

INTERPRETATION OF BASIC STRUCTURE DOCTRINE IN INDIAN CONSTITUTION

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ABSTRACT

Indian Constitution is the largest Constitution in the world whereby having many esteemed and peculiar principles and doctrines that aims in demarcating the socio-economic development of the citizens. After Indian Independence, the radical shift from the police state to the welfare state has emphasized many proactive measures in preserving the validity and true spirit of Indian Constitution. The role of judiciary is inevitable in monitoring the proper implementation of doctrine of basic structure in each and every legislation that the sub continent has. The paper aims in analyzing the evolution of basic structure in India by throwing lights in measuring the rigidity and flexibility nature of it. Further the paper aims in analyzing the role of judiciary in protecting the violation of basic structure concept and finally various challenges in implantation of basic structure doctrine in India are studied the remedial measures are given as the suggestions.

KEYWORDS: *Basic Structure Doctrine, Judicial Independence, Indian Constitution, Fundamental Rights, Rigidity of Indian Constitution.*

Article History

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INTRODUCTION

The Basic Structure Doctrine is a judicial principle that limits Parliament's amending power under Article 368 by protecting the core identity of the Constitution. In Shankari Prasad (1951) and Sajjan Singh (1965), the Supreme Court upheld Parliament's unlimited power to amend, but in Golak Nath (1967), it ruled that Fundamental Rights were beyond amendment. The landmark Kesavananda Bharati v. State of Kerala (1973) established that Parliament may amend the Constitution but cannot alter its "basic structure." Later cases clarified its scope: In Indira Gandhi v. Raj Narain (1975), democracy and judicial review were held part of the basic structure; in Minerva Mills v. Union of India (1980), limited amending power and the balance between Fundamental Rights and Directive Principles were added; and in I.R. Coelho (2007), even Ninth Schedule laws were made subject to review. Although not exhaustive, elements such as constitutional supremacy, rule of law, secularism, federalism, free and fair elections, and judicial independence are recognized as part of it. The doctrine thus preserves the Constitution's spirit while allowing flexibility for change.¹

RIGIDITY OF INDIAN CONSTITUTION

The Indian Constitution is neither completely rigid like that of the United States nor fully flexible like the British Constitution; rather, it is a unique blend of rigidity and flexibility. Its rigidity lies in the procedure for amendment provided under Article 368, which requires special majorities and, in some cases, ratification by at least half of the state legislatures.

¹ Prithvi Raj Chauhan v. Union of India, 2020 SCC OnLine SC 159

For example, amendments affecting federal provisions such as the distribution of legislative powers, representation of states in Parliament, or the powers of the President must be approved not only by a two-thirds majority in both Houses of Parliament but also by at least 50% of the states. This ensures that the fundamental structure and federal balance cannot be easily altered by the central legislature alone. Moreover, through judicial interpretation, the Basic Structure Doctrine has further restricted Parliament's amending power, making the Constitution rigid in protecting its essential features like democracy, secularism, federalism, and judicial independence. At the same time, certain provisions can be amended by a simple majority, reflecting its flexible side. Thus, the Indian Constitution is partly rigid and partly flexible, with rigidity serving as a safeguard to preserve its core values and federal character.²

FLEXIBILITY OF INDIAN CONSTITUTION

The Indian Constitution is considered flexible as well as rigid, depending on the nature of its provisions. Its flexibility lies in the fact that many of its provisions can be amended by a simple majority of Parliament, without the need for a special majority or state ratification. Such amendments are not treated as amendments under Article 368 but as ordinary legislative procedures. Examples include changes in the names, boundaries, or areas of states (Article 3), creation or abolition of Legislative Councils in states, adjustment of the number of seats in Parliament, and matters relating to citizenship. Additionally, Parliament has wide powers to make laws on subjects in the Union List, and even on State List matters during national emergencies, giving it the ability to adapt the constitutional framework to changing needs.³ This flexibility has enabled the Constitution to remain a living and adaptable document, capable of responding to political, social, and economic developments without losing its identity.

BASIC STRUCTURE AND SEPARATION OF POWERS IN INDIAN CONSTITUTION

The Basic Structure Doctrine in India, propounded in *Kesavananda Bharati v. State of Kerala* (1973), restricts Parliament's power to amend the Constitution by preserving its essential features, one of which is the separation of powers among the Legislature, Executive, and Judiciary. Although the Indian Constitution does not provide for a strict separation of powers like the U.S. Constitution, it establishes a system of functional separation and checks and balances to prevent concentration of power. The Supreme Court has consistently upheld this principle as part of the Constitution's core identity. In *Indira Gandhi v. Raj Narain* (1975), the Court struck down a constitutional amendment that sought to exclude judicial review of the Prime Minister's election, holding that judicial review and separation of powers are part of the basic structure. Similarly, in *Minerva Mills v. Union of India* (1980), it reaffirmed that judicial review and limited amending power preserve the balance among organs of government. Thus, the doctrine ensures that no organ can encroach upon the domain of another, safeguarding democracy, the rule of law, and constitutional supremacy.

KESAVANANDA BHARATI V. STATE OF KERALA

The landmark case of *Kesavananda Bharati v. State of Kerala* (1973) is considered the cornerstone of Indian constitutional law as it established the Basic Structure Doctrine. In this case, Kesavananda Bharati, the head of a mutt in Kerala, challenged the validity of the Kerala Land Reforms Act, 1963, and subsequent amendments which sought to impose restrictions on the management of religious property. The broader issue before the Supreme Court was the extent of Parliament's power to amend the Constitution under Article 368. A 13-judge bench, the largest ever in Indian judicial

² Lt Cdr Annie Nagaraja and Ors v Union of India, 2020 SCC OnLine SC 326.

³ Kumar, Anuj. "Law and Justice: Public Law." Legal Desire, June 2016, p. 120.

history, delivered a split verdict of 7:6. The Court held that Parliament has wide powers to amend any part of the Constitution, including Fundamental Rights, but it cannot alter or destroy the “basic structure” of the Constitution. Though the Court did not provide an exhaustive list, principles like the supremacy of the Constitution, rule of law, democracy, secularism, separation of powers, federalism, and judicial review were recognized as basic features. This judgment thus struck a balance between parliamentary sovereignty and constitutional supremacy, ensuring that while the Constitution remains flexible and adaptable, its essential identity and core values remain protected from political excesses.⁴

JUDICIAL INTERFERENCE IN PROTECTING BASIC STRUCTURE IN INDIAN CONSTITUTION

The role of the judiciary in protecting the basic structure of the Indian Constitution has been pivotal in maintaining constitutional supremacy against excessive parliamentary power. The doctrine was laid down in *Kesavananda Bharati v. State of Kerala* (1973), where the Supreme Court held that while Parliament can amend the Constitution, it cannot alter its basic structure. Since then, judicial interference has acted as a safeguard to preserve democracy, rule of law, and fundamental rights. In *Indira Gandhi v. Raj Narain* (1975), the Court struck down the 39th Constitutional Amendment that placed the Prime Minister’s election beyond judicial review, holding that judicial review and democracy are part of the basic structure. Similarly, in *Minerva Mills v. Union of India* (1980), it invalidated provisions of the 42nd Amendment, emphasizing that limited amending power and the balance between Fundamental Rights and Directive Principles are essential features. In *I.R. Coelho v. State of Tamil Nadu* (2007), the Court extended this principle by ruling that even laws placed in the Ninth Schedule after 1973 are subject to judicial review if they violate the basic structure. Thus, judicial interference ensures that the Constitution remains a living document but with its essential spirit intact, preventing any organ of the state from undermining its foundational principle

CHALLENGES FACED IN DECIDING THE BASIC STRUCTURE

The Basic Structure Doctrine has been one of the most debated principles in Indian constitutional law, and its application poses several challenges. The first difficulty lies in the fact that the Supreme Court has never provided an exhaustive list of what constitutes the basic structure, leaving it to judicial interpretation on a case-to-case basis, which creates uncertainty. Secondly, critics argue that the doctrine gives the judiciary supremacy over Parliament, leading to accusations of judicial overreach and tension between the legislature and judiciary. Another challenge is the subjectivity involved, as different benches of the Court may interpret the doctrine differently, leading to inconsistency.⁵ Further, in a democratic setup where Parliament represents the will of the people, limiting its power to amend the Constitution raises questions about popular sovereignty versus constitutional supremacy. Finally, balancing constitutional flexibility and rigidity remains a challenge, as excessive rigidity may hinder necessary reforms while excessive flexibility may endanger core values. Thus, while the doctrine protects the Constitution’s identity, deciding its scope continues to be complex and contentious.⁶

WAY FORWARD

The Basic Structure of the Indian Constitution is not expressly mentioned in the text of the Constitution; instead, it has been judicially evolved. The Supreme Court, beginning with *Kesavananda Bharati v. State of Kerala* (1973), laid down that while Parliament has the power to amend the Constitution under Article 368, it cannot alter or destroy its basic structure.

⁴ Dr. Durga Das Basu, *Introduction to the Constitution of India* 52 (LexisNexis, Nagpur, 20th Edn., 2008)

⁵ Prof. Nicholas Sunday, “Constitutional Law, Constitutionalism and Democracy” available at: <https://www.grin.com/document/213984>

⁶ J.N.Pandey, *The Constitutional Law of India* 1 (Central Law Agency, Allahabad, 10th Edn., 1980)

Deciding whether a particular amendment violates the basic structure is done primarily through judicial review by the higher judiciary. The Court examines the content, purpose, and effect of an amendment to determine if it damages essential constitutional features such as democracy, secularism, rule of law, federalism, judicial independence, or the balance between Fundamental Rights and Directive Principles. Since no exhaustive list of basic features exists, the decision depends on case-by-case interpretation, guided by earlier precedents. Thus, the task of deciding what constitutes the basic structure lies with the Supreme Court and High Courts, ensuring that constitutional amendments preserve the identity and spirit of the Constitution.⁷

CONCLUSION

In conclusion, the Basic Structure Doctrine serves as a cornerstone of Indian constitutional law, striking a balance between the flexibility of constitutional amendments and the preservation of its core values. By limiting Parliament's power under Article 368, it ensures that essential features such as democracy, secularism, judicial independence, rule of law, and federalism remain beyond the reach of transient political majorities. Although criticized for being judicially created and open-ended, the doctrine has acted as a safeguard against authoritarianism and abuse of power, protecting the spirit of the Constitution while allowing necessary adaptations. It reflects the principle that while the Constitution may change with time, its foundational identity must remain intact. Thus, the doctrine stands as a guardian of constitutional supremacy, ensuring that India's democracy continues to function within the framework of justice, liberty, equality, and fraternity envisioned by the framers.

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⁷ <https://www.india.gov.in/my-government/constitution-india>