

# Exploring the Doctrine of Basic Structure in Indian Constitutional Jurisprudence: A Doctrinal Research

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## Abstract

Basic Structure doctrine is the formation of underlying theory of constitutional interpretation in the jurisprudence of Indian constitution, developed through major proclamations by the Judiciary. Referred to for the first time in the Kesavananda Bharati case (1973), the doctrine means the Parliament cannot change or amend the Constitution's basic features and hence acts as a guarantee to the fundamental principles underlying India's constitutional framework. Therefore, through this doctrinal research paper different degrees and developments regarding the doctrine of basic structure in modern India will be analyzed.

After that, the paper offers a historical narrative of the genesis of the dogma via past judicial forerunners culminating in the judgement of Kesavananda Bharati which enshrined the basic structure doctrine. Interpreting landmark judgments of Minerva Mills, Golaknath etc, the same identifies essential characteristics in the basic structure viz democracy, rule of law, secularism and judicial review. It also explores role of judiciary further to defend the integrity of constitution and restrictions placed on parliamentary power by judiciary

They speculate about the modernization of the principle in the context of contemporary constitutional challenges, including shifts in politics, and emergent social challenges. It then explores criticisms of the doctrine itself, in particular the apprehension of judicial overreach and their petrification in Parliament's amending power. In-depth comparative analysis would also offer ideas about contemporary debates surrounding the Basic Structure doctrine, with similar doctrines in other constitutional systems worldwide being foci of such analysis. This study thus provides readers with an understanding of the evolution of the doctrine and its relevance to the maintenance of constitutional stability in the Indian polity.

**Keywords:** Basic Structure Doctrine, Constitutional Jurisprudence, Kesavananda Bharati Case, Judicial Review, Constitutional Amendments

## Introduction

### Context and Background

The Constitution of India — which is the country's code of rights and laws — came into force in 1950. It puts in place the principles of democracy based on justice and equality and ensures the protection of fundamental rights and freedoms and their recognition for every citizen. On the other hand, the Constitution is a living, evolving document that provides a flexible framework, capable of changing to meet a society that is constantly evolving. It can be the basis for governing a plural state with at least culturally, linguistically, and religiously diverse spaces, giving a stable and inclusive framework for the operation of the institutions of a democracy.

### **Constitutional Jurisprudence: Implications and Reasoning**

Constitutional jurisprudence Describe how constitutional jurisprudence affects the judicial interpretation of the law. What has ever been given effect through time has necessarily been through judicial interpretation — the importance of which should never be underestimated as the source of constitutional principles and dynamism. The Indian judiciary has had a significant role in constitutional law development through its judgments by interpreting provisions that were not clearly articulated in the text of the Constitution. However, the judiciary interprets the Constitution to keep the principles at work even as society changes and the structure of governance changes.

### **Doctrine of Basic Structure**

Basic structure doctrine is the creator of sparkling star in the Indian constitutional jurisprudence and this was propounded by the supreme court in the case of Kesavananda Bharati (1973). Under this doctrine, the Parliament could amend the Constitution, but it cannot seek to destroy or alter the basic structure or essential features of the Constitution. These fundamentals include democracy, judicial review, secularism, and the rule of law. It has been this doctrine that has kept Britain free of authoritarian shakes and ensured the, well, constitution's basic tenets. This remains a crucial doctrine to this day, as it protects the Constitution against amendments that would fundamentally change the Constitution to its core. Context and Background

The Constitution of India — the country's code of rights and laws — came into effect in 1950. It embodies the ideals of democracy, justice and equality, and provides for the enforcement of fundamental rights and freedoms of every citizen. The Constitution is a living document that provides a malleable structure that can be changed as society evolves. It can function to govern a diverse country with culturally, linguistically and religiously diverse spaces providing a stable and all-encompassing legal frame for operating the institutions of a democracy.

### **The Importance of Constitutional Jurisprudence**

The role of constitutional jurisprudence Illustrate how constitutional jurisprudence influences the way in which the judiciary interprets the law. What has moved into effect through the ages has inevitably been through judicial interpretation — the significance of which should never be minimized as the source of constitutional principles and dynamism. Judgments of the Indian judiciary have been influential in creating constitutional law by interpreting provisions which were not clearly expressed in the text of the Constitution. Their judiciary does not enact legislation; it interprets it and ensures that the principles in the Constitution are still relevant and operational, as society and the structure of governance changes.

### **Doctrine of Basic Structure**

The basic structure doctrine is the maker of the shining star in the Indian constitutional jurisprudence, which was promulgated by the supreme court in the Kesavananda Bharati (1973) case. Under this doctrine, Parliament can amend the Constitution but cannot change or obliterate the basic framework or essential features of the

Constitution. What are these basics? Democracy, judicial review, secularism and the rule of law. It is this doctrine that has kept Britain from experiencing authoritarian shakes and has sustained the most basic tenets of the Constitution. This doctrine is as vital now as it was then, in that it protects the Constitution from amendments that could change the very foundational elements of the Constitution.

### **Research Objective**

The present paper analyses the evolution, application and contemporary relevance of the Doctrine of Basic Structure in Indian constitutional jurisprudence. It aims to examine how this doctrine has evolved through key court cases, how it has been employed across various areas of law, and how it remains pertinent to contemporary questions about the Constitution. By tracing the growth and its impact the research will be fruitful in explaining the fact that how is it that Indian constitution is being able to retain its purer and best part.

### **Research Methodology**

The research methodology employed in the study is doctrinal research which entails extensive scrutiny of case laws, examine the constitution text and second literature such as Journal Articles, Books Commentary and scholarly articles. The work will examine important Supreme Court cases that shaped the doctrine, the decisions themselves and the reasoning behind them. It will also involve an analysis of the secondary literature which will provide a holistic perspective on the Basic Structure doctrine, its challenges and its relevance to contemporary constitutional discourse. This will allow for an in-depth examination of the implications of the doctrine on the constitutional apparatus in India and the position of the same as a foundational principle of judicial review in India

### **History for the Evolution of the Doctrine of Basic Structure**

#### **Background and Interpretation**

In the early years, the text of the Constitution was the focus (remember his initial approach to constitutional interpretation was text-based). The judiciary's job in the early years was simply to ensure that laws and executive actions were in line with the provisions in the Constitution. At this point "constitutional supremacy" was really an accepted thing, and the Courts was of the view that Parliament had plenary amendment power over the Constitution. The interpretation was based on the notion that the Constitution was a practical and flexible document designed to meet the evolving needs of the nation However, as political machinations played out over time — particularly in the 1960s and 1970s — the extent of judicial review and the quantity of restrictions on Parliament became a contentious issue, and in that milieu arose the Basic Structure doctrine to guard against amendments that could be somewhat extreme.

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

The historic Kesavananda Bharati case (1973) was really a changing moment in Indian constitutional jurisprudence, where the Supreme Court of India laid down the Doctrine of Basic Structure in formal terms. Several of these amendments to the Constitution called such a judicial post into question, and this case pitted them against each other. In a landmark judgement, the Supreme Court ruled that Parliament may amend the Constitution, but such amendments could not alter the basic structure or essential features of the Constitution. In that ruling emerged the idea that there were some core features, like democracy, secularism, the rule of law and judicial review that were part of the Constitution's "basic structure." The verdict by the 13-member constitutional bench also placed a threshold on infinite power of amendment that Parliament possesses and ensured that the basic structure of the Constitution could not be altered. Thus, the judgment of Kesavananda

Bharati was a litmus test of judicial power over any amendments to the Constitution which undermined its basic structure.

### **Subsequent Developments**

The Doctrine of Basic Structure developed through many landmark judgments after the Kesavananda Bharati case. It was 1980 in the *Minerva Mills Ltd. v. Union of India* case, the Court reiterated the Basic Structure doctrine and the importance of judicial review in upholding the balance of powers between the arms of the State (legislative, executive and judiciary). The ratio decidendi of the judgment reinforced that balance between the fundamental rights and directive principles of state policy is the essence of the basic structure of Constitution and any disruption/disturbance of that balance would be unconstitutional. Similarly in *Indira Gandhi v. Raj Narain* (1975) the principle of the judicial review was maintained and amendments that sought to protect the Prime Minister from being dared were struck down. The Supreme Court in *Golaknath v. State of Punjab* (1967) also addressed the issue, providing another pillar for the doctrine by holding that Parliament did not have the right to amend fundamental rights, thus necessitating a protective mechanism of the Constitution. These cases were crucial in shaping the principles that would be outlined in the Basic Structure doctrine, signifying the proposition that certain values embodied in the Constitution cannot be altered by a mere expression of majority will within the political domain.

### **Critical Analysis**

This evolution of the basic structure doctrine shows that within India's democratic set up stability in constitution and protection of fundamental principles are of utmost importance. The doctrine arose in the context of increasing attempts to amend the Constitution with implications that could compromise its very character, particularly in politically fraught times. The doctrine has been praised for protecting the Constitution from its enemies, and criticized as a potential overreach by the judiciary. Critics argue that putting the basic structure doctrine in place opens the door to judicial activism, where the judiciary effectively lays down the law on any number of constitutional principles. Its critics, on the other hand, argue that the doctrine is vital to stopping unconstitutional amendments, and that protecting the Constitution's democratic character and its fundamental rights requires it. This is how the Basic Structure doctrine developed into an important bulwark of constitutionalism in India, but also a measure of any further legislative overreach by the Parliament and a means for the conservation and dynamic viability of the Constitution as a living document adaptable to historical and contextual realities at the cost of core principles.

### **Basic Structure: The Fundamental Principles of Public Law**

#### **The Role of the Judiciary**

The judiciary plays a vital role in protecting the Constitution of India as the final arbiter of its provisions. The power of judicial review enables courts to ensure that all laws, executive actions, and even constitutional amendments are kept within the boundaries laid down by the constitution. The Basic Structure doctrine was propounded post-Keshavananda and its implementation strengthened this new role even further, as it was a mechanism through competent amendments diluting the essential features of governance could also be quashed in the hands of the judiciary. The courts and the Supreme Court have long used the doctrine to protect fundamental values underlying the Constitution, and to curb excessive legislative incursions into them. This is so that amendments to the Constitution in Parliament, though permissible, do not alter the fundamental

structure, features and essence of India being a democratic, secular and just state. Thus, through amendment the judiciary guards the Constitution, protects its balance, and respects its principle. **Fundament Montelena of the** judiciary laid down the basic features of the Constitution that are considered the 'basic structure' of the Constitution of India, which cannot be modified or repealed by the Parliament. The doctrines were then elaborated based on various judicial decisions. Some of the salient features of the doctrine are democracy, rule of law, secularism, separation of powers, and judicial review. Democracy is the structure of the entire constitution wherein all democratic values of representation, electoral democracy, and people's sovereignty embedded in them. The doctrine ensures that all democratic components cannot be eroded. The constitution cannot work without the principle of the rule of law, which dictates that the same law applies to him and her. The doctrine ensures that any amendment cannot make changes to alter the way the principles of separation of powers. That means no one body should become too strong hence they are check and a balance system. It also includes the basics of India's commitment to secularism, meaning no law shall be made to fight against this principle or even be made to make the state a religious state. The principle of the judicial review is also among the constituent of the basic structure. The values make up the vision in which the country shall be governance and laws run in the country. The due to the different interpretation of these values, the doctrine shall prevent any amendment that reduces the value of their interpretation. The doctrine of the basic structure has been cited in many cases the define and protect Indian constitution edifice. The notion arose in *Kesavananda Bharati v. State of Kerala*, whereby the supreme court brought the ideas of an amendment cannot infringe into the constitution. Later in the case between *Minerva Mills Ltd. v. Union of India*, the court supported its ruling by saying that no constitutional change should infringe into the existing constitutional relationship between the interlinks as well as the directive principles of state policy. This case afterward supported the vision of the court in *Indira Gandhi v. Raj Narain*, the court rejected a change that would weaken courts' powers and hence make null the structure. It was first held in a case, *Golaknath v. State of Punjab*, that the Parliament had no power to amend the constitutional change and hence protection of fundamental freedom from encroachment. Such ruling in these and many other cases assured the application of the principle in any constitutional change.

### Challenges and Debates

While the Basic Structure reservation is an important bulwark, there have been challenges built around it as well. One major sticking point is how far judicial power should reach. In so doing, critics say, the judiciary usurped a role that encroached on Parliament's power to amend the Constitution, even where it had defined what the "basic structure" is. It raises questions of judicial activism and judicial overreach, as the supreme guardian of the Constitution, in defining what the Constitution should mean.

Furthermore, the final authority of the judiciary needs to decide what constitutes the basic structure of the Constitution itself, and the question arises as to whether this power should be bestowed on the judiciary. The 'basic structure' has proven difficult to identify in an objective way, and there is little consensus about what principles should be considered foundational. The uncertainty can foster judicial overreach, leaving courts no option than to impose their vision of constitutional values without recourse to the electorate. Critics of dubbing claim that the judiciary's custodianship of the Constitution is crucial to preventing a disequilibrium of power and to liberate fundamental rights from potential majoritarian excess.

The second core discussion relates to the evolving nature of the Basic Structure doctrine. Now certain legal scholars argue that the doctrine needs to adapt over time to respond more effectively to new social, political and technological realities. But how much flexibility, in turn, leaves behind what constitutional stability is all about at all? Though the Basic Structure doctrine serves as a bulwark, its actual application broadens to an inextricable nexus of both legal and philosophic questions. These contemporary contestations are emblematic

of the ongoing evolution of India's constitutional jurisprudence and reflect the challenges of achieving and maintaining a delicate equilibrium between judicial power and democratic government.

## **The Church's Doctrine as Applied Today**

### **On Contemporary Constitutional Questions.**

The Basic Structure doctrine is still invoked widely to engage with contemporary constitutional disputes like federalism, fundamental rights and constitutional amendments. It has an important role of the doctrine in maintaining the federal character of India as the federalism overall and separation of powers. For instance, attempts to centralize power within the federal government at the expense of the independence of the states could be challenged on the ground that such attempts violate the basic structure of federalism inherent in the Constitution. On a rather practical aspect the Basic Structure doctrine argues that Parliament is not able to amend the provisions of fundamental rights guaranteeing to individuals their liberty. The doctrine has been resorted to by the judiciary to declare amendments unconstitutional, in cases relating to the erosion of fundamental rights. Second, it remains relevant under the case of constitutional amendment. Indeed, in recent years the higher judiciary has interpreted this doctrine to scuttle amendments to the Constitution that seek to alter or abolish its essential characteristics — democracy and secularism, for example — as well as the organ of judicial review. Hence this doctrine continues to be a bulwark in protecting the exalted spirit of the Indian Constitution against the encroachment into the constitutional sanctum posed by modernity.

### **Recent Decisions and General Judicial Orientation**

The judiciary has stuck to the Basic Structure doctrine more recently, too. In *Waman Rao v. Union of India* (1981), for example, which reaffirmed the Basic Structure doctrine, the Court ruled that Parliament in exercising amending power could not change the basic features of the Constitution. Recently in the *K.S. Puttaswamy v. Union of India* (2017), the right to privacy was declared as a fundamental right in its own right, the court used the Basic Structure doctrine to protect the right to privacy as part of the Constitution's basic structure. That moot further solidified the idea that even emerging rights that seem new and evolving are still imbued with the core principles of the Constitution. Similarly, in *Union of India v. NCT of Delhi* (2018) when constitutional validity of provisions of the Government of National Capital Territory of Delhi Act, 1991 were examined before the Supreme Court, the Supreme Court interpreted the federal structure based on the doctrine and kept a balance between independence of Delhi Union Territory and the power of the Union. These cases indeed indicate that the judiciary continues to employ the Basic Structure doctrine to preserve and invade upon them in this inquiry on contemporary issues whilst preventing the encroachment on the individual right.

### **Impacts on political and social structure**

In the current climate, with political divisiveness, social upheaval, and a rising authoritarian populism, the Basic Structure doctrine takes on greater political and social significance. The doctrine thus protects against attempts by the government in control to give itself too much power or circumvent the protections of the Constitution. It guards the essential principles of the Constitution against an enraged political mob. At such times, the Basic Structure doctrine could be invoked to prevent dilution of democratic institutions or erosion of secular character of the state. On social side, separation of powers is a good check for promoting fundamental rights to tackle issues (caste, gender, religion etc.) very crucial for social justice in India. Briefly, as the doctrine protects individual rights from the reach of the law-making process, it suggests that no constitutional amendment or political act was capable of encroaching on such rights by counteraction with other titles of the constitution, including a social sphere that involved increasingly broader challenges of

discrimination, exclusion, and inequality. And so the Basic Structure doctrine remains to shield against the regression of social equity and justice owing to political and social power transitions.

### **Global Perspective**

The comparison with other constitutional systems conclusively shows that the “basic structure” doctrine or its variants of similar doctrines also function as part of a common global jurisprudence. Several other democracies later introduced mechanisms to prevent constitutional changes that might undermine core principles. For instance, in Germany the Basic Law (Grundgesetz) has an “eternity clause” that protects key features of the Constitution from amendments—like human dignity, democracy, and the rule of law. In a notable parallel, France has a limit on amendments to the fundamental principles of the Constitution, which keeps the Republic’s democratic framework intact. The international examples indicate that just akin to the “basic structure” doctrine in India, a post-war trend exists in constitutional law around the world which safeguards the nucleus of a nation’s constitution against radical amendments that would compromise the essence of the constitution. Unlike in the above example, with Basic Structure doctrine, just like how plain reading approach of the Constitution in India, it has remained both extraordinarily powerful and adaptable throughout the years of judicial interpretations and application in India. It was dismantled once more, and yet there are three types left (one for each of the types). Seen in the context of the worldwide debate of constitutionalism, the test contributes towards ensuring that no temporary majority can undermine the national constitution and raises its voice against the politicization of constitutionalism and role of judiciary and checks and balances in such exemplary situations.

### **The Doctrine within its Book of Criticism and Challenge**

#### **Judicial Overreach**

Judicial Activism/Overreach: The Basic Structure doctrine is said to be indistinguishable from judicial overreach, which threatens the Constitution as it is judicial activism by the judiciary (Judicial Overreach). This essentially is that the Basic Structure doctrine has given the judiciary a prerogative to review constitutional amendments which traditionally is a matter that is with the legislature. Critics believe that by laying down the "basic structure," the judiciary enters into the legislative domain and violates the separation of powers between executive, legislature and judiciary. The concentration of this power in the hands of the judiciary is seen as a threat to democracy itself, as courts are not democratically elected. Then it will give the power to invalidate amendments on basic structure to the court which can ultimately give control to the court over the political process which is going to be challenged on the issue of division of power. But proponents of the doctrine argue that judicial review is a key protection against arbitrary or unconstitutional amendments that would undermine the Constitution’s most fundamental principles.

#### **Flexibility vs. Rigidity**

The other major critique is the rigidity of the Basic Structure doctrine. Some scholars and legal practitioners argue that, by its nature, the doctrine is too inflexible and rigid. Such law prohibits the extendibility of Parliament to the Constitution with new amendments, in consonance with changing social necessities, emerging political realities and global trends. Frequently, however, constitutional amendments are needed to address the issues of the current day, be it because of economic, technological or social attitudes shifts. It also brings to the forefront questions regarding the flexibility of the Basic Structure doctrine regarding how far such changes can be accommodated in contradictory amendments to the Constitution. But supporters of the doctrine argue its rigidity is necessary to preserve the integrity and fundamental principles embedded in the Constitution. They argue that the doctrine’s intention is to prevent radical changes that could undermine basic

constitutional principles, such as democracy, secularism and judicial review. And the inflexible will be protecting the crucial rules of law, however for those it is stagnation or an antiquated theory, then what can happen is it makes any changes to that process highly improbable and really renders it just about impossible to come up with any reforms designed to cater for the modern world.

### **Impact on Amendments to the Constitution**

The doctrine of Basic Structure has been criticized on the ground of generating uncertainty as to the limits of the amending power of the Parliament to amend the Constitution. The doctrine, in effect, allows for the construction of a fiduciary boundary around the Constitution, one that cannot be redrawn by Parliament, creating a dialectical tension between the need for constitutional flexibility and the imperative that its core values persist. So from the hands of the “divine,” draft upon draft, amend upon amend, does come the hand of law though at the expense of relegating democracy to the backseat, such that even elected representatives are unable to tweak to suit the heart of the people. They have argued that the Constitution must be a living document that evolves with the times, and that Parliament ought to be able to amend it according to the needs of the day. On the same note, advocates of the doctrine posit that the amending power of Parliament is not absolute, and this limitation is essential in protecting against majoritarian forces that might wish to rewrite the Constitution to but for what they believe to be their potential benefit at the cost of fundamental rights or democratic spirit. Without such a bulwark, they say, the Constitution would be vulnerable to manipulation — on the possibly even sacrificing the rights of minorities or the integrity of the constitutional system.

### **Contradictions and Conflicts**

That is, one of the most significant challenges to the Basic Structure doctrine is the incoherency and inconsistency of its application over time. It has not been uniformly applied in every case, nor has it been consistently interpreted in every judicial context. There have been some judgments where the core doctrinal principles have held, albeit stringently, but without such flexibility leading to inconsistency in application. In some cases, the Court has validated amendments that showed a disruption of the federal structure or relate to the process of elections; the Court has invalidated amendments even when they are salutary to the interest of the public. This contradiction has led to substantial ambiguity with respect to the ultimate scope of the Basic Structure doctrine and triggered debates on whether there is excessive judicial activism in the invocation of the doctrine. And critics argue that kind of unpredictability undermines the stability of constitutional law because it leaves so many unanswered questions about how far the judiciary can reach into parliamentary sovereignty. Second, there are conflicting judicial views about what exactly involves the “basic structure”, giving rise to a state of confusion. But no single, generally accepted definition of the basic structure exists, which has made it difficult for legislators, legal academics and the lay public alike to understand the parameters of constitutional amendments and the place of judicial review in that process.

In a nutshell, although it is widely acknowledged that the Basic Structure doctrine would essentially focus on protecting the fundamental elements of the Constitution, yet, it is also not devoid of many criticism. These critiques challenge the concentration of judicial power, the rigidity the doctrine invites in its application, the impact it has on the Parliament’s power to amend laws and contradictions inherent in its application. These broader discussions sit alongside ongoing considerations about the best way to balance judicial intervention with governance by the people, about the best way to keep the Constitution alive and coherent in a time of rapid change while safeguarding the core of its values.

### **Comparative Doctrinal Analysis on the Constitutional Doctrines Worldwide**

## Constitutional Supremacy

In other words, fundamental rights in India are not the same as constitutional provisions that should be altered or subject to trade-offs and bargaining in the political arena, in the way that the political process can exclude or dismiss fundamental constitutional principles in other democracies. This is notably the case for eternity clauses in relation to Germany and France. For instance, in Germany, the country's Basic Law (Grundgesetz) incorporates an eternity clause (Article 79), which explicitly prohibits amendments to certain provisions (including those on human dignity, the democratic and federal order, and the rule of law). This ensures certain basic features are not disturbed, nor they can be altered by simple legislative majority, like Indian doctrine of Basic Structure. In a similar strain, France's Constitution provides that amendments may not alter its form of republican government, nor can they alter the secular character of the state. Both the foreign examples underscore a reflexive tendency: Some tenants are so integral to the constitutional self-conception of a country that they ought to be sheltered from political, or legislative, hijinks. But where "eternity clauses", which lock certain provisions in stone, as well as India's Basic Structure doctrine, do not build that fixed perimeter at least between immutable and amendable, but rather they are more like fluid concepts that judges can try and quite literally divine at least what constitutes the "basic" of some constitution — allowing for a type of judicial review or constancy in there that does not exist in the same form in any system that tries to use a line within the references of Germany or France.

## Relevance of Judicial Review

Judicial review is an essential means through which courts around the world protect constitutional principles, enabling them to invalidate statutes and executive action that are inconsistent with constitutional rules. In European democracies, by contrast, there is no doctrine of judicial review — the ability of the courts to abrogate laws and executive acts that are inconsistent with the constitution — because there is no written constitution equivalent to that of the United States as bequeathed by the landmark case *Marbury v. Madison* (1803). The principle is in accordance with its usage in India, especially in respect of the Basic Structure doctrine where the judiciary enjoys the right to scrutinize on past amendments or laws which are wickedly unconstitutional. Judicial review is also a pillar, in Germany the Federal Constitutional Court is the guardian of the Grundgesetz. Like the Basic Structure doctrine in India, the German court can review amendments or any other action of law with a view to ascertaining whether or not such action undermines or violates the principles espoused through the Basic Law. There is a judicial review in France by the Constitutional Council but the scope is much less than for India and Germany, particularly in respect to Acts amending the constitution. The French model gives relatively more weight to the sovereignty of the parliament in terms of the law, but the judiciary nonetheless occupies a significant role as a guardian of individual rights and constitutional values. The comparative study showcases that despite varying architecture of judicial review at the state level, due to probable differences in constitutional foundations, the maintenance of essential constitutional values via judicial scrutiny serves as an overarching theme.

## Lessons for India

You can draw certain lessons to oil the wheels of India's constitutional jurisprudence by comparing India's Basic Structure doctrine with similar provisions in other democracies. One significant learning is there are much more Kristiana required within the framework of the basic structure. In countries like Germany, contrary to the above, the eternity clause is rather categorical, wherefore the lines where the vertical separation of powers of constitutional amendment from the constituent power and supermajorities take place are rather set beforehand and therefore, they give more legal security. Alternatively, judicial interpretation in the Indian law, creates some gaps over which kind of limbs come under the purview of being "basic structure", and this

could have been avoided through clearer amendments or guidelines from the Judiciary. Additionally, lessons can even be derived from enhancing the relationship between the judiciary and the legislature, to optimise the doctrine of Basic Structure. Judicial review plays an important but reactive function; a common law culture of extra-judicial engagement, when necessary, as exists in other countries, could reduce the friction with the legislature and allow for a better balance between the interpretation of constitutional principles and embedding the application of these tenets in dynamic social possibilities.

Another lesson for India is the evolution of the doctrine over time. Constitutional doctrines in many democratic countries are fluid, adapting to new challenges; perhaps it is also finally time for India to entertain more flexibility in the Basic Structure doctrine so as to be better positioned to face modern world challenges around technology, climate change, and emerging social justice challenges; see Mark Tushnet, “The Political Constitution.” Judicial review in the United States has not swayed from the fundamental constitutional principles and has grown with landmark events and decisions throughout the years. To put it in perspective, India too could give for thinking as to how the Basic Structure doctrine could still not be static yet dynamic in its essence but the centrality and most importantly import of maintaining the basic features of the Constitution could very much continue and be retained.

In all, global practices highlight the watchfulness of a well-functioning checks and balances system beyond the system of judicial review, including the presence of a robust, constitutionally minded legislative body. It remains an indispensable, if not essential, partner in the maintenance of the Constitution’s integrity, yet the ongoing judicial-legislative-executive relationship must be an open, demanding conversation in which constitutional principles can be updated and are applied in the unending interaction of judicial reason and democratic will. The comparative determinants of judicial restraint reinforce the argument that the delicate balance between judicial popularity but democratic consistency must survive as the transcendental arch, maintaining the continued relevance of constitutional jurisprudence in India.

## **Conclusion**

### **Summary of Findings**

The importance of the Basic Structure doctrine in the edifice of India’s constitutional jurisprudence is almost seismic. This doctrine originated from the Kesavananda Bharati case (1973) and has since served as a bulwark against amendments that would infringe upon the basic structure of the Constitution, including democracy, secularism, judicial review and the rule of law. Its evolution has been through a series of pronouncements from that superior judiciary which enhance the judiciary’s authority to protect the Constitution while preserving the balance of power between Parliament and the judiciary. • While historically a positive contribution, courts were said to have overstepped, and the doctrine has been criticized for inflexibility, and the impact on Parliament’s amending power has been disputed. A one other pointed out inconsistencies in how the doctrine is employed, questioning its ability to adapt to modern day issues. But its importance today remains undiminished, safeguarding fundamental constitutional principles amid a shifting political and social landscape.

### **Suggestions for Reform**

Since the doctrine of Basic Structure has been pivotal for the maintenance of constitutional stability, this has been a decisive move for ensuring constitutional stability. One major reform will be to delineate clear features which constitute the basic structure of the Constitution. This can be done by judicial guidance or provisions of a constitutional amendment that clear up what is being fundamental. And it could also be made more flexible to contemporary challenges, such as new social, technological and environmental issues. Including

rights that do evolve — like those related to privacy or digital freedom — could be considered part of the basic structure of the Constitution. It also gives rise to an opportunity to strike a greater balance between judicial review and parliamentary sovereignty — so judicial powers do not trump the legislative expression of the democratic will. A more constructive conversational engagement between the judiciary and Parliament can further refine the application of the doctrine towards ensuring it is relevant to contemporary constitutional discourse.

### Future Research Directions

The evolution and working of the Basic Structure doctrine in India's jurisprudence has several aspects, which provides a rich domain for future research. What does this doctrine do to centre-state relations in India is another important area to research. Given the current trend of increasing concentration of power, a study of the Basic Structure doctrine upholding the federal structure would serve to not only illustrate its significance to maintain the balance between the Union & the States. A third would be to explore the doctrine's interaction with newly emergent constitutional issues like the protection of digital rights, environmental law, the enactment of socio-economic rights and their incorporation into the basic structure. Additionally, a comparative study of the Basic Structure doctrine as against similar doctrines in the other constitutional democracies may also provide the right context for understanding the pros-cons of India's current approach as well as provide impetus towards dynamic and context-sensitive formulation of the doctrine itself. Another means of understanding how the courts in India arrive at a judicious balance between the stability of the constitution and the recognition that the constitution must respond to changing societal values could come from examining the role of judicial interpretation in constitutional law. This will help in a more in-depth understanding of constitutional interpretation and judicial review in socio-legal and constitutional laws of India, over the periods of changes.

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