall be deprived of his property saves in accordance with law Amendment of right to property must be interpreted, if possible so as not to violate the doctrine of the basic structure of the constitution. The rights conformed by article 19 (1) (f) and article 31 red with the under noted entries were so closely interwoven with the whole fabric of our constitution.

Those rights cannot be torn out without leaving a jagged hole and broken threads. The hole must be mended and the broken threads replaced so as to harmonize other parts of our constitution. There is no longer looks upon the right to acquire hold and dispose of property as part of the right to freedom. Further article 19(1)(f), which conferred on citizens the rights to acquire, hold and dispose of property formed part of a group of articles under the heading "Right to freedom".

Finally, by article 300-A which states that no person shall be deprived of his property save by authority of law. The deletion of article 19 (1) (f) and article 31 would at first suggest that in respect of property the distinction made between citizen and noncitizens, the article 19(1) (f) has been eliminated. And also the deletion of article 31 disrupts the scheme adopted by our constitution for the compulsory acquisition of property. The 44 amendment added the following new provisions of law as to property rights.

PRESENT CONSTITUTIONAL PROVISIONS AS TO PROPERTY RIGHTS

Article 31A says that notwithstanding anything contained in article 13, no law providing for:

1. The acquisition by the state of any estate or of any rights there in or the extinguishment or modification of any such rights, or
2. The taking over of the management of any property by the state for a limited period either in the public interest or in order to secure the proper management of the property, or
3. The amalgamation of two or more corporation either in the public interest or in order to secure the proper management of any of the corporations, or
4. The extinguishment or modification of any rights of manganese of corporations or of any voting rights of shareholders thereof, or
5. The extinguishment or modification of any rights acquiring by virtual of any agreement, lease or license for the purpose of searching for or winning any mineral or mineral oil or the premature termination or cancellation of any such agreement, lease or licence shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by Article 14 and 19.

Provided that where such law is allow made by the legislature of a state, the provinces of this article shall not apply there to unless such law, having been reserved for the consideration of

the president, has received has assent.

Provided further that where any law makes any provision for the acquisition by the state of any estate and where any land comprised there in is held by a person under his personal cultivation, it shall not be lawful for the state to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing there in or appurtenant there to, unless the law relating to the acquisition of such land, building or structure.

CONCLUSION

The constitution of India provides Fundamental Rights (Part-Ill) and Directive Principles of State Policy (Part-IV) for bringing social justice and upholding inherent human rights. The land reforms laws and policies have been framed so as to implement the directive principles for securing social and economic justice. These directives also contained in Articles 38 and 39 of the constitution. Article 38 contains the directive to the state that it shall strive to promote the welfare of the people by securing and promoting as effectively as possible. Article 39 says that the state shall direct it policies towards securing the ownership and control of material resources of the community and distributed them as best to sub-serve the common good. The Articles 14 and 19 (1) (f) provides that 'state shall not deny to any person equality before law or the equal protection of law'. Article 19 which guarantees to all citizens as number of freedoms like clause (1) (f) the right to acquire, hold and dispose of property of the land. Article 31 says that no person shall be 96 deprived of his property and save by the authority of law but this section was amended in 1951, by (first amendment to the constitution), substituting a more elaborate article so as to take out the protection of fundamental rights all those legislation's providing for land reforms measures.

In *Waman Rao v. Union of India*, Justice Subha Rao C.J. held that the power of the parliament to amend the Constitution is derived from Article 245 and 248 not from Article 368. ii. Amendment is the law within the meaning of Article 13. In *Kesananda Bharati v. State of Kerala* the Supreme Court of India held that the 24 amendment was valid and parliament had power to amend any or all the provisions of the Constitution even including fundamental rights. Again in *Minerva Mills Ltd. v. Union of India*. The same Supreme Court held that the parliament had the power to amend any provisions of the Constitution even including

fundamental rights. The power should not be exercised so as to take away the 'basic structure' of the Constitution like liberty, equality, fraternity, secularism and social justice. And it also held that there must be balance between these aspects of the Constitution while framing the policies by the state. So directive principles are the embodiment of the ideals and aspirations of the people of India. It constitutes the goals towards which the people expect the state to march for their attainment. The Supreme Court also held in *Golkanath v. State of Punjab* that the (Part-Ill and Part-lV) of the Constitution contained and 97 integrated scheme and even a self-contained code to characterize the relationship between fundamental rights and directive principles. And it treated both equally important.

REFERENCES

https://shodhganga.inflibnet.ac.in/bitstream/10603/258158/16/12_chapter%203.pdf

http://14.139.60.114:8080/jspui/bitstream/123456789/713/21/Agrarian%20Reforms.p df

https://kb.osu.edu/bitstream/handle/1811/68260/OSLJ_V21N4_0616.pdf

https://www.gktoday.in/gk/constitutional-provisions-on-land-and-land-reforms-inindia/

http://www.legalservicesindia.com/article/576/Land-Reforms-&-Duty-Of-State.html

1. AIR 1951 SC 458
2. AIR 1952 SC 252
3. AIR 1962 SC 723
4. 1981 (2) SCC 362
5. AIR 1973 SC 1461 [6] AIR 1980 SC 1789