

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
LEGISLATIVE DEPARTMENT

**RAJYA SABHA**  
**UNSTARRED QUESTION NO. 4448**  
ANSWERED ON - 02/04/2026

**CONSTITUTIONAL VALIDITY OF LEGISLATIONS**

4448. DR. SASMIT PATRA:

Will the Minister of **Law and Justice** be pleased to state:

- (a) whether Government has undertaken any review or institutional mechanism to examine the constitutional validity of proposed legislations and executive actions in light of the Basic Structure doctrine evolved by the Supreme Court in *Kesavananda Bharati vs State of Kerala*;
- (b) whether instances have arisen during the last five years where laws enacted or executive measures taken by Government were subsequently struck down or read down by courts for violating fundamental constitutional principles;
- (c) the number of such cases and key constitutional grounds involved; and
- (d) the steps taken to strengthen constitutional vetting of legislative and executive proposals?

**ANSWER**

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF LAW AND JUSTICE; AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS

(SHRI ARJUN RAM MEGHWAL)

**(a):** As per the Government of India (Allocation of Business) Rules, 1961, the Department of Legal Affairs has been allocated the mandate to advise Ministries/Departments on legal matters and feasibility of proposals from legal and constitutional angle including interpretation of the Constitution and the laws. References are also made to Ld. Attorney General for India and Ld. Solicitor General of India for advice on matters of significant constitutional implications. In case the *vires* of any law is challenged then as per the constitutional scheme, final determination of constitutional validity lies with the judiciary. The mandate of the Department does not cover vetting of Executive actions. However, the subordinate legislation are vetted by the Legislative Department.

As regards examination of the laws in light of the basic structure doctrine, it is relevant to mention that the Hon'ble Supreme Court through various judicial pronouncements has held that a statute can only be struck down or being violative of Part III or any other provision of the Constitution or for being without legislative competence. Recently, the Hon'ble Supreme Court in *Anjum Kadari & Another vs Union of India & Others [2024 INSC 831]* has observed as follows:

*"The reason is that concepts such as democracy, federalism, and secularism are undefined concepts. Allowing courts to strike down legislation for violation of such concepts will introduce an element of uncertainty in our constitutional adjudication".*

The Bench further stated, *"Recently, this Court has accepted that a challenge to the constitutional validity of a statute for violation of the basic structure is a technical aspect because the infraction has to be traced to the express provisions of the Constitution. "*

**(b) and (c):** There is no database being maintained in this Department in this regard. Details of litigations related to concerned legislation are covered within the purview of the respective administrative Ministry/Department responsible for the specific subject matter.

**(d):** The officers of the Department perform the task of examining the draft legislations from a legal and constitutional angle. The officers are also sent for capacity building training from time to time.

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