

Doctrine of Basic Structure

The Doctrine of Basic Structure in the Indian Constitution, established during the landmark judgement of Kesavananda Bharati v. State of Kerala in 1973, represents a fundamental tenet of Indian constitutional jurisprudence. It posits that the Constitution possesses inherent features that are beyond the amending power of Parliament. These core principles include the supremacy of the Constitution, secularism, federalism, and democracy, among others, ensuring that the fundamental ethos of the Constitution remains inviolable despite changes in legislative leadership.

Origins in German Constitutional Law

The Basic Structure Doctrine, while distinctly Indian in application, traces its philosophical roots back to principles found in German constitutional law.

The German concept of "substantive legal norms," which are fundamental principles that even the legislature cannot override, significantly influenced Indian judicial thinking. This crossover highlights the transnational flow of legal ideas and their adaptation to suit local legal ecosystems.

Significance of the Basic Structure Doctrine

The doctrine serves as a safeguard, ensuring that amendments do not dilute the essence of the Constitution. It acts as a countermajoritarian measure, protecting the rights of minorities and preventing the tyranny of the majority. This is crucial in a country as diverse as India, where the majority's influence in Parliament could potentially lead to amendments that might suppress minority rights or alter the democratic fabric of the nation.

The criticism often levelled against the Basic Structure is that it grants excessive power to the judiciary, potentially leading to judicial overreach, where judges might impose their personal interpretations on the Constitution. However, supporters argue that this power is necessary to maintain the constitution's sanctity against transient political majorities.

Role of the Judiciary and Parliamentary Sovereignty

The Constitution of India is designed to be a living document, amenable to amendments that reflect the evolving political, social, and

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economic landscape. However, the Basic Structure Doctrine implies that certain aspects of the Constitution are eternal and unamendable, creating a tension between adaptability and permanence.

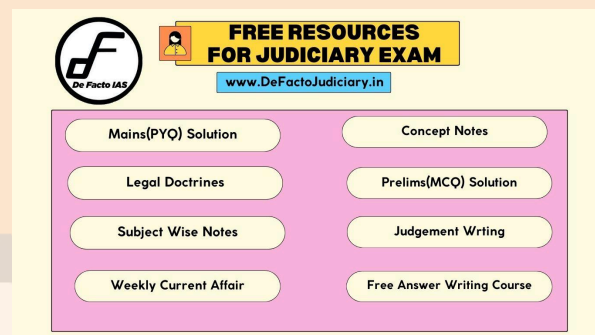
Parliamentary sovereignty is a cornerstone of democratic governance, yet it is not absolute under the Indian Constitution due to the judicial review enabled by the Basic Structure Doctrine. This judicial review is not an usurpation of power but rather a balancing act to ensure that any constitutional amendment does not erode the democratic principles and rights enshrined within.

Judicial Review of Amendments

The judiciary's power to review amendments is not about challenging the sovereignty of Parliament but ensuring that its exercise aligns with constitutional values. This review is essential in a representative democracy, where the elected representatives must operate within the bounds of the Constitution. The Supreme Court's role in this process is not only as an interpreter of the law but also as a guardian of the Constitution.

The balance between judicial protection of constitutional fundamentals and legislative authority to amend the Constitution is delicate

and complex. As India progresses, this balance will need to be continually assessed and recalibrated, ensuring that the constitutional framework grows and adapts while protecting its core principles against erosion.



A Living Doctrine

The Basic Structure Doctrine's adaptability over time underscores its role as a living doctrine within Indian constitutional law. Initially conceptualised to protect certain undefinable features of the Constitution, its scope has significantly broadened through various landmark judgments. The Supreme Court of India has progressively interpreted the Basic Structure to include not only the rule of law and the principles of equality and justice but also the welfare state and the unity and integrity of the nation. These additions reflect responses to contemporary challenges and societal needs, emphasising the doctrine's capacity to evolve.