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AMENDMENTS, AUTHORITY, AND ACCOUNTABILITY: A CRITICAL PERSPECTIVE ON THE BASIC STRUCTURE DOCTRINE

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Abstract

The Basic Structure Doctrine is one of the cornerstones of Indian constitutional law, which was introduced by the Supreme Court of India in the landmark case of *Kesavananda Bharati v. State of Kerala*.¹ This doctrine was conceived as a judicial protectory measure to ensure the Foundation Structure of the Constitution such as democracy, federalism, secularism, and separation of powers from parliaments overreach into constitutional amendment. The basic structure doctrine seeks to ensure that some core elements of constitutionalism are immune from amendments by the Parliament, thereby preserving the essentials of Indian democratic structures and values.

The doctrine is however still a much-debated topic. Supporters argue that it is an essential safeguard against potential excesses of legislative enactment, but critics claim it grants too much power to the judiciary, intruding upon the maintenance of legislative power, among other complaints. In this paper, we argue the impact of the basic structure doctrine on the governance structure in India, focusing on its contribution to sustaining the democratic ideals of accountability by also exploring the inherent conflict it generates between the judicial and legislative powers. Drawing on important cases, literature reviews, and constitutional comparisons, this paper examines aspects of the basic structure that could be amended to maintain judicial oversight while leaving space for legislative action. Finally, it seeks to highlight the necessity of the doctrine in preserving the soul of the Constitution and attempt to find ways to make this balance better in the unique democracy of India.

¹ *Kesavananda Bharati v. State of Kerala* AIR 1973 SC 1461.

Introduction

The Basic Structure Doctrine is a novel judicial innovation in India, initially enunciated in the landmark case of *Kesavananda Bharati v. State of Kerala*² by the Supreme Court. Under the original Constitution, Parliament had near-absolute authority to amend the Constitution as prescribed by Article 368,³ but the doctrine imposed limitations on such powers. Simply put, the doctrine means that while Parliament can modify the Constitution, it cannot change its basic structure—an idea encompassing core elements like the rule of law, democracy, federalism, and individual rights. This doctrine developed during a period of intense upheaval, driven by fears of authoritarianism and government overreach, as the judiciary sought to set limits on Parliament's amending authority.

The *Kesavananda Bharati* ruling introduced a transformative concept that has influenced Indian constitutional development over time.⁴ However, this doctrine is controversial as it grants significant discretion to the judiciary to define the basic structure. Critics argue that this flexibility can foster judicial activism, potentially undermining parliamentary sovereignty and creating ambiguity in the separation of powers. Despite such concerns, proponents argue that the doctrine is a necessary safeguard, ensuring that the Constitution's core values remain unscathed.

This study presents the arguments surrounding the Basic Structure Doctrine and examines its impact on the balance between judicial review and legislative authority in India. Key criticisms include the doctrine's potential to undermine parliamentary sovereignty, the subjective interpretation of the 'basic structure', and concerns about judicial overreach at the expense of democratic processes. Through a critical examination of key cases and academic perspectives, this paper assesses whether the basic structure effectively maintains a balance between parliamentary sovereignty and judicial oversight or if it risks overreaching, thus warranting reforms.

² *Kesavananda Bharati v. State of Kerala* AIR 1973 SC 1461.

³ Article 368 of the Indian Constitution reads as: —"Power of the Parliament to amend the Constitution and procedure, therefore. - (1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

⁴ T.R. Andhyarujina, "The untold story of how Kesavananda Bharati and the basic structure doctrine survived an attempt to reverse them by the Supreme Court" in Sanjay S. Jain and Sathya Narayan (eds.), *Basic Structure Constitutionalism – Revisiting Kesavanada Bharati* 133 (Eastern Book Company, 1st edn., 2011).

Section I: The Origin of the Basic Structure Doctrine

The Basic Structure Doctrine, first established by India's Supreme Court in the *Kesavananda Bharati v. State of Kerala*⁵ case, has become a defining feature of Indian constitutional law. It's designed to protect the core principles of the Constitution from being altered by amendments, even if the Parliament has broad public support. This section explores the landmark *Kesavananda Bharati* case, how this doctrine has been applied since then, and the controversies it has stirred up over the years.

The Kesavananda Bharati Case

In 1973, a Kerala religious leader named Kesavananda Bharati challenged state laws that restricted the property rights of his religious institution. But what started as a specific dispute soon evolved into a much bigger constitutional question: How far could Parliament go in amending the Constitution under Article 368?⁶ The core issue was whether Parliament could alter the very foundation of the Constitution, even with a strong public mandate.

In a close 7-6 decision, the Supreme Court decided that while Parliament has the power to amend the Constitution, it cannot change its 'basic structure'. The Court listed several essential elements that make up this basic structure, including the supremacy of the Constitution, rule of law, democracy, secularism, and the separation of powers. Chief Justice Sikri, representing the majority, argued that these elements are at the heart of the Constitution's identity. Altering them, he said, would compromise its fundamental character.

This ruling was historic because it showed the judiciary stepping in to protect the Constitution from potential overreach by Parliament.⁷ But it was also controversial. The decision divided the Court, with some justices arguing that the judiciary was overstepping by limiting Parliament's power, which could undermine the democratic will. Justice A.N. Ray, one of the dissenting judges, felt that giving unelected judges the authority to set boundaries on Parliament's powers threatened the sovereignty of India's elected legislature.

Since *Kesavananda Bharati*, the Basic Structure Doctrine has been used in several high-profile

⁵ *Kesavananda Bharati v. State of Kerala* AIR 1973 SC 1461.

⁶ India Const. art. 368.

⁷ S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits*, 6 Washington University Journal of Law & Policy 267 (2001).

cases, each one adding to its significance.⁸ In *Indira Nehru Gandhi v. Raj Narain*,⁹ the doctrine was applied in the context of a contested election. Here, the Court ruled that amendments affecting the democratic process—such as those that might interfere with free and fair elections—could violate the basic structure. This case highlighted the importance of free elections as a core element of India’s democracy, protected by the basic structure doctrine.

In *Minerva Mills Ltd. v. Union of India*,¹⁰ the Court focused on the balance between Fundamental Rights (Part III) and Directive Principles (Part IV) of the Constitution. The ruling held that this balance is part of the basic structure, meaning that neither social policies nor individual rights should overshadow each other. This case reinforced that Parliament’s powers must respect both individual freedoms and democratic values.

The doctrine’s reach extended further in *S.R. Bommai v. Union of India*,¹¹ where the Court addressed issues of federalism. The ruling stated that the misuse of Article 356¹²—which allows the central government to impose President’s Rule in states—could threaten India’s federal system. Here, the Court made it clear that federalism is a fundamental part of the Constitution, protected by the doctrine to maintain the balance of power between the central government and the states.

In *I.R. Coelho v. State of Tamil Nadu*,¹³ the Court examined the Ninth Schedule, which was originally meant to protect certain laws from judicial review. The Court held that even laws added to the Ninth Schedule after *Kesavananda* must respect the basic structure. This ruling reinforced the idea that no law, even those intended to be immune from scrutiny, can undermine the Constitution’s core principles.

Together, these cases show how the doctrine has evolved as a tool to protect India’s constitutional integrity, ensuring that amendments do not erode core democratic values. At the same time, they highlight an ongoing tension between the powers of the judiciary and the legislature, sparking important debates about the judiciary’s role in shaping constitutional

⁸ Sudhir Krishnaswamy, *Democracy and Constitutionalism in India A Study of the Basic Structure Doctrine* (Oxford University Press, 2010)mad

⁹ *Indira Gandhi v. Raj Narain*; (1975) Suppl. SCC 1.

¹⁰ *Minerva Mills Ltd. and Ors. vs. Union of India and Ors.*, AIR 1980 SC 1789.

¹¹ *S.R. Bommai v. Union of India* AIR 1994 SC 1918.

¹² India Const. art. 356.

¹³ *I.R. Coelho v. State of T.N.*, (2007) 2 SCC 1

interpretation.

Section II: Critiques of the Basic Structure Doctrine

Since its creation, the Basic Structure Doctrine has been both praised as a safeguard for democracy and criticized as an overreach by the judiciary. One of the main critiques is its impact on parliamentary sovereignty. By restricting Parliament's power to amend the Constitution, the doctrine challenges the democratic idea that elected representatives should be able to modify the Constitution to reflect the will of the people. Scholar Madhav Khosla argues that limiting Parliament's power under Article 368¹⁴ imposes a constraint on democracy itself.¹⁵ In a parliamentary system, elected leaders represent the voice of the people, so blocking their ability to amend the Constitution could weaken democratic legitimacy. Critics believe Parliament, as the primary lawmaking body, should have the authority to address social, economic, and political issues through amendments. When unelected judges decide what counts as the 'basic structure', it can feel like the judiciary is overstepping its bounds, essentially giving itself a veto over the Parliament and reducing the Parliament's role as the people's representative.

Another major criticism focuses on the separation of powers, which is part of the basic structure itself. Some critics argue that the doctrine disrupts the balance between the judiciary and the legislature by giving judges a say in areas traditionally controlled by the Parliament. Political theorist Pratap Bhanu Mehta claims the doctrine encourages judicial activism, letting judges shape legislative decisions that ideally belong to elected representatives. This judicial activism, he suggests, risks blurring the lines between the branches of government. Since the doctrine allows judges to interpret amendments based on their own views of the 'basic structure', it can lead to decisions shaped more by personal beliefs than by objective legal principles. By giving itself the power to block amendments it sees as violating the basic structure, the judiciary may be taking on a legislative-like role, influencing the course of constitutional law in ways typically reserved for the Parliament.¹⁶ This judicial dominance in interpreting and amending the Constitution limits the Parliament's flexibility to respond to changing societal needs and

¹⁴ India Const. art. 368.

¹⁵ Madhav Khosla, *Constitutional Amendment*, in *The Oxford Handbook of the Indian Constitution* 233 (Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta eds., 2016), available at <https://ssrn.com/abstract=3371882>.

¹⁶ Pratap Bhanu Mehta, *The Inner Conflict of Constitutionalism: Judicial Review and the 'Basic Structure'*, in *India's Living Constitution: Ideas, Practices, Controversies* 179 (Zoya Hasan, Eswaran Sridharan & R. Sudarshan eds., 2002).

places considerable power in the hands of the judiciary.

Another critique centers on the subjectivity and ambiguity of the doctrine. While the doctrine provides a framework for protecting core features of the Constitution, it doesn't spell out exactly what those features are. This vagueness creates room for inconsistent judicial interpretations, as different judges may have varying opinions on what constitutes the 'basic structure'. Scholars have pointed out that this subjectivity gives the judiciary a lot of discretion, which can lead to arbitrary decisions. Without clear criteria, the doctrine is open to evolving interpretations based on the changing judicial philosophies of different benches, making it unclear which amendments are allowed, and which aren't. This lack of clarity can put the Parliament in a tough spot, as lawmakers may hesitate to propose amendments, unsure if they'll later be deemed unconstitutional. This atmosphere of caution could discourage meaningful reforms that the country might need.

The subjective nature of the basic structure also raises concerns about predictability and stability in constitutional law. With each new case, the judiciary continues to expand and re-define what elements fall under the basic structure, creating a potentially shifting standard. This evolving interpretation can make constitutional law less stable, as future amendments might be judged against changing criteria. As a result, the Parliament might be cautious about proposing amendments, worried that the judiciary could later invalidate them based on an expanded understanding of the doctrine. This uncertainty over the limits of legislative power can make it harder for elected representatives to confidently pursue necessary reforms. The ambiguous application of the doctrine not only restricts legislative actions but also injects unpredictability into India's constitutional framework. Lawmakers may find themselves constrained by boundaries set by the judiciary—boundaries that are neither fully transparent nor fixed—making it difficult to foresee what amendments are permissible.

In sum, these critiques reveal the complex relationship between the judiciary and Parliament within the framework of the Basic Structure Doctrine. While the doctrine has been crucial for protecting essential democratic values, it also brings up ongoing tensions between judicial oversight and democratic governance. Critics argue that by imposing subjective limits on Parliament's powers, the judiciary risks overstepping its role, which could upset the balance of power among government branches. Additionally, the lack of clear guidelines for defining the basic structure creates an atmosphere of judicial uncertainty, raising questions about the

doctrine's role in a modern democracy. Although the doctrine aims to protect India's core values, these critiques suggest that reforms might be needed to clarify its application, curb judicial overreach, and reinforce the Parliament's role as the supreme legislative body.

Section III: Defence And Comparative Analysis Of The Basic Structure Doctrine

The Basic Structure Doctrine has become a vital part of Indian constitutional law, praised for protecting the country's core values and stopping potential abuses of power. It acts as a safeguard, preventing Parliament from making changes that could undermine fundamental democratic principles or distort the Constitution's identity. Beyond just India, the doctrine aligns with international standards seen in other democracies, like Germany and Bangladesh, where similar limits are placed on legislative power to protect core principles. In this section, we'll look at how the BSD defends fundamental rights, preserves India's constitutional identity, and mirrors protections found in other democracies.

Protecting Fundamental Rights and Democratic Principles

A key argument in favour of the doctrine is that it helps protect fundamental rights and democratic values from being eroded by Parliament. By placing limits on amendment powers, the doctrine ensures that certain rights—like those outlined in Part III of the Indian Constitution—cannot be easily overridden. Without the basic structure, the Parliament would have far-reaching powers to make changes that might infringe on individual freedoms. *Chandrachud, C.J., in Minerva Mills case¹⁷ observed thus, “the Indian Constitution is founded on the bedrock of the balance between Parts III and IV. To give absolute primacy to one over the other is to disturb 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.”*

Similarly, in *S.R. Bommai v. Union of India*,¹⁸ the Court emphasized that federalism—an essential feature of India's governance—is part of the basic structure. By protecting federalism, the doctrine safeguards regional autonomy and prevents excessive central control, which could threaten India's diversity. In this way, the doctrine helps ensure that Parliament's powers don't overstep the values embedded in the Constitution.

¹⁷ *Minerva Mills Ltd. and Ors. vs. Union of India and Ors.*, AIR 1980 SC 1789.

¹⁸ *S.R. Bommai v. Union of India* AIR 1994 SC 1918.

Preserving the Constitution's Core Identity

Supporters of the basic structure argue that it protects the core identity of the Indian Constitution, keeping certain values safe from extreme amendments. The doctrine holds that some principles—like secularism, democracy, and the rule of law—are so fundamental that they define India's national character and shouldn't be compromised. The *I.R. Coelho v. State of Tamil Nadu*¹⁹ case reinforced this, with the Court ruling that even laws added to the Ninth Schedule (which were meant to be protected from judicial review) must still respect the basic structure. This decision confirmed that even Parliament's most powerful tools can't be used to override the Constitution's essential character.

Internationally, scholars like Gary Jeffrey Jacobsohn note that the basic structure aligns India with other democracies that also limit legislative power to protect their constitutional identity. This type of restraint ensures that temporary political majorities can't undermine lasting democratic values, making the BSD a key protector of India's core principles.²⁰

Comparing with Germany's Eternity Clause and Bangladesh's Use of the Basic Structure Doctrine

The Basic Structure Doctrine also connects India to a global trend where democracies put limits on legislative power to protect their foundational values. In Germany, the Basic Law (Grundgesetz) includes an "Eternity Clause" in Article 79(3),²¹ which explicitly forbids changes to certain principles, like federalism and democracy. This clause, added after WWII to prevent a return to authoritarianism, is strictly upheld by the German Constitutional Court. The Court in many instances has reinforced that these core values are untouchable, forming an essential part of Germany's identity.

Supporters of India's basic structure see Germany's Eternity Clause as a useful comparison. While India doesn't have an explicit eternity clause, the doctrine serves a similar purpose by protecting essential values and ensuring that political changes don't distort the Constitution's core.

Bangladesh offers another example of the doctrine's influence. In *Anwar Hossain Chowdhury*

¹⁹ *I.R. Coelho v. State of T.N.*, (2007) 2 SCC 1

²⁰ Gary Jeffrey Jacobsohn, *Constitutional Identity*, 68 TEX. L. REV. 1533 (1990).

²¹ GG [Grundgesetz] art. 79(3) (Ger.).

v. Bangladesh,²² Bangladesh's Supreme Court adopted a version of the basic structure, ruling that key principles—such as judicial independence—could not be amended. This case shows that even without a formal clause, judicial oversight can still act as a guard against threats to democracy. It highlights how India's basic structure doctrine has influenced other South Asian countries, adding weight to its importance as a constitutional tool.

The Basic Structure Doctrine aligns India with global constitutional norms, protecting foundational values from political overreach. By comparing it with similar principles in Germany and Bangladesh, we see that constitutional democracies around the world recognize the need for judicial safeguards to ensure stability and continuity over time. Supporters argue that, rather than undermining democracy, the doctrine strengthens it by keeping the Constitution's core values intact, even when political winds shift. This alignment with international practices gives the doctrine legitimacy as an essential feature of Indian constitutional law, affirming its role in preserving India's democratic framework and identity.

Section IV: Recent Developments and Future Implications

The Basic Structure Doctrine has been the dominant doctrine of Indian constitutional jurisprudence in its judicial reviews and legislative boundaries. It still forms part of the judgment in most cases for decades. It is also relevant in terms of protecting India from democratic and constitutional erosion but, in turn, creating debate regarding the scope and subjectivity of the same and impact on legislative power. This section engages with contemporary applications of the doctrine, its modern relevance, and considers potential reforms that could further perfect its application and balance judicial review with legislative sovereignty.

Contemporary Relevance of the Doctrine of Basic Structure

The Basic Structure Doctrine has dominated debates over judicial activism and legislative authority in the last few years. The doctrine has played a very crucial role in constitutional interpretation by the Supreme Court in response to various constitutional amendments and state actions testing the limits of the doctrine. Cases such as *Madras Bar Association v. Union of India*,²³ which considered the constitutionality of the Tribunals Reforms Act, saw the Court resorting to the basic structure doctrine to safeguard the independence of the judiciary, which

²² *Anwar Hossain Chowdhury v. Bangladesh*, 1989, 18 CLC (AD)

²³ *Madras Bar Assn. v. Union of India*, (2021) 7 SCC 369

it held was integral to the basic structure of the Constitution. By holding that tribunals should be completely free from executive interference in their functioning, the Court emphasized the doctrine's significance in safeguarding judicial autonomy, a vital component of the separation of powers. This was a decision that depicted how the basic structure continues safeguarding the fundamental principles from legislative changes that might disrupt the equilibrium between the government branches.

The abrogation of Article 370²⁴ and the special status afforded to the state of Jammu and Kashmir led further debates on the applicability of the doctrine. Though the Supreme Court has still not addressed the action's constitutional validity in an exhaustive manner, debates revolving around the case raised fundamental questions about federalism. Proponents argue that the abrogation undermines India's federal framework by allowing unilateral central control over a previously autonomous state, potentially violating the Constitution's federal principles. This case exemplifies how the doctrine remains central to contemporary constitutional debates, as it may determine whether and how the judiciary can intervene in government actions that potentially alter India's federal balance.

It has also been dealt with in the context of appointments to the judiciary and issues of judicial independence, mainly in the *NJAC case*²⁵ when the Court declared unconstitutional the constitutional amendment aimed at superseding the existing collegium system for judicial appointments. The court further fastened the doctrine's view by holding judicial independence a part of the basic structure of the constitution. Critics, however, arise from this view that it would bolster judicial dominance over its structure as well, thus also questioning checks and balances. These cases show that the doctrine is, in fact, not merely a theory but has successfully involved itself in the making of modern governance and remains an instrument of protection against possible threats to democratic values and institutional autonomy.

Appeals for Change and Alternative Solutions

While the Basic Structure Doctrine has been instrumental in protecting constitutional values, its critics call for reforms to mitigate potential issues of subjectivity and judicial overreach. One proposed reform involves clarifying the scope and criteria of the doctrine to reduce

²⁴ India Const. art. 360.

²⁵ *Supreme Court Advocates-on-Record Assn. v. Union of India*, (2016) 5 SCC 1

ambiguity.²⁶ Critics argue that without clear guidelines, the doctrine's application may vary with changing judicial philosophies, leading to unpredictable outcomes. Perhaps it would help with this, if the problem of identifying the elements definitively comprising the basic structure were framed in terms of establishing some criteria or some list. This would give the Parliament a clearer boundary to define what the limits of the doctrine are and set clear criteria for the judiciary to judge. It might then obviate judicial discretion's concerns and present a predictable outcome in cases which involve the doctrine.

Introducing a cooperative relationship between judicial and parliamentary powers over constitutional amendment proposals. Some legal scholars have even contemplated a review mechanism in which representatives from both branches discuss the possible consequences of the proposed amendments even before they reach the courts. For instance, a Constitutional Review Commission comprising members from the judiciary, executive, and civil society could provide another layer of accountability in reviewing the constitutionality of amendments in a non-contentious environment. This should foster dialogue and cooperation across government branches, reinforcing a process that is democratic, maintains the separation of powers but does not compromise constitutionalism.

Others propose that the Court can temper its application of the doctrine by applying it only to situations where there is a definite and direct threat to fundamental constitutional principles. Critics point out that the judiciary's liberal use of the doctrine makes it vulnerable to overextensions, potentially into areas not really threatening the core of the Constitution. A more circumspect approach, where the Court employs the doctrine judiciously, would ensure that the doctrine only extended to the most significant cases of potential legislative overreach. It would then serve to maintain a balance between judicial oversight and legislative independence, with Parliament's authority preserved and constitutional integrity safeguarded.

Finally, a much more drastic proposal is that the doctrine be incorporated as part of the text of the Constitution, similar to the Eternity Clause of Germany. Proponents argue that there would be no confusion at all about which elements fall within the ambit of the basic structure because a clause would be provided that will give a definite standard to judicial review. The parliament could codify the doctrine and define its scope with retaining some basic elements, like

²⁶ Madhav Khosla, Constitutional Amendment, in *The Oxford Handbook of the Indian Constitution* 233 (Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta eds., 2016), available at <https://ssrn.com/abstract=3371882>.

democracy, secularism, and federalism as unamendable. This would require considerable political consensus but may be a long-term solution to the debates over judicial interpretation and subjectivity in the application of the basic structure doctrine.

Future Implications of Doctrine of Basic Structure

It is likely that the Basic Structure Doctrine will remain a very important tool in India's shaping constitutional landscape as the country faces emerging political, social, and technological challenges. The doctrine will be applied in areas such as data privacy, digital governance, and rights of the minority where legislative actions raise questions about individual freedom and democratic values. As the government expands its digital infrastructure, issues related to the right to privacy, government surveillance, and data protection may increasingly come under judicial watch. The basic structure doctrine may potentially serve as a framework with which to examine whether a new law infringing privacy and freedom of speech infringes on the Constitution's basic structure, specifically concerning principles of liberty and rights to individuals.

The future of the doctrine may also depend upon addressing climate change and environmental policies in the context of India. As the global focus shifts towards sustainable development, it is quite plausible that principles such as environmental protection and sustainable development would fall within the basic structure of the Constitution. This would grant the judiciary a virtually unshakeable defence to roll back environmental laws lest India undermine its commitment to sustainable governance. This way, inculcating these values into the doctrine, the judiciary can promote environmental justice by ensuring legislation is in harmony with sustainable long-term goals.

The doctrine will further transform India's federal system. When states look to have more control over such issues as taxation and resource development, the doctrine can play a crucial role in settling disputes between the Centre and the states. Future court decisions on state rights will take on a different colour in their application of federalism as a part of the basic structures. As pluralism begins to creep into the Indian political landscape, the doctrine will be invaluable in ensuring that the Constitution adapts to changing social dynamics without compromising its foundational principles.

As the Basic Structure Doctrine is beset on all sides by criticism and calls for reform, it remains

the sine qua non of protection to India's constitutional democracy. As changing political and social forces emerge and new challenges arise, it is inescapable that the doctrine itself will evolve. Ultimately, clarifications, cooperative reforms, or even limited applications will all find their influence in how the doctrine shapes the future of judicial review and parliamentary sovereignty in India. By balancing democratic values with judicial oversight, the doctrine will continue to protect the Constitution's integrity, affirming its role as a cornerstone of Indian constitutionalism.

Conclusion

The Basic Structure Doctrine undoubtedly is an integral part of Indian constitutional law. This doctrine serves as a mechanism of protection for the very basis of the Constitution against such forces of politics that are strong enough to override those momentarily. Since its inception with the case of *Kesavananda Bharati v. State of Kerala* in the year 1973, this doctrine has been made effective in the defence of those very core elements that define the Constitution, democracy, federalism, secularism, and judicial independence. The doctrine gives an assurance that India's democratic framework stays stable and immune from a possible form of parliamentary abuse by placing certain principles beyond legislative amendments.

There are merits to this doctrine, despite its criticisms. Issues on judicial overreach, subjectivity, and ambiguity raise important questions regarding the limits of judicial power and the balance between legislative and judicial authority. Critics argue that under the doctrine, by giving to the judiciary the jurisdiction to decide the 'basic structure', it gives significant powers to unelected judges to interpret the constitution at the cost of parliamentary democratic mandate. First, the vague criteria for the identification of the doctrine has created uncertainty in identifying the doctrine, which constrains the Parliament's ability, through constitutional amendments, to continue to adapt to changing societal circumstances.

In response to these criticisms, it has been proposed that basic structure should be codified in the Constitution, rules be made clearer, or the doctrine be applied more restrictively. Each of these proposals attempts to perfect the basic structure, hopefully towards a more predictable, transparent system of judicial review consonant with the separation of powers and democratic values. Introducing mechanisms of collaboration between the judiciary and Parliament or formalizing the doctrine through constitutional amendments would help alleviate concerns over judicial overreach, so that the doctrine works well as a shield rather than a sword for legislative

action.

International comparison further supports the basic structure doctrine as a policy aligned with democratic norms across borders. The Eternity Clause of Germany and a recently adopted version in Bangladesh both show constitutional restraint as part of standard practice to secure important values against legislative overreaching. In these examples, the Indian basic structure doctrine is placed within a larger wave of constitutionalism that ensures setting things that are beyond the jurisdiction of the temporary political majority.

The Basic Structure Doctrine is likely to continue to influence the constitutional framework of India, particularly with new challenges arising in digital governance, privacy, environmental protection, and federal relations. It can thus become a bridge between India's enduring constitutional ideals and its changing social landscape by adapting to contemporary issues while preserving foundational values. Doing this will not only preserve the integrity of the Constitution but also affirm its relevance in a rapidly changing world.

In conclusion, though the basic structure doctrine requires careful application and possibly refinements to address valid critiques, it remains indispensable to the preservation of India's constitutional identity. As India develops through the challenges of modern governance, the doctrine will strike an appropriate balance between the power of government's various branches, thereby reasserting its place in the heart of constitutional jurisprudence.

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