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BASIC STRUCTURE DOCTRINE: EVOLUTION AND CURRENT STATUS IN INDIAN CONSTITUTIONAL LAW

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Abstract

The Basic Structure Doctrine represents one of the most significant developments in Indian constitutional jurisprudence. Although the Constitution of India expressly confers power upon Parliament to amend the Constitution under Article 368, the Supreme Court of India has held that this power is not unlimited. Parliament may amend the Constitution, including provisions relating to Fundamental Rights, but it cannot alter or destroy those fundamental features which constitute the Constitution's basic structure.

The doctrine was authoritatively formulated in *Kesavananda Bharati v State of Kerala* (1973), where a thirteen-Judge Bench, by a narrow majority, held that the amending power under Article 368 is subject to implied limitations. The judgment did not provide an exhaustive catalogue of basic features. Instead, subsequent constitutional decisions gradually identified features such as constitutional supremacy, republican and democratic government, secularism, federalism, separation of powers, judicial review, rule of law, independence of the judiciary, free and fair elections, and the dignity and liberty of the individual as components of the constitutional structure.

The doctrine subsequently acquired greater significance in *Indira Nehru Gandhi v Raj Narain*, *Minerva Mills Ltd v Union of India*, *Waman Rao v Union of India*, *S.R. Bommai v Union of India*, *L. Chandra Kumar v Union of India*, *I.R. Coelho v State of Tamil Nadu*, and *Supreme Court Advocates-on-Record Association v Union of India*. More recent jurisprudence, including the Constitution Bench decision in *Property Owners' Association v State of Maharashtra* (2024), demonstrates that the doctrine continues to operate as a limitation upon constitutional amendment power while maintaining an important distinction between constitutional amendments and ordinary legislation.

The paper examines the historical evolution, constitutional foundation, judicial development, criticisms, contemporary application, and future significance of the doctrine. It argues that the Basic Structure Doctrine is best understood not as a judicial power to prevent constitutional

change, but as a constitutional limitation designed to preserve the identity and continuity of the constitutional order while permitting democratic constitutional evolution.

Keywords: Basic Structure, Article 368, Constitutional Amendment, Kesavananda Bharati, Judicial Review, Constitutional Supremacy, Separation of Powers, Judicial Independence, Constitutionalism.

1. INTRODUCTION

The Constitution of India is neither completely rigid nor completely flexible. It provides a mechanism through which constitutional provisions may be amended in response to changing social, political, economic and institutional conditions. Article 368 establishes the principal constitutional mechanism for amendment.

However, a fundamental constitutional question arises:

Can Parliament use the power to amend the Constitution to destroy the Constitution itself?

This question lies at the heart of the Basic Structure Doctrine.

The Constitution does not expressly use the expression "basic structure". The doctrine is therefore a product of constitutional interpretation developed by the Supreme Court. Its central proposition is that the power to amend the Constitution is a power to modify the constitutional document, not a power to destroy its essential identity.

The doctrine emerged from a prolonged constitutional conflict concerning Parliament's power to amend Fundamental Rights, particularly property rights and the implementation of socio-economic reforms.

The constitutional history preceding *Kesavananda Bharati* demonstrates that the doctrine did not emerge suddenly. It was the culmination of a series of decisions concerning Article 368, Article 13, Fundamental Rights, constitutional amendments and the relationship between Parliament and the judiciary.

The Supreme Court's official records continue to recognise *Kesavananda Bharati* as a leading constitutional authority.

The importance of the doctrine lies in the tension it creates between two constitutional principles:

1. Democratic constitutional change through Parliament, and
2. **Preservation of the constitutional identity and fundamental constitutional commitments.**

The doctrine therefore raises deeper questions concerning constitutional supremacy, judicial

review, separation of powers, democratic legitimacy and the role of the judiciary in a constitutional democracy.

2. RESEARCH PROBLEM

The Basic Structure Doctrine has survived for more than five decades. However, its precise scope continues to generate constitutional debate.

Three principal questions remain particularly significant.

First, what exactly constitutes the "basic structure" of the Constitution?

Second, how far can Parliament exercise its constituent power under Article 368?

Third, does the doctrine apply only to constitutional amendments, or can it also operate against ordinary legislation?

These questions have received different judicial treatments at different stages of constitutional development.

The present research therefore examines the evolution of the doctrine and its contemporary status rather than treating *Kesavananda Bharati* as an isolated judgment.

3. RESEARCH QUESTIONS

The study addresses the following research questions:

Research Question 1

What historical and constitutional circumstances led to the emergence of the Basic Structure Doctrine?

Research Question 2

How did the Supreme Court develop the doctrine through subsequent constitutional decisions?

Research Question 3

What constitutional features have been recognised as forming part of the basic structure?

Research Question 4

What are the constitutional limits on Parliament's power under Article 368?

Research Question 5

What is the present legal status of the Basic Structure Doctrine?

Research Question 6

Can ordinary legislation be invalidated directly on the ground that it violates the Basic Structure Doctrine?

4. HYPOTHESIS

The study proceeds on the hypothesis that:

The Basic Structure Doctrine has evolved from a judicial limitation on constitutional amendment power into a broader constitutional principle protecting the identity, supremacy and foundational commitments of the Indian Constitution, while its direct application remains primarily concerned with constitutional amendments rather than ordinary legislation.

The contemporary jurisprudence indicates that the doctrine remains authoritative, although the identification and application of individual basic features continues to depend upon constitutional adjudication in particular cases.

5. OBJECTIVES OF THE STUDY

The objectives of this research are:

1. To examine the origin of the Basic Structure Doctrine.
2. To analyse the constitutional history preceding *Kesavananda Bharati*.
3. To examine the ratio and significance of *Kesavananda Bharati*.
4. To trace the subsequent development of the doctrine.
5. To identify the constitutional features recognised as part of the basic structure.
6. To analyse the relationship between Article 368 and judicial review.
7. To examine the doctrine's application to the Ninth Schedule.
8. To analyse the relationship between the Basic Structure Doctrine and judicial independence.
9. To examine the contemporary status of the doctrine.
10. To critically evaluate arguments for and against the doctrine.

6. RESEARCH METHODOLOGY

The research adopts a **doctrinal legal research methodology**. The primary sources include:

- Constitution of India;
- judgments of the Supreme Court of India;
- constitutional amendments;
- statutory provisions relevant to the research;
- official Supreme Court materials.

Secondary sources include:

- constitutional law textbooks;

- academic articles;
- law journals;
- commentaries;
- scholarly discussions on constitutionalism and judicial review.

The research is primarily qualitative and analytical. Landmark judgments are examined chronologically to identify the development of constitutional principles.

The study focuses particularly on the period from the commencement of the Constitution to the contemporary jurisprudence available up to **September 2026**.

6.1 Scope and Limitations of the Study

The study is confined to the doctrinal development of the Basic Structure Doctrine within Indian constitutional law and does not undertake a comparative analysis of analogous constraints on constituent power in other jurisdictions, such as Germany's "eternity clause" under Article 79(3) of the Basic Law or the Bangladeshi courts' adoption of the doctrine. The research also does not empirically examine the political or legislative consequences of individual judgments, focusing instead on the doctrinal and constitutional reasoning found in judicial decisions and secondary literature. Given that the study extends to jurisprudence available up to September 2026, subsequent judicial pronouncements may further refine the propositions discussed herein.

7. HISTORICAL BACKGROUND

7.1 The Constitutional Amendment Power

Article 368 provides the constitutional mechanism for amendment.

The framers recognised that a Constitution must possess sufficient flexibility to respond to changing circumstances. At the same time, constitutional government requires stability and continuity.

This created an inherent tension.

If amendment power is excessively restricted, the Constitution may become incapable of responding to social change.

If amendment power is unlimited, a temporary parliamentary majority could theoretically transform the constitutional system itself.

The Basic Structure Doctrine emerged from this tension.

8. THE PRE-KESAVANANDA PHASE

The doctrine cannot be properly understood without examining the earlier decisions of the Supreme Court.

8.1 Shankari Prasad v Union of India (1951)

In *Shankari Prasad*, the Supreme Court considered whether constitutional amendments affecting Fundamental Rights were subject to Article 13.

The Court held that a constitutional amendment made under Article 368 was not "law" within Article 13.

Consequently, Parliament's amendment power was treated as sufficiently broad to amend Fundamental Rights.

8.2 Sajjan Singh v State of Rajasthan (1965)

The Supreme Court reaffirmed the general position adopted in *Shankari Prasad*.

However, significant doubts began to emerge within the Court concerning whether Parliament should possess unlimited power to alter Fundamental Rights.

These reservations became important in subsequent constitutional litigation.

8.3 I.C. Golaknath v State of Punjab (1967)

A major constitutional shift occurred in *Golaknath*.

The Supreme Court, by a narrow majority, held that Parliament could not amend Fundamental Rights in a manner that took away or abridged them.

The decision substantially restricted Parliament's constitutional amendment power. The constitutional conflict therefore became increasingly intense.

Parliament responded through constitutional amendments intended, among other things, to reaffirm and strengthen its power to amend the Constitution.

This ultimately contributed to the litigation culminating in *Kesavananda Bharati*.

9. KESAVANANDA BHARATI: THE CONSTITUTIONAL TURNING POINT

9.1 Facts

Swami Kesavananda Bharati, the head of a religious institution in Kerala, challenged land reform measures affecting the property of his institution.

The case expanded beyond the immediate dispute concerning land reforms.

The constitutional validity of several amendments and, more fundamentally, the scope of Parliament's power under Article 368 became the central issue.

A thirteen-Judge Bench of the Supreme Court heard the matter. The judgment was delivered on 24 April 1973.

It remains one of the longest and most constitutionally consequential decisions in Indian legal history.

10. THE BASIC STRUCTURE FORMULA

The Supreme Court held that Parliament possesses a wide power to amend the Constitution. However, the power is not unlimited.

Parliament cannot exercise its amending power in a manner that destroys or damages the Constitution's basic structure.

The Court therefore established a distinction between:
Constitutional amendment and constitutional destruction.

The decision did not provide a closed or exhaustive list of basic features. Different judges identified different constitutional principles.

Among the features identified in the various opinions were:

- supremacy of the Constitution;
- republican and democratic form of government;
- secular character of the Constitution;
- separation of powers;
- federal character;
- dignity and freedom of the individual;
- rule of law;
- judicial review;
- harmony between Fundamental Rights and Directive Principles;
- limited amending power.

The diversity of opinions is itself important.

The Basic Structure Doctrine was not based upon a single exhaustive judicial formula.

Instead, it developed as a constitutional principle capable of application to future circumstances.

The Supreme Court's later judgments have repeatedly traced the doctrine back to *Kesavananda Bharati*.

11.WHY KESAVANANDA BHARATI WAS SIGNIFICANT

The judgment achieved a constitutional compromise. It rejected two extreme positions.

Position A

Parliament has no power to amend Fundamental Rights.

Position B

Parliament has unlimited power to amend every provision of the Constitution. The Court instead adopted an intermediate position:

Parliament has extensive constituent power, but that power is subject to substantive constitutional limitations.

This approach permitted constitutional evolution while protecting constitutional identity.

12.INDIRA NEHRU GANDHI v RAJ NARAIN

The doctrine was tested almost immediately.

The dispute arose from the election of the then Prime Minister, Indira Gandhi.

The Thirty-Ninth Constitutional Amendment attempted to place the election of certain high constitutional functionaries beyond ordinary judicial adjudication.

The Supreme Court invalidated the relevant constitutional provisions.

The case is important because it demonstrated that the Basic Structure Doctrine was not merely theoretical. The Court recognised principles including:

- democracy;
- rule of law;
- judicial review;
- free and fair elections;
- equality;
- separation of powers.

The decision demonstrated that constitutional amendments could be invalidated where they damaged foundational constitutional principles.

13.MINERVA MILLS v UNION OF INDIA

13.1 Constitutional Background

During the Emergency period, Parliament enacted the Forty-Second Constitutional Amendment.

Among other changes, the amendment attempted to significantly expand Parliament's

amending power and restrict judicial review.

The constitutional validity of these provisions was challenged in *Minerva Mills Ltd v Union of India*.

13.2 The Limited Amending Power

The Supreme Court held that the limited nature of the amending power itself forms part of the Constitution's basic structure.

This produces a significant constitutional principle:

Parliament cannot use its amending power to enlarge that very power so extensively that the limitation ceases to exist.

In other words, Parliament cannot convert a limited constituent power into an unlimited power.

14.FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

Minerva Mills also emphasised the constitutional relationship between Fundamental Rights and Directive Principles of State Policy.

The Court viewed Parts III and IV as complementary components of the constitutional scheme.

The constitutional structure does not treat liberty and social justice as mutually exclusive.

Instead, constitutional governance requires a balance between:

- individual rights; and
- social and economic objectives.

The Supreme Court has continued to refer to this relationship while discussing the constitutional significance of *Kesavananda Bharati*.

15.WAMAN RAO v UNION OF INDIA

The Ninth Schedule created another major constitutional controversy.

Article 31-B and the Ninth Schedule were designed to protect certain laws from challenges based on Fundamental Rights.

The question eventually became whether Parliament could place laws in the Ninth Schedule in order to completely immunise them from judicial review.

In *Waman Rao*, the Supreme Court drew a constitutional line based on the date of *Kesavananda Bharati*. The decision therefore connected the Basic Structure Doctrine with Ninth Schedule legislation.

16.I.R. COELHO v STATE OF TAMIL NADU

The Ninth Schedule issue received further consideration in *I.R. Coelho v State of Tamil Nadu* (2007).

A nine-Judge Bench considered whether laws inserted into the Ninth Schedule after 24 April 1973 could escape constitutional scrutiny.

The Court held that constitutional amendments inserting laws into the Ninth Schedule after *Kesavananda Bharati* could be examined where their effect damaged or destroyed basic features of the Constitution.

This was particularly significant for judicial review and Fundamental Rights.

The doctrine therefore prevented the Ninth Schedule from becoming an unrestricted constitutional immunity mechanism.

17.S.R. BOMMAI AND SECULARISM

In *S.R. Bommai v Union of India* (1994), a nine-Judge Bench recognised secularism as a basic feature of the Constitution.

The case concerned Article 356 and the dismissal of State governments. The judgment strengthened the constitutional significance of:

- secularism;
- federalism;
- constitutional government;
- judicial review.

The recognition of secularism as a basic feature illustrates an important characteristic of the doctrine:

The list of basic features is not closed.

The doctrine therefore operates dynamically.

18.JUDICIAL REVIEW AS BASIC STRUCTURE

Judicial review has become one of the most consistently recognised components of India's constitutional structure.

The judiciary's power to review constitutional amendments and legislation protects constitutional supremacy.

However, judicial review does not mean that courts exercise unlimited authority. The constitutional role of the judiciary operates within the broader structure of:

- separation of powers;
- legislative competence;
- constitutional text;
- precedent;
- institutional limits.

The contemporary Supreme Court continues to identify judicial independence and separation of powers with the constitutional basic structure. In *State of West Bengal v Jai Hind Pvt Ltd* (2026), the Supreme Court again referred to separation of powers and judicial independence as integral to the basic structure.

19.L. CHANDRA KUMAR v UNION OF INDIA

The Basic Structure Doctrine also influenced the constitutional law of tribunals.

In *L. Chandra Kumar v Union of India*, the Supreme Court held that the power of judicial review exercised by the High Courts under Articles 226 and 227 and by the Supreme Court under Article 32 forms part of the basic structure.

The case is important because it connected constitutional judicial review with the institutional role of constitutional courts.

20.NJAC CASE AND JUDICIAL INDEPENDENCE

One of the most significant modern applications of the doctrine arose in the litigation concerning the National Judicial Appointments Commission.

In *Supreme Court Advocates-on-Record Association v Union of India* (2015), the Supreme Court considered the Constitution (Ninety-Ninth Amendment) Act, 2014 and the National Judicial Appointments Commission Act, 2014.

The Court declared the constitutional amendment and the NJAC legislation unconstitutional. The majority treated judicial independence as a basic feature of the Constitution.

The judgment generated substantial academic debate concerning:

- judicial independence;
- judicial appointments;
- institutional accountability;
- separation of powers;
- judicial supremacy;
- democratic legitimacy.

The decision remains an important example of the continuing operation of the Basic Structure Doctrine.

21.BASIC STRUCTURE AND ORDINARY LEGISLATION

One of the most important contemporary questions is whether an ordinary statute can be struck down merely because it violates the Basic Structure Doctrine.

The answer requires careful distinction.

Constitutional amendment

A constitutional amendment made under Article 368 may be tested against the Basic Structure Doctrine.

Ordinary legislation

Ordinary legislation is ordinarily tested against:

- legislative competence;
- Fundamental Rights;
- express constitutional limitations;
- other applicable constitutional provisions.

This distinction has repeatedly appeared in Supreme Court jurisprudence.

The 2024 Constitution Bench decision in *Anjum Kadari v Union of India* specifically discussed the historical debate concerning whether the Basic Structure Doctrine can independently invalidate ordinary legislation. The judgment reviewed *Indira Nehru Gandhi, Kuldip Nayar, Madras Bar Association*, and the NJAC case.

The Court's discussion demonstrates that the relationship between the doctrine and ordinary legislation requires doctrinal precision rather than simply treating every constitutional challenge as a "basic structure" challenge.

22.PROPERTY OWNERS' ASSOCIATION v STATE OF MAHARASHTRA (2024)

The contemporary status of the doctrine must also be understood in light of the Supreme Court's Constitution Bench decision in *Property Owners' Association v State of Maharashtra*, decided on 5 November 2024.

The case concerned Article 39(b), Article 31-C and the constitutional relationship between Directive Principles and Fundamental Rights.

The Court revisited the history of Article 31-C and the constitutional consequences of

Kesavananda Bharati and *Minerva Mills*.

The judgment provides a detailed modern examination of the constitutional relationship between Fundamental Rights, Directive Principles and the Basic Structure Doctrine.

Importantly, the case demonstrates that *Kesavananda Bharati* remains an active component of constitutional interpretation rather than merely a historical precedent.

23.CURRENT STATUS OF THE DOCTRINE — 2026

As of September 2026, the following propositions can be stated from the established Supreme Court jurisprudence.

23.1 *The doctrine remains valid*

There has been no overruling of *Kesavananda Bharati*.

The doctrine continues to operate as a limitation upon Parliament's constituent power.

23.2 *Article 368 is not unlimited*

Parliament possesses substantial constitutional amendment power.

However, the power cannot be exercised to destroy the Constitution's basic structure.

23.3 *There is no exhaustive list*

The Supreme Court has not created a permanently closed list of basic features. Features are identified through constitutional interpretation in particular cases.

23.4 *Judicial review remains protected*

Judicial review is recognised as a fundamental constitutional principle.

Its protection is particularly important because the constitutional amendment power itself is subject to judicial scrutiny.

23.5 *Separation of powers remains significant*

The separation of powers and independence of the judiciary continue to receive recognition as fundamental constitutional principles.

The Supreme Court's 2026 decision in *State of West Bengal v Jai Hind Pvt Ltd* again described separation of powers and judicial independence as integral to the constitutional basic structure.

23.6 *The distinction between amendments and statutes remains important*

The doctrine principally limits constitutional amendments.

The validity of ordinary legislation is generally determined by reference to legislative competence and constitutional provisions such as Fundamental Rights.

The 2024 Constitution Bench discussion in *Anjum Kadari* is particularly relevant to this distinction.

24.IDENTIFIED BASIC FEATURES OF THE CONSTITUTION

The Supreme Court has, across different decisions, recognised or strongly associated the following principles with the basic structure:

Basic Feature	Important Authority
Supremacy of Constitution	<i>Kesavananda Bharati</i>
Republican and democratic government	<i>Kesavananda Bharati</i>
Secularism	<i>S.R. Bommai</i>
Federalism	<i>Kesavananda Bharati, S.R. Bommai</i>
Separation of powers	<i>Kesavananda Bharati</i> , subsequent cases
Judicial review	<i>Kesavananda Bharati, L. Chandra Kumar, I.R. Coelho</i>
Rule of law	<i>Indira Gandhi</i> , subsequent cases
Judicial independence	NJAC case; later cases
Free and fair elections	<i>Indira Gandhi v Raj Narain</i>
Limited amending power	<i>Kesavananda Bharati, Minerva Mills</i>
Harmony between Fundamental Rights and Directive Principles	<i>Minerva Mills</i>
Dignity and liberty	<i>Kesavananda Bharati</i> and subsequent jurisprudence
Parliamentary democracy	<i>Kesavananda Bharati, Indira Gandhi</i>

This table should not be interpreted as an exhaustive judicially codified list.

25.CRITICAL ANALYSIS

25.1 *The Democratic Legitimacy Argument*

One of the principal criticisms of the Basic Structure Doctrine concerns democratic legitimacy. Parliament consists of elected representatives.

The judiciary, by contrast, is unelected.

Critics therefore argue that permitting judges to invalidate constitutional amendments raises questions concerning democratic legitimacy.

This criticism becomes particularly significant when the Court invalidates an amendment passed by an overwhelming parliamentary majority.

26.THE JUDICIAL REVIEW JUSTIFICATION

The opposing constitutional argument is based on constitutional supremacy. Parliament derives its authority from the Constitution.

Therefore, Parliament cannot possess a power greater than the Constitution itself.

If the Constitution authorises amendment but does not authorise destruction of its foundational identity, judicial review may be viewed as a mechanism for enforcing constitutional limitations.

Under this approach, the judiciary does not exercise political supremacy over Parliament; rather, it enforces constitutional supremacy.

27.THE "UNDEFINED BASIC FEATURES" PROBLEM

Another major criticism concerns uncertainty.

The Constitution does not define "basic structure".

Different judges in *Kesavananda Bharati* identified different features.

This creates the possibility of judicial disagreement concerning what constitutes a basic feature.

The absence of an exhaustive list can nevertheless also be viewed as an advantage because a rigid list could become incapable of responding to constitutional evolution.

Thus, the same characteristic produces both:

a criticism — uncertainty, and

a potential strength — adaptability.

28.BASIC STRUCTURE AND CONSTITUTIONALISM

The Basic Structure Doctrine should not be understood merely as a doctrine about Parliament. It represents a broader theory of constitutionalism.

Constitutionalism requires that governmental power remain subject to constitutional limitations. Three institutions operate within this constitutional framework:

Legislature

Makes laws and exercises constituent power within constitutional limits.

Executive

Administers laws and exercises executive authority.

Judiciary

Interprets the Constitution and reviews governmental action.

The doctrine therefore reinforces the idea that no institution is constitutionally unlimited.

29.BASIC STRUCTURE AND SEPARATION OF POWERS

Separation of powers is closely connected with the doctrine.

If Parliament could abolish judicial review, remove judicial independence, or concentrate all constitutional authority in a single institution through constitutional amendment, the institutional balance of the Constitution could potentially be destroyed.

This explains why judicial independence has repeatedly been treated as constitutionally fundamental.

The Supreme Court's 2026 judgment in *State of West Bengal v Jai Hind Pvt Ltd* again referred to separation of powers and judicial independence as integral components of the constitutional structure.

30.BASIC STRUCTURE AND FEDERALISM

India's Constitution establishes a federal structure with a strong Union. Federalism is significant because constitutional power is distributed between:

- Union;
- States.

A constitutional amendment that fundamentally destroys this distribution may raise a Basic Structure issue.

Kesavananda Bharati and *S.R. Bommai* are particularly relevant to this dimension.

31.BASIC STRUCTURE AND SECULARISM

Secularism was expressly recognised as a basic feature in *S.R. Bommai*.

The significance of this recognition extends beyond the word "secular" in the Preamble.

It reflects the broader constitutional commitment to equal citizenship and religious neutrality of the State.

Consequently, constitutional interpretation of secularism cannot be separated from Articles 14, 15, 25–28 and the constitutional scheme as a whole.

32.BASIC STRUCTURE AND DEMOCRACY

Democracy is more than periodic elections.

The constitutional democratic structure also involves:

- representative government;
- political equality;
- free and fair elections;
- accountability;
- rule of law;
- institutional checks;
- protection of constitutional rights.

The Supreme Court's decision in *Indira Nehru Gandhi v Raj Narain* demonstrated the constitutional importance of free and fair elections.

33.BASIC STRUCTURE AND FUNDAMENTAL RIGHTS

The doctrine has an important relationship with Fundamental Rights.

Initially, much of the constitutional conflict concerned whether Parliament could amend Fundamental Rights.

After *Kesavananda Bharati*, the question shifted.

The issue was no longer simply whether a particular Fundamental Right could be amended.

The question became whether an amendment destroyed the constitutional principle underlying the constitutional scheme.

Thus, Fundamental Rights may contribute to the identification of basic features, but the Basic Structure Doctrine is conceptually broader than Fundamental Rights alone.

34.BASIC STRUCTURE AND DIRECTIVE PRINCIPLES

The relationship between Fundamental Rights and Directive Principles is another important dimension.

Minerva Mills emphasised constitutional harmony between Parts III and IV.

A constitutional system that completely subordinates Fundamental Rights to Directive Principles, or completely prevents implementation of Directive Principles, may disturb the

constitutional balance.

The modern Supreme Court has continued to discuss this relationship in constitutional adjudication.

35.HAS THE DOCTRINE BECOME TOO POWERFUL?

A continuing academic debate concerns whether the judiciary has acquired excessive constitutional authority through the doctrine.

The argument can be stated as follows:

1. The Constitution does not expressly mention "basic structure".
2. Judges determine what constitutes basic structure.
3. Judges can invalidate constitutional amendments.
4. Therefore, judicial interpretation may potentially become stronger than parliamentary constitutional authority.

The counterargument is that judicial review is itself constitutionally justified and that the doctrine prevents temporary political majorities from fundamentally altering the constitutional settlement.

The disagreement is therefore fundamentally about the location of constitutional authority.

36.THE DOCTRINE AS A "SAFETY VALVE"

A useful conceptual approach is to regard the doctrine as a constitutional safety valve. It permits:

Change without destruction.

Constitutions must evolve. Society changes.

Technology changes. Economic structures change.

Institutional relationships change.

Therefore, constitutional amendments are necessary.

At the same time, if every constitutional principle could be eliminated by amendment, constitutional supremacy would become meaningless.

The Basic Structure Doctrine attempts to maintain a constitutional equilibrium between these two needs.

37.CONTEMPORARY SIGNIFICANCE

The doctrine remains particularly relevant because constitutional democracies face increasingly complex institutional questions.

These include:

- judicial independence;
- electoral integrity;
- federal relations;
- separation of powers;
- constitutional amendments;
- tribunalisation;
- judicial review;
- Fundamental Rights;
- Directive Principles;
- constitutional identity.

The continued reference to basic structure principles in Supreme Court decisions, including recent decisions, demonstrates that the doctrine has become embedded in Indian constitutional jurisprudence.

38.RECENT JUDICIAL DEVELOPMENTS

The doctrine has not been confined to historical cases.

In 2024, the Constitution Bench in *Property Owners' Association v State of Maharashtra* revisited constitutional questions involving Article 31-C, Directive Principles and the legacy of *Kesavananda Bharati* and *Minerva Mills*.

In 2026, the Supreme Court in *State of West Bengal v Jai Hind Pvt Ltd* again recognised separation of powers and judicial independence in the context of the constitutional basic structure.

A 2026 Kerala High Court judgment in *Ramesh Chennithala MLA v State of Kerala* also illustrates how the basic-structure principle continues to be invoked in contemporary constitutional litigation concerning separation of powers and judicial independence. The Court ultimately held that the impugned amendment did not violate those principles.

These developments demonstrate that the doctrine remains a living constitutional principle rather than a historical doctrine confined to the 1970s.

39. MAJOR LANDMARK CASES — CHRONOLOGICAL DEVELOPMENT

Year	Case	Constitutional Contribution
1951	<i>Shankari Prasad v Union of India</i>	Broad amendment power
1965	<i>Sajjan Singh v State of Rajasthan</i>	Reaffirmed earlier position; reservations emerged
1967	<i>I.C. Golaknath v State of Punjab</i>	Restricted amendment of Fundamental Rights
1973	<i>Kesavananda Bharati v State of Kerala</i>	Basic Structure Doctrine
1975	<i>Indira Nehru Gandhi v Raj Narain</i>	Democracy, free elections, judicial review
1980	<i>Minerva Mills v Union of India</i>	Limited amending power; FR-DPSP balance
1981	<i>Waman Rao v Union of India</i>	Ninth Schedule and post-Kesavananda amendments
1994	<i>S.R. Bommai v Union of India</i>	Secularism and federalism
1997	<i>L. Chandra Kumar v Union of India</i>	Judicial review and constitutional courts
2007	<i>I.R. Coelho v State of Tamil Nadu</i>	Ninth Schedule subject to basic structure review
2015	<i>SCAORA v Union of India</i>	Judicial independence and NJAC
2024	<i>Property Owners' Association v State of Maharashtra</i>	Article 31-C and constitutional structure
2026	<i>State of West Bengal v Jai Hind Pvt Ltd</i>	Separation of powers and judicial independence

40. FINDINGS OF THE STUDY

The study makes the following findings:

Finding 1

The Basic Structure Doctrine was not an isolated judicial invention of 1973. Its emergence resulted from decades of constitutional litigation concerning Parliament's amendment power.

Finding 2

Kesavananda Bharati represents the central constitutional foundation of the doctrine.

Finding 3

The doctrine does not prohibit constitutional amendment.

It limits constitutional amendment only where the basic structure is destroyed or damaged.

Finding 4

There is no exhaustive list of basic features.

Finding 5

Judicial review, separation of powers, judicial independence, democracy, federalism and secularism have acquired particularly strong recognition in subsequent jurisprudence.

Finding 6

The doctrine has played an important role in protecting constitutional continuity during periods of significant political and institutional change.

Finding 7

The distinction between constitutional amendments and ordinary legislation remains doctrinally important.

Finding 8

Recent Supreme Court decisions demonstrate that the doctrine continues to have contemporary relevance.

41.SUGGESTIONS

The following suggestions emerge from the study.

41.1 Greater Doctrinal Clarity

The Supreme Court may continue to clarify the methodology for determining whether a constitutional amendment damages basic structure.

41.2 Context-Based Analysis

Courts should examine the actual constitutional effect of an amendment rather than relying merely upon labels.

41.3 Institutional Restraint

Application of the doctrine should remain connected to identifiable constitutional principles.

41.4 Preservation of Constitutional Evolution

The doctrine should not be understood as freezing the Constitution in its original form. The Constitution must remain capable of responding to social change.

41.5 Distinction Between Amendment and Legislation

Courts should maintain analytical clarity between Article 368 amendments and ordinary legislation, especially when determining the appropriate constitutional test.

42.CONCLUSION

The Basic Structure Doctrine is one of the defining contributions of Indian constitutional jurisprudence. Its central significance lies in the proposition that constitutional power itself has constitutional limits.

The doctrine emerged from the constitutional conflict surrounding Parliament's power to amend Fundamental Rights. Through *Kesavananda Bharati*, the Supreme Court established that Parliament could amend the Constitution but could not destroy its basic structure.

Subsequent decisions transformed this principle into an important component of Indian constitutional law.

Indira Nehru Gandhi v Raj Narain applied the doctrine in the context of democracy and elections.

Minerva Mills strengthened the principle of limited amending power and constitutional balance.

Waman Rao and *I.R. Coelho* extended the doctrine into the Ninth Schedule context.

S.R. Bommai reinforced secularism and federalism.

L. Chandra Kumar strengthened judicial review.

The NJAC decision placed judicial independence at the centre of the doctrine's modern application.

The 2024 decision in *Property Owners' Association* demonstrated that the constitutional reasoning surrounding *Kesavananda Bharati* and *Minerva Mills* remains relevant to contemporary constitutional disputes.

The Supreme Court's 2026 decision in *State of West Bengal v Jai Hind Pvt Ltd* further illustrates the continuing constitutional significance of separation of powers and judicial independence.

The contemporary position can therefore be understood through one central principle:

The Indian Constitution permits constitutional change, but constitutional change cannot be used as a mechanism for constitutional destruction.

The Basic Structure Doctrine consequently represents an attempt to reconcile two equally important constitutional values: **the necessity of constitutional change and the necessity of constitutional continuity.**

Its enduring significance lies not in preventing Parliament from amending the Constitution, but in preserving the constitutional identity within which democratic government operates.

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