BLOGS

Basic Structure Doctrine of the Indian Constitution: Origin and Evolution

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Introduction

The concept of the “basic structure” doctrine in the Indian constitutional law represents a pivotal and influential element of the country’s legal framework. It significantly constrains the scope and extent to which amendments to the Indian Constitution can be made.

In this article, we will delve deeply into the historical background, the legal development of the basic structure doctrine, and its immense significance in preserving the foundational principles of

the Indian Constitution.

Historical Context and Constitutional Framework of India

India, upon gaining independence in 1947, embarked on a journey to create a new democratic nation characterized by a written constitution. The constitutional framework established the **principles of separation of powers and federalism**, vesting authority in Parliament and state legislatures to enact laws within their defined jurisdictions.

- Parliament's Legislative Power: The Constitution of India, in its initial form, conferred broad legislative powers upon Parliament. This implied that Parliament had the authority to amend the Constitution, subject to the stipulations laid down in Article 368.
- Role of the Judiciary: The judiciary was designated as the guardian of the Constitution. It was granted the power to adjudicate the constitutional validity of laws enacted by Parliament or state legislatures. If a law was found to transgress the Constitution, the Supreme Court had the authority to declare it null and void.
- Adaptability vs. Rigidity: The framers of the Constitution were keen to ensure that it could adapt to the evolving needs of the nation. They sought to create a constitution that was neither rigid nor too flexible, but one that could withstand the test of time. To facilitate this, the Constitution allowed for amendments through the process outlined in Article 368.

Article 368 and the Powers of Amendment

Article 368 of the Indian Constitution initially appeared to grant extensive powers of amendment to Parliament. It gave the impression that any part of the Constitution, including its fundamental provisions, could be amended. The judiciary, however, saw significant restrictions on this seemingly unrestrained power.

- Article 368: An Initial Impression The text of Article 368, especially in its earlier interpretations, seemingly implied that Parliament had the authority to amend any part of the Constitution without any restrictions.
- Supreme Court's Interpretation: In practice, the Supreme Court played a crucial role in curbing the perception of the absolute amending powers of Parliament. It did so to safeguard the fundamental principles and ideals enshrined in the Constitution.

The Pre-Kesavananda Position

Before the landmark **Kesavananda Bharati case**, there were several instances where Parliament's authority to amend the Constitution was tested and debated. One of the primary areas of contention revolved around the fundamental rights of citizens.

- Challenge to Parliament's Authority: Early on, as soon as in 1951, Parliament's authority to amend the Constitution was questioned, particularly concerning the chapter on fundamental rights.
- Land Reform Laws: In the 1950s, states enacted laws aimed at reforming land ownership and tenancy structures. These laws were in alignment with the constitutional directive principles aimed at achieving equitable distribution of resources and preventing wealth concentration.
- Legal Challenges: Property owners affected by these laws challenged them in court, asserting that these reforms violated their fundamental right to property, a right guaranteed under the Constitution.
- Creation of the Ninth Schedule: In response to unfavorable judgements by the courts, Parliament, through the First and Fourth Amendments in 1951 and 1952, respectively, added the Ninth Schedule to the Constitution. This placed a significant number of laws related to land reforms beyond the scope of judicial review, citing the provisions of Article 31.
- Legal Challenge to the Ninth Schedule: Property owners once again contested these amendments that placed land reform laws in the Ninth Schedule. They argued that such placement violated Article 13(2) of the Constitution.
- Article 13(2): Protection of Fundamental Rights: Article 13(2) is a critical provision that safeguards the fundamental rights of citizens. It clearly prohibits Parliament and state legislatures from enacting laws that might infringe upon or diminish the fundamental rights guaranteed to citizens.
- Supreme Court's Stance: In the Sankari Prasad Singh Deo v. Union of India case in 1952 and the Sajjan Singh v. Rajasthan case, the Supreme Court rejected both arguments. It upheld Parliament's authority to amend any part of the Constitution, including aspects that impacted the fundamental rights of citizens.
- Dissenting Opinions: Notably, in the Sajjan Singh v. Rajasthan case, some dissenting judges raised doubts about whether fundamental rights could become subject to the will of the

majority party in Parliament.

The Golaknath Verdict (1967)

The year 1967 marked a significant turning point in India's constitutional history when the Supreme Court revisited its previous stance on the powers of Parliament to amend the Constitution.

- Change in the Supreme Court's Position: In the Golaknath v. State of Punjab case (1967), an eleven-judge bench reversed the Supreme Court's previous stance.
- Interpretation of Article 368: Chief Justice Subba Rao, in his majority judgement, introduced a novel interpretation of Article 368. He argued that Article 368 primarily laid down the amending procedure but did not actually confer upon Parliament the power to amend the Constitution.
- Implied Limitations: The majority judgement introduced the concept of implied limitations on Parliament's amending powers. This perspective contended that the Constitution's explicit and implicit provisions placed certain restrictions on the power of Parliament to amend it.
- Fundamental Rights as Fundamental: According to this majority view, the fundamental rights of citizens were of such paramount importance that they could not be restricted or curtailed, even if such a move were to receive unanimous approval from both houses of Parliament.
- The Significance of Golaknath: The Golaknath verdict introduced a novel legal interpretation and marked a dramatic shift from previous positions. It signaled a more cautious approach towards amending the Constitution, especially regarding fundamental rights.

Kesavananda Bharati and the Origin of the Basic Structure Doctrine

The Golaknath judgement set the stage for the case of Kesavananda Bharati, which ultimately gave rise to the foundational concept of the "basic structure" of the Constitution.

- Kesavananda Bharati's Case: Kesavananda Bharati, the head seer of the Edneer Mutt in Kerala, challenged the Kerala Land Reforms Act. He contended that his fundamental right to property was infringed upon by placing the land reform law in the Ninth Schedule, thereby placing it beyond the scope of judicial review.

- The Majority Judgement: The Kesavananda Bharati case resulted in a landmark judgement. The majority upheld Parliament's authority to amend the Constitution but also imposed significant limitations on this power.
- Basic Structure Doctrine Emerges: This judgement gave birth to the "basic structure" doctrine, a doctrine that had a profound and enduring impact on Indian constitutional law. It essentially held that while Parliament had the authority to amend any part of the Constitution, it could not alter the Constitution's "basic structure."
- Elements of the Basic Structure: The Kesavananda Bharati judgement did not provide an exhaustive list of what constituted the basic structure. However, it did enumerate certain elements that were integral to this concept. These included the supremacy of the Constitution, federalism, secularism, democracy, separation of powers, the dignity of the individual, and the unity and integrity of the nation.
- The Significance of Kesavananda Bharati: This case and its resulting judgement fundamentally altered the dynamics of constitutional law in India. It placed certain features of the Constitution beyond the reach of Parliament. Even if Parliament followed the prescribed procedures under Article 368, if it violated the basic structure, the amendment would be declared invalid. This judgement was celebrated as a significant victory for the judiciary and the people, and it marked a limitation on the powers of the political executive.

Application of the Basic Structure Doctrine

The basic structure doctrine, as laid down in the Kesavananda Bharati case, has been employed in various judicial decisions over the years, serving as a potent instrument to prevent the legislature from excessively altering the fundamental principles and values of the Constitution.

- Application in Legal Cases: The Supreme Court has consistently used the basic structure doctrine as a tool to safeguard the core principles of the Constitution.
- Indira Gandhi v. Raj Narain (1975): One prominent instance of applying the basic structure doctrine was in the Indira Gandhi v. Raj Narain case. The court relied on this doctrine to declare the 39th Amendment of the Constitution invalid. This amendment was designed to shield Prime Minister Indira Gandhi from disqualification.
- Minerva Mills Case (1980): In the Minerva Mills case, the Supreme Court once again drew on the basic structure doctrine to strike down specific provisions of the 42nd Amendment. This

amendment sought to grant Parliament extensive powers to alter any part of the Constitution.

- Preserving Constitutional Principles: These instances underscore how the basic structure doctrine serves as a guardian against potential abuse of power by the legislative branch. It functions as a safeguard, preventing the erosion of the foundational values and principles that underpin India's democratic and constitutional framework.

Conclusion

The basic structure doctrine has played a pivotal role in ensuring that the Indian Constitution remains a robust and adaptable document capable of withstanding the challenges posed by changing political landscapes and societal dynamics. It serves as a critical guardian, protecting the essence of India's democratic and constitutional framework.

- Preserving Core Values: The basic structure doctrine ensures that the Constitution retains its fundamental principles and ideals while allowing for necessary amendments. It serves as a bulwark against the erosion of the Constitution's foundational values.
- Protection Against Abuse of Power: The doctrine acts as a safeguard, preventing the legislative branch from overstepping its boundaries and altering the fundamental principles of the Constitution for short-term political gains.
- Integral to Constitutional Jurisprudence: The basic structure doctrine has become an integral and defining feature of India's constitutional jurisprudence. It has stood the test of time, providing stability and coherence to the constitutional framework, thereby preserving the essence of India's democracy.

In conclusion, the basic structure doctrine, as established in the Kesavananda Bharati case, has emerged as a pivotal and enduring feature of India's constitutional landscape. It limits the power of Parliament to amend the Constitution, preserving the foundational principles that are the bedrock of India's democracy and constitutional order. This doctrine is a testament to the wisdom and foresight of the framers of the Indian Constitution, as well as the role of the judiciary in upholding its integrity.