
GENESIS AND EVOLUTION OF THE BASIC STRUCTURE DOCTRINE IN THE INDIAN CONSTITUTION

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ABSTRACT

The basic structure doctrine of the Indian Constitution stands as a cornerstone of the Indian constitutional jurisprudence, imposing judicial limits on the parliament's amending power under article 368 of the constitution of India. Genesis in the landmark case of *Kesavananda Bharati v. State of Kerala*, (1973), it had emerged from the early conflicts regarding the land reforms and fundamental rights, and evolving through subsequent cases to safeguard the constitution's essential features. This paper traces its genesis from the pre-independence constitutional framing to its maturation in contemporary challenges, analyzing key judgments, theoretical underpinnings, and critiques. Drawing on doctrinal analysis, it argues that the doctrine balances the democratic flexibility along with the constitutional identity.

Keywords: Basic Structure Doctrine, *Kesavananda Bharati*, Land Reforms, Fundamental Rights, Indian Constitution.

Objective and Scope of the Study:

The objective of the research is to study the birth and the evolution of the basic structure doctrine. This study further analyses the legal evolution of the doctrine starting from the first amendment of the constitution along with the Shankari Prasad's case to the *Janhit Abhiyan v. Union of India*, 2022 case. This paper focuses on the increasing evolution of the basic structure of the constitution of India in different legal timelines.

Introduction:

The India's Constitution is the supreme law of the land which was adopted by the constituent assembly on 26th of November 1949 and was enforced on 26th of January 1950. It embodies a transformative vision forged in the crucible of colonial subjugation and partition violence. In the constitution of India, article 368¹ empowers parliament to amend "any provision" by the majority of the total membership of that house and by a majority of not less than two-thirds of the members of that House present and voting, reflecting Ambedkar's intent for a living document which is responsible for the socio-economic imperatives. Yet, this flexibility clashed with Part III² of the Constitution of India which represents fundamental rights to all its citizens, sparking a judiciary – legislature stand off from the 1950s land reforms onward.

The basic structure doctrine crystallized this tension, by declaring features like democracy, secularism, federalism, judicial review, rule of law, and separation of powers as unamendable. No single article of the Constitution of India enumerates them and only the judges discern them incrementally, invoking an implied constitutional identity to the constitution. Moreover, the doctrine, far from judicial fiat, embodies the Preamble's sovereign, socialist, secular, democratic, republic ethos.

This paper not only examines the doctrine's trajectory but also systematically dissects its evolution followed by the First Constitutional Amendment Act, 1951 and the *Shankari Prasad Singh Deo v. Union of India and State of Bihar* case 1951³, absolutist reversal in the case of *I. C. Golaknath and Ors. v. State of Punjab and Anrs.* 1967⁴, foundational pivot in the case of

¹ INDIA CONST. art. 368.

² Part III of the Constitution of India.

³ *Sri Shankari Prasad Singh Deo v. Union of India and State of Bihar.*, (1951) AIR 1951, SC 458 (India).

⁴ *I. C. Golaknath & Ors. v. State of Punjab & Anrs.*, (1967) AIR 1643, 1967 SCR (2) 762 (India).

Kesavananda Bharati Sripadagalvaru and Ors. v. State of Kerala and Anr., 1973⁵, emergency era consolidation in the case of Indira Nehru Gandhi v. Raj Narain, 1975⁶ and Minerva Mills v. Union of India, 1980⁷, federal expansions in the case of S.R. Bommai v. Union of India, 1994⁸, and the modern refinements from the case of P Sambamurthy v. State of Andhra Pradesh, 1987⁹ to the case of the Janhit Abhiyan v. Union of India, 2022¹⁰. It posits that the doctrine not only resolved a constitutional crisis but also entrenched judicial supremacy in interpreting the Constitution's identity. Structured chronologically and thematically, the analysis highlights how the doctrine navigated India's democratic experiments, from land reforms to electoral integrity.

Historical Context and Early Amendments:

India had never been governed by its own people until the Constitution of India came into force in 1950. The last rulers of India, the British (directly to the provinces and indirectly to the princely states) and the princes (who governed the princely states) were despots who governed the country without there being any fundamental rights which the people could rely upon so that they could knock on the doors of an independent judiciary to correct the wrongs perpetrated by their rulers. Moreover, the India's constitution framers influenced by the Government of India Act, 1935 and global models, crafted article 368¹¹ to enable adaptation without rigid entrenchment. No explicit unamendable core was envisioned by the framers of the constitution. Furthermore, according to the article 368, amendments required a special majority of the members present in the house. This special majority is also referred as a minimum of the two-third majority of house present and voting signaling deliberate change over transient policy.

However, the fundamental rights chapter, Part III of the Constitution of India which has its genesis in the freedom struggle that set India free from its colonial and princely past, enjoyed robust protection by the article 13¹² [Laws inconsistent with or in derogation of the fundamental rights], article 32¹³ [Remedies for enforcement of rights conferred by this part], and article

⁵ His Holiness Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr., (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

⁶ Indira Nehru Gandhi v. Shri Raj Narain & Anr., (1975) AIR 1975 SC 2299, 1976 2 SCR 347 (India).

⁷ Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625 (India).

⁸ SR Bommai v. Union of India, (1994) 2 SCR 644 (India).

⁹ P Sambamurthy v. State of Andhra Pradesh, (1987) 1 SCR 879 (India).

¹⁰ Janhit Abhiyan v. Union of India, (2022) 14 SCR 1 (India).

¹¹ INDIA CONST. art. 368.

¹² INDIA CONST. art. 13.

¹³ INDIA CONST. art. 32

226¹⁴ [Power of High Courts to issue certain writs] fostering early clashes.

Post-independence land reforms challenged property rights under article 19(1)(f)¹⁵ and article 31¹⁶ of the Constitution of India. State laws faced invalidation in cases like *State of Bihar v. Maharajadhiraja Sir Kameshwar Singh of Darbhanga* (1952)¹⁷, prompting the First Constitutional Amendment Act, 1951. This introduced article 31A¹⁸ [Saving of laws providing for acquisition of estates, etc.] and article 31B¹⁹ [Validation of certain Acts and Regulations] shielding agrarian laws and creating the Ninth Schedule to immunize them from judicial review. Subsequent amendments such as the Fourth Constitutional Amendment Act 1955, and the Seventeenth Constitutional Amendment Act, 1964 further diluted property rights, escalating parliament judiciary friction.

These measures reflected Nehruvian priorities: poverty alleviation over absolute rights. Yet they sowed seeds for questioning amendment limits, as parliament incrementally eroded Part III protections.

Stages of the evolution of the basic structure doctrine in the Indian Constitution:

The evolution of the basic structure doctrine of the Indian Constitution can be divided into the following stages:

- STAGE I: Early Judicial Developments in Indian Constitutional Law
- STAGE II: I. C. Golaknath case: The Turning Point.
- STAGE III: Genesis: The Kesavananda Bharati Case.
- STAGE IV: Immediate Evolution: Emergency and Aftermath.
- STAGE V: Ninth Schedule (A short analysis).
- STAGE VI: Modern Developments.

¹⁴ INDIA CONST. art. 226.

¹⁵INDIA CONST. art. 19 cl. 1, sub-clause (f) omitted by the Constitution (Fourty fourth Amendment) Act, 1978, s. 2 (w.e.f. 20-6-1979).

¹⁶INDIA CONST. art. 31, omitted by the Constitution (Forty fourth Amendment) Act, 1978, s.6 (w.e.f. 20-6-1979).

¹⁷ *State of Bihar v. Maharajadhiraja Sir Kameshwar Singh*, (1952), AIR 1952 SC 252 (India).

¹⁸ INDIA CONST. art. 31A.

¹⁹ INDIA CONST. art. 31B.

Stage I: Early Judicial Developments in Indian Constitutional Law:

After the enforcement of the Indian Constitution in the year 1950, Parliament embarked on a series of amendments aimed at socioeconomic reforms and political restructuring. The amending power under article 368²⁰ of the Constitution of India was designed to be robust. However, political developments, especially during the 1950s and 1960s, saw heightened tensions between the judiciary and the parliament over fundamental rights and directive principles. Moreover, the foundation for judicial deference to parliamentary amending power was laid down by the following two early Supreme Court cases:

1. Shankari Prasad Singh Deo v. Union of India, 1951²¹
2. Sajjan Singh v. State of Rajasthan, 1965²²

These decisions effectively insulated constitutional amendments from judicial scrutiny concerning fundamental rights.

1. Shankari Prasad Singh Deo v. Union of India (1951):

- **Overview of the case:**

The Shankari Prasad Singh Deo v. Union of India (1951) case was a big deal in the Indian Constitutional law. Decided by a five-judge Supreme Court bench, it upheld the First Constitutional Amendment Act, 1951, amid challenges to land reform laws. It had decided whether the Parliament could change the Indian Constitution and even the parts about basic rights (Fundamental Rights) to push through land reforms. This ruling established the supremacy of parliament amendments over rigid judicial protection of rights.

- **Background:**

Imagine a situation in which, our country India just got its independence and become a republic nation in the year 1950. The new Constitution of the independent India

²⁰ INDIA CONST. art. 368.

²¹ Sri Shankari Prasad Singh Deo v. Union of India and State of Bihar., (1951) AIR 1951, SC 458 (India).

²² Sajjan Singh v. State of Rajasthan, 1965 AIR 845, 1965 SCR (1) 933

promised everyone rights under article 14²³, article 19(1)(f)²⁴ and article 31²⁵ like owning property safely. But the provincial government wanted to end the old zamindari system of the country. This system was regarding the big landlords controlling large area of lands.

States like Bihar, Uttar Pradesh and Madhya Pradesh passed laws such as Bihar's Land Reforms Act, 1950²⁶, Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950²⁷ and Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950²⁸ to take those lands of zamindars and give them to poor farmers. The landlords or zamindars like Shankari Prasad Singh Deo had filed petitions against the land reform acts to the Patna High Court, Allahabad High Court and Nagpur High Court due to the violation of their property rights as given by the Constitution of India. Some courts agreed and struck down parts of the laws. Moreover, the Patna High Court ruled parts unconstitutional under Article 13(2)²⁹ [Laws inconsistent with or in derogation of the fundamental rights], prohibits laws abridging fundamental rights. To counter with such judicial blocks, the Provincial Parliament had passed the First Constitutional Amendment Act on 18th of June 1951, introducing article 31A³⁰ [Saving of laws providing for acquisition of estates, etc.] and article 31B³¹ [Validation of certain Acts and Regulations.] and the Ninth Schedule. The Petitioners (Zamindars) had filed this issue to the Supreme Court of India by challenging this First Constitutional Amendment Act itself as violation of article 13³² of the Constitution of India.

- **Main Body:**

In this case, the petitioners argued that in the Constitution of India, article 13(2)³³

²³ INDIA CONST. art. 14.

²⁴ INDIA CONST. art. 19 cl. 1, sub-clause (f) omitted by the Constitution (Forty fourth Amendment) Act, 1978, s. 2 (w.e.f. 20-6-1979).

²⁵ INDIA CONST. art. 31, omitted by the Constitution (Forty fourth Amendment) Act, 1978, s.6 (w.e.f. 20-6-1979).

²⁶ Bihar Land Reforms Act, 1950, No. 30, 1950 (India).

²⁷ Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, No. 1, 1951 (India).

²⁸ Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950, No. 1, 1951 (India).

²⁹ INDIA CONST. art. 13, cl. 2.

³⁰ INDIA CONST. art. 31A.

³¹ INDIA CONST. art. 31B.

³² INDIA CONST. art. 13.

³³ INDIA CONST. art. 13, cl. 2.

abolishes the state to make any law or amendment which abridges the fundamental rights as mentioned by the Part III of the Constitution. The First Constitutional Amendment Act, 1951 has violated or infringed the fundamental rights of Part III³⁴ of the Constitution. Therefore the amendment should be declared as unconstitutional or void. They viewed article 368³⁵ [Power of Parliament to amend the Constitution and procedure therefor.] as merely procedural, not empowering changes to the Constitution's basic rights (fundamental rights).

Moreover, the Union of India had argued that the first constitutional amendment which was being done by the power of the Constitution of India under article 368 [Power of Parliament to amend the Constitution and procedure therefor.] is distinct from ordinary legislative authority. The article 13³⁶ [Laws inconsistent with or in derogation of the fundamental rights.] applies only to post-Constitution ordinary laws, not amendments altering any provision, including fundamental rights.

The Hon'ble Chief Justice H.J. Kania's bench, along with hon'ble Justice Patanjali Sastri authoring key observations, unanimously rejected the petitioner's view. The hon'ble Supreme Court of India ruled that the Parliament can tweak any part of the Constitution of India, to meet India's needs. The Parliament enjoys unlimited amending power under article 368 [Power of Parliament to amend the Constitution and procedure therefor.] to modify any part, including fundamental rights. The word "law" in article 13 of the Constitution of India [Laws inconsistent with or in derogation of the fundamental rights.] means ordinary legislation not constitutional amendments. Furthermore, article 31A³⁷ [Saving of laws providing for acquisition of estates, etc.] and the Ninth Schedule laws thus valid, since these laws were shielding reforms from review. This affirmed India's Constitution as a living document, flexible to socio-economic needs over unamendable rights.

- **Conclusion:**

The Supreme Court of India had dismissed the petitions upholding the First Constitutional Amendment Act, 1951 and enabling zamindari abolition nationwide.

³⁴ INDIA CONST. part III.

³⁵ INDIA CONST. art. 368.

³⁶ INDIA CONST. art. 13.

³⁷ INDIA CONST. art. 31A.

This prioritized Parliament's role in nation-building against property rights claims and promoting land redistribution to achieve a fair and equal society. This decision showed India's Constitution isn't set in stone rather it is flexible for real world changes showing the nature of adoptive governance.

The verdict entrenched parliamentary sovereignty but sowed seeds for debate. This case was overruled prospectively in the case of *I.C. Golaknath v. State of Punjab* (1967)³⁸ and refined in the case of *Kesavananda Bharati v. State of Kerala* (1973)³⁹ via the basic structure doctrine.

2. *Sajjan Singh v. State of Rajasthan* (1965):

- **Overview of the Case:**

The case of *Sajjan Singh v. State of Rajasthan* (1965) is a landmark Supreme Court case challenging the validity of the Seventeenth Constitutional Amendment Act, 1964. It addressed the Parliament's power to amend the fundamental rights for land reforms. The Court upheld the amendment by a 3:2 majority affirming broad amending authority to the Parliament under article 368 of the Constitution of India [Power of Parliament to amend the Constitution and procedure therefor.].

- **Background:**

The landmark case of *Sajjan Singh v. State of Rajasthan* (1965)⁴⁰ emerged in the context of India's post-independence land reforms aimed at abolishing zamindari systems and redistributing land to tillers. Petitioners such as Sajjan Singh who was a Rajasthan landowner had challenged the validity of the Seventeenth Constitutional Amendment Act, 1964. This Constitutional Amendment Act had added forty four state land reform laws to the Ninth Schedule of the Indian Constitution. This schedule, as introduced by the First Constitutional Amendment Act, 1951, protected such laws from judicial review on grounds of violating fundamental rights under

³⁸ *I. C. Golaknath & Ors. v. State of Punjab & Anrs.*, (1967) AIR 1643, 1967 SCR (2) 762 (India).

³⁹ *His Holiness Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr.*, (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

⁴⁰ *Sajjan Singh v. State of Rajasthan*, 1965 AIR 845, 1965 SCR (1) 933

article 14⁴¹ [Equality before law.], article 19⁴² [Protection of certain rights regarding freedom of speech, etc.] and article 31⁴³ [Compulsory acquisition of property]. The amendment was retrospective, validating prior invalidations by courts. The dispute built on prior precedents: *Shankari Prasad Singh Deo v. Union of India*, 1951⁴⁴, had upheld Parliament's unlimited power to amend the Indian Constitution under article 368⁴⁵ [Power of Parliament to amend the Constitution and procedure therefor.], including fundamental rights. In this case of *Shankari Prasad Singh Deo v. Union of India*, 1951, the Court had ruled that the word "law" does not include the constitutional amendment, rather it includes the ordinary legislation. Moreover, article 13(2)⁴⁶ does not apply to the constitutional amendments.

In this case, Sajjan Singh had questioned that whether the Parliament could use the Ninth Schedule to shield arbitrary reforms, potentially undermining the Constitution's supremacy and judicial review. The petition was filed under article 32⁴⁷ of the Constitution of India [Remedies for enforcement of rights conferred by this Part.], sought to declare that the Seventeenth Constitutional Amendment Act, 1964 as unconstitutional or void highlighting the tensions between social justice goals and individual property rights in a socialist-leaning framework.

- **Main Body:**

In the case of *Sajjan Singh v. State of Rajasthan*, the petitioners argued that the Seventeenth Constitutional Amendment Act, 1964 fundamentally altered the Constitution of India by immunizing laws from Part III scrutiny. Moreover, this Seventeenth Constitutional Amendment Act, 1964 had violated article 13(2)'s prohibition that the fundamental rights cannot be abridged by any law made by the state. The petitioners claimed that the constitutional amendments also qualify as a "law", and expanding the Ninth Schedule exceeded the article 368⁴⁸ of the Constitution of India [Power of Parliament to amend the Constitution and procedure

⁴¹ INDIA CONST. art. 14.

⁴² INDIA CONST. art. 19.

⁴³ INDIA CONST. art. 31.

⁴⁴ *Sri Shankari Prasad Singh Deo v. Union of India and State of Bihar.*, (1951) AIR 1951, SC 458 (India).

⁴⁵ INDIA CONST. art. 368.

⁴⁶ INDIA CONST. art. 13, cl. 2.

⁴⁷ INDIA CONST. art. 32.

⁴⁸ INDIA CONST. art. 368.

therefor.]. This will lead to the destruction of basic features like equality and judicial review.

The State of Rajasthan had countered that the Parliament holds sovereign amending power, amendments differ from ordinary laws, and reforms serve the Directive Principles of State Policy under article 39⁴⁹ of the Constitution of India [Certain principles of policy to be followed by the State] and article 31A⁵⁰ of the Constitution of India [Saving of laws providing for acquisition of estates, etc.], justifying the Ninth Schedule inclusions by the doctrine of “pith and substance” and focusing on land reform’s true intent.

A Constitution Bench of five judges was formed in the Supreme Court of India. Judges including the hon’ble Chief Justice of India P.B. Gajendragadkar, Justice K.N. Wanchoo, Justice Raghubar Dayal, Justice J.C. Shah along with Justice M. Hidayatullah were the forming the five judges bench in the court. The judgment of this case was delivered with a 4:1 majority opinion and the judgment was written by the hon’ble Chief Justice of India P.B. Gajendragadkar.

This case led to the reaffirm of the Shankari Prasad Singh Deo v. Union of India, 1951⁵¹ case, holding Constitutional Amendments as extra legislative acts not bound by article 13⁵² of the constitution of India [Laws inconsistent with or in derogation of the fundamental rights.] Moreover, the court applied the harmonious construction principle, ruling the constitutional amendment’s core which is the socio economic equity fell within the article 368⁵³ of the Constitution of India [Power of Parliament to amend the Constitution and procedure therefor.] without obliterating rights entirely.

Furthermore, the court had clarified that the Ninth Schedule laws must not wholly negate directive principles and left room for future scrutiny if amendments destroyed constitutional identity. However, Justice M. Hidayatullah dissented sharply and warned that the unlimited power of the Parliament to amend the Constitution of India

⁴⁹ INDIA CONST. art. 39.

⁵⁰ INDIA CONST. art. 31A.

⁵¹ Sri Shankari Prasad Singh Deo v. Union of India and State of Bihar., (1951) AIR 1951, SC 458 (India).

⁵² INDIA CONST. art. 13.

⁵³ INDIA CONST. art. 368.

could substitute a “totally new constitution”. Therefore, Justice M. Hidayatullah had suggested in implying the inherent limitations on constitutional amendments. This view of Justice M. Hidayatullah was foreshadowing later jurisprudence.

It was later on decided by the Supreme Court of India that the amending power of the Parliament is not absolute under article 368 of the Constitution of India [Power of Parliament to amend the Constitution and procedure therefor.], there should be some restrictions so that the amending power of the Parliament should not be used as a tool for constitutional suicide.

- **Conclusion:**

The Supreme Court of India had dismissed the petitions, upholding the Seventeenth Constitutional Amendment Act, 1964 and the Parliament’s amending supremacy. This ruling facilitated land reforms but exposed amending power’s limits, paving the way for I.C.Golaknath v. State of Punjab (1967)⁵⁴ case, which overruled the case of Sajjan Singh v. State of Rajasthan (1965) prospectively, deeming fundamental rights unamendable.

Ultimately, it influenced Kesavananda Bharati v. State of Kerala (1973)⁵⁵ case, giving the genesis of the “basic structure” doctrine to check parliamentary omnipotence. The case of Sajjan Singh had balanced reform urgency with rights safeguards, shaping India’s constitutional evolution amid social transformation.

STAGE II: I. C. Golaknath Case: The Turning Point

- **Overview of the Case:**

The case of I.C. Golaknath v. State of Punjab (1967)⁵⁶ is a landmark Supreme Court case that had restricted the Parliament’s power to amend the fundamental rights. The judgment was delivered by a 6:5 majority. The Supreme Court of India held that the constitutional amendments formulated under article 368⁵⁷ of the Constitution of India

⁵⁴ I. C. Golaknath & Ors. v. State of Punjab & Anrs., (1967) AIR 1643, 1967 SCR (2) 762 (India).

⁵⁵ His Holiness Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr., (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

⁵⁶ I. C. Golaknath & Ors. v. State of Punjab & Anrs., (1967) AIR 1643, 1967 SCR (2) 762 (India).

⁵⁷ INDIA CONST. art. 368.

[Power of Parliament to amend the Constitution and procedure therefor.] must be categorized as “law” within the restrictive meaning of article 13(2)⁵⁸. Consequently, this interpretation established that any such amendment is rendered constitutionally void and unenforceable if it is found to infringe upon, abridge or otherwise derogate from the fundamental rights guaranteed to citizens under Part III of the Constitution of India.

- **Background:**

The case arose from the land reform laws in Punjab. The petitioners, I.C. Golaknath and his family members, owned over 500 acres of farmland. The Punjab Security of Land Tenures Act, 1953⁵⁹ and its amendment in 1959 had imposed ceilings, declaring excess land as surplus for redistribution to tenants. This violation of their property rights under articles 19(1)(f)⁶⁰ and article 31⁶¹ [Compulsory acquisition of property] of the Constitution of India.

Moreover, three Constitutional Amendments were challenged. These constitutional amendments includes: the First Constitutional Amendment Act, 1951 (adding zamindari abolition laws to the Ninth Schedule), the Fourth Constitutional Amendment Act, 1955 (restricting the compensation and property acquisition challenges) and the Seventeenth Constitutional Amendment Act, 1964 (including the Punjab Security of Land Tenures Act, 1953 in the Ninth Schedule) shielding it from judicial scrutiny.

Previous cases or rulings like Shankari Prasad Singh Deo v. Union of India (1951)⁶² and Sajjan Singh v. State of Rajasthan (1965)⁶³ had upheld the Parliament’s unlimited amending power under article 368⁶⁴ of the Constitution of India [Power of Parliament to amend the Constitution and procedure therefor.], treating amendments as outside the article 13⁶⁵ of the Constitution of India [Laws inconsistent with or in derogation

⁵⁸ INDIA CONST. art. 13, cl. 2.

⁵⁹ The Punjab Security of Land Tenures Act, 1953, No. 10, 1953 (India).

⁶⁰ INDIA CONST. art. 19 cl. 1, sub-clause (f) omitted by the Constitution (Fourth fourth Amendment) Act, 1978, s. 2 (w.e.f. 20-6-1979).

⁶¹ INDIA CONST. art. 31.

⁶² Sri Shankari Prasad Singh Deo v. Union of India and State of Bihar., (1951) AIR 1951, SC 458 (India).

⁶³ Sajjan Singh v. State of Rajasthan, 1965 AIR 845, 1965 SCR (1) 933.

⁶⁴ INDIA CONST. art. 368.

⁶⁵ INDIA CONST. art. 13.

of the fundamental rights.] which by the second provision of the article prohibit the State from making any law which violates the fundamental rights of the citizens. Golaknath had questioned this and argued that the constitutional amendment which abridges the fundamental rights were void and unconstitutional in nature.

- **Main Body:**

This case of I. C. Golaknath v. State of Punjab was heard by an eleven judge bench, in which the case had split into 6:5 majorities where the Chief Justice of India P.B. Gajendragadkar recused and the bench was led by the Former Chief Justice of India K. Subba Rao with majority.

Majority view of the hon'ble Chief Justice of India K. Subba Rao: The majority bench had stated that the fundamental rights in Part III are inviolable, “transcendental” and natural, not a gifts from the Constitution of India. The article 13(2)⁶⁶ voids any “law” abridging the fundamental rights of the citizens, and the constitutional amendment also qualify as “law” since they follow parliamentary procedure. Moreover, the article 368 of the Constitution of India [Power of Parliament to amend the Constitution and procedure therefor.] provides only the machinery for the constitutional amendment, not substantive power to destroy the fundamental rights. Thus, the Parliament cannot amend Part III to curtail rights. In delivering its judgment, the court established a significant legal precedent by choosing to overrule previous case law on a strictly prospective basis. This ensured that while all existing the constitutional amendments remained legally intact and undisturbed, any future legislative attempts to curtail or diminish fundamental rights were declared invalid and unconstitutional. This “prospective overruling” preserved legal stability.

Dissenting Opinion and Judicial Context: In their notable dissent, Justice M. Hidayatullah and Justice Mudhokar, along with their colleagues, posited a robust interpretation of article 368⁶⁷ [Power of Parliament to amend the Constitution and procedure therefor.]. They argued that the term “amend” must be understood in its broadest sense, inherently encompassing the power to alter, modify, or repeal any part of the Constitution, including the Fundamental Rights. Central to their reasoning

⁶⁶ INDIA CONST. art. 13, cl. 2.

⁶⁷ INDIA CONST. art. 368.

was the critical distinction between “law” defined as ordinary legislation under article 13⁶⁸ of the Constitution of India [Laws inconsistent with or in derogation of the fundamental rights.] and “constituent power”, which represents the sovereign authority to reshape the constitutional framework itself. By decoupling these two concepts, they maintained that the power to amend was essentially, unlimited, constrained only by the formal procedures explicitly outlined within the document rather than by any implied substantive limitations.

Moreover, the dissenting justices further observed that the sanctity of property rights had already been significantly reshaped by a series of prior amendments. They argued that these rights were never intended to be absolute barriers to progress rather, they were flexible instruments that had been and should continue to be curtailed to facilitate broader social welfare and distributive justice. From this perspective, the Constitution was viewed as a living document capable of evolving to meet the shifting socioeconomic needs of a developing nation.

Furthermore, the final judgment, however, stood as a landmark assertion of judicial supremacy. It functioned as a strategic check against potential legislative overreach during a period characterized by aggressive land reforms and the implementation of socialist policies under the administration of Prime Minister Lal Bahadur Shastri. By positioning the judiciary as the ultimate arbiter of constitutional validity, the court sought to ensure that the drive for social engineering did not bypass the foundational protections guaranteed to the citizenry, thereby setting the stage for the enduring “basic structure” debates in Indian jurisprudence.

- **Conclusion:**

The case of *I.C. Golaknath v. State of Punjab* had fortified the fundamental rights and paralyzing reforms by barring the Ninth Schedule additions. It triggered a constitutional crisis, promoting the Twenty Fourth Constitutional Amendment Act, 1971 explicitly affirming the Parliament’s power to amend any part, including rights, via “the Constitution of India”. The Indira Gandhi’s government further responded with the Forty Second Constitutional Amendment Act, 1976, expanding the

⁶⁸ INDIA CONST. art. 13.

amendment scope.

Moreover, the case of *Kesavananda Bharati v. State of Kerala*, 1973, refined this via the “basic structure” doctrine, allowing the constitutional amendments but not destroying the Indian Constitution’s core. The Golaknath’s legacy endures in balancing parliamentary sovereignty with judicial review, influencing the rights jurisprudence for decades.

STAGE III: Genesis: The Kesavananda Bharati Case

- **Overview of the Case:**

The case of *Kesavananda Bharati v. State of Kerala*, 1973⁶⁹ is a landmark Supreme Court case that established the “basic structure doctrine” of the Indian Constitution. This case was decided by a 13 judge bench through a narrow 7:6 majority, the Supreme Court of India fundamentally reshaped the nation’s legal landscape by establishing that while the Parliament possesses the authority to modify the Constitution under the article 368⁷⁰, such power are not absolute and cannot be used to alter its “basic structure”.

Moreover, while the court ultimately upheld the validity of the majority of the specific constitutional amendments being challenged in the case, it simultaneously imposed a critical judicial safeguard that effectively prevents the legislative branch from undermining the core identity and essential framework of the democratic system.

- **Background:**

Swami Kesavananda Bharati, the revered pontiff of the Edneer Mutt in Kerala, initiated a landmark legal battle by challenging the Kerala Land Reforms Act of 1969⁷¹ (Act of 1963; amended on 1969), a piece of legislation that imposed strict limitations on the property rights of religious institutions and threatened the Mutt’s

⁶⁹ His Holiness Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr., (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

⁷⁰ INDIA CONST. art. 368.

⁷¹ The Kerala Land Reforms Act, 1963, No. 1, 1964 (India).

traditional landholdings.

Seeking judicial intervention, he filed a writ petition under article 32⁷² of the Constitution of India [Remedies for enforcement of rights conferred by this Part], asserting that the state's actions constituted a direct infringement upon his fundamental rights specifically those guaranteed under the article 14⁷³ [Equality before law], article 19(1)(f)⁷⁴, article 25⁷⁵ [Freedom of conscience and free profession, practice, and propagation of religion.], article 26 [Freedom to manage religious affairs], and article 31⁷⁶ [Compulsory acquisition of property] of the Constitution of India.

This legal challenge emerged during a period of intense institutional friction between the Judiciary and the Parliament, following the Supreme Court's earlier ruling in the I.C. Golaknath v. State of Punjab, 1967 case.

In response to that ruling, the Parliament enacted a series of aggressive constitutional amendments:

a) The Twenty Fourth Constitutional Amendment Act, 1971:

Specifically designed to restore and affirm the Parliament's absolute power to amend any part of the Constitution of India including the Fundamental Rights.

b) The Twenty Fifth Constitutional Amendment Act, 1971:

Significantly restricted the right to property and limited the "adequacy" of compensation that could be challenged in court.

c) The Twenty Ninth Constitutional Amendment Act, 1972:

This Constitutional Amendment Act had placed the Kerala Land

⁷² INDIA CONST. art. 32.

⁷³ INDIA CONST. art. 14.

⁷⁴ INDIA CONST. art. 19 cl. 1, sub-clause (f) omitted by the Constitution (Fourth Amendment) Act, 1978, s. 2 (w.e.f. 20-6-1979).

⁷⁵ INDIA CONST. art. 25.

⁷⁶ INDIA CONST. art. 31.

Reform laws into the Ninth Schedule, attempting to shield them from the judicial review.

Ultimately, the proceedings transcended a simple land dispute, evolving into the most significant constitutional inquiry in Indian history: a test of whether the Parliament possessed an ultimate mandate to alter the Constitution of India, or if there existed a “Basic Structure” that remained forever beyond the reach of legislative amendment.

- **Main Body:**

In the case of *Kesavananda Bharati v. State of Kerala*, the petitioners, led by N.A. Palkhivala, argued that the constitutional amendments could not abridge the fundamental rights or alter the Constitution’s core identity, invoking the case of *I.C. Golaknath v. State of Punjab*’s prospective overruling.

The Respondents, represented by H.M. Seervai, claimed unlimited constitutional amendment sovereignty.

The majority (Former Chief of India S.M Sikri, Justice A.N. Grover, Justice J.M. Shelat, Justice A.K. Mukherjea, Justice P. Jaganmohan Reddy, Justice K.S. Hedge and Justice H.R. Khanna) held that the Parliament’s power vast but not absolute. Moreover, it cannot destroy the “basic structure”, including supremacy, republican or democratic form, secularism, separation of powers, federalism, and judicial review. The Twenty Fourth Constitutional Amendment Act and the Twenty Ninth Constitutional Amendment Act were upheld and the parts of the Twenty Fifth Constitutional Amendment Act were struck down.

Furthermore, Justice H.R. Khanna’s pivotal opinion noted the word “amendment” implies change and not revolution.

- **Conclusion:**

The verdict preserved constitutional equilibrium, empowering courts to void amendments violating the basic structure. It ended executive judiciary clashes, safeguarding democracy against overreach. Though criticized for judicial overreach, it remains foundational, cited over fifty times, ensuring the Indian Constitution’s

enduring framework.

STAGE IV: Immediate Evolution: Emergency and Aftermath

The immediate aftermath of the case of *Kesavananda Bharati v. State of Kerala*, 1973⁷⁷ had marked a turbulent phase in the Indian Constitutional history, characterized by executive retaliation against the judiciary's assertion of the basic structure doctrine, escalating into the Emergency era and pivotal judicial affirmation. Emerging amid the case of *Shankari Prasad Singh Deo v. Union of India*, 1951⁷⁸, *Sajjan Singh v. State of Rajasthan*, 1965⁷⁹ and the case of *I.C. Golaknath v. State of Punjab*, 1967⁸⁰, it evolved through the case of *Indira Nehru Gandhi v. Raj Narain*, 1975⁸¹ and the case of *Minerva Mills Ltd. v. Union of India*, 1980⁸², fortifying the constitutional identity.

1. *Indira Nehru Gandhi v. Raj Narain*, 1975
2. *Minerva Mills Ltd. v. Union of India*, 1980

This era solidified the doctrine amid democratic restoration.

1. Indira Nehru Gandhi v. Raj Narain, 1975

- **Overview of the Case:**

The case of *Indira Nehru Gandhi v. Raj Narain*, 1975⁸³ was a pivotal Supreme Court of India's decision addressing the electoral malpractices, constitutional amendments, and the basic structure doctrine. It stemmed from the 1971 Lok Sabha elections where Prime Minister Indira Gandhi defeated Raj Narain in Rae Bareilly, Uttar Pradesh. The Allahabad High Court's ruling against Indira Nehru Gandhi had triggered a national crisis, leading to the Thirty Ninth Constitutional Amendment Act, 1975 and the 1975 Emergency.

⁷⁷ His Holiness *Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr.*, (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

⁷⁸ *Sri Shankari Prasad Singh Deo v. Union of India and State of Bihar.*, (1951) AIR 1951, SC 458 (India).

⁷⁹ *Sajjan Singh v. State of Rajasthan*, 1965 AIR 845, 1965 SCR (1) 933

⁸⁰ *I. C. Golaknath & Ors. v. State of Punjab & Anrs.*, (1967) AIR 1643, 1967 SCR (2) 762 (India).

⁸¹ *Indira Nehru Gandhi v. Shri Raj Narain & Anr.*, (1975) AIR 1975 SC 2299, 1976 2 SCR 347 (India).

⁸² *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 (India).

⁸³ *Indira Nehru Gandhi v. Shri Raj Narain & Anr.*, (1975) AIR 1975 SC 2299, 1976 2 SCR 347 (India).

- **Background:**

Raj Narain, who was representing the Janata Party, filed an election petition under article 329(b)⁸⁴ of the Constitution of India in the Allahabad High Court on 24th April, 1971, alleging that Indira Nehru Gandhi violated the Representation of the People Act, 1951⁸⁵. He claimed that she employed the government officials like Yashpal Kapur, used state resources such as vehicles and police, distributed liquor and blankets to voters, and exceeded the Rs. 35,000 campaign spending cap. On June 12, 1975, Justice Jagmohanlal Sinha ruled Indira Nehru Gandhi guilty under Section 123(7) of the Representation of Peoples Act, 1951⁸⁶ for corrupt practices by a government servant aiding her campaign, voiding her election and barring her from her office for six years. She was acquitted on bribery but faced immediate resignation pressure as the Prime Minister.

- **Main Body:**

Indira Nehru Gandhi appealed to the Supreme Court of India, which granted a conditional stay on 24th June, 1975, allowing her to retain her seat but not vote in the House pending appeal. Amid escalating tensions, the Parliament passed the Thirty Ninth Constitutional Amendment Act, 1975, inserting the article 329A⁸⁷ of the Constitution of India [Special provision as to elections to Parliament in the case of Prime Minister and Speaker] to retroactively validate Indira Gandhi's election and nullify judicial scrutiny, shielding the Prime Minister's polls from review. A five judge bench and was led by the former Chief Justice of India A.N. Ray heard the arguments on equality, rule of law, and judicial review.

Key issues included:

1. The Validity of Indira Gandhi's Election
2. Constitutionality of the Thirty Ninth Constitutional Amendment Act

⁸⁴ INDIA CONST. art. 329, cl. b.

⁸⁵ The Representation of the People Act, 1951, No. 43, Acts of Parliament, 1951 (India).

⁸⁶ The Representation of the People Act, 1951, § 123(7), No. 43, Acts of Parliament, 1951 (India).

⁸⁷ INDIA CONST. art. 329A.

3. Whether Yashpal Kapur's assistance constituted malpractice post-resignation.

The Court unanimously struck down clauses (4) and (5) of article 329A⁸⁸ of the Constitution of India as violating the Constitution's basic structure and reaffirming the case of *Kesavananda Bharati v. State of Kerala, 1973*⁸⁹ citing breaches of democracy, rule of law, judicial review and free and fair elections. It upheld the Indira Nehru Gandhi's election as valid, ruling personal expenses weren't party funds and Yashpal Kapur's aid was not corrupt, overturning the Allahabad High Court on technical grounds.

- **Conclusion:**

Delivered on 7th November, 1975, the verdict permitted Indira Nehru Gandhi to continue as the Prime Minister, averting immediate crisis but cementing judicial supremacy over the Parliament. It invalidated the Thirty Ninth Constitutional Amendment Act, 1975's protective clauses, reinforcing that no constitutional change can destroy the basic structure. The ruling amid the emergency declaration on 25th June, 1975 had highlighted tensions between executive power and judiciary. This case had later influenced cases like *Minerva Mills*, and underscored electoral integrity's sanctity.

2. *Minerva Mills Ltd. v. Union of India, 1980*

- **Overview of the Case:**

The case of *Minerva Mills Ltd. v. Union of India, 1980*⁹⁰ had challenged the nationalization of *Minerva Mills*; a Karnataka based Textile Company, under the Sick Textile Undertakings Act, 1974⁹¹. The Petitioners contested that the section 4 and section 55 of the 42nd Constitutional Amendment Act, which expanded the article 31C to prioritize all the Directive Principles of State Policy (DPSPs) over

⁸⁸ INDIA CONST. art. 329A, cl. 4 and 5.

⁸⁹ *His Holiness Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr.*, (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

⁹⁰ *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 (India).

⁹¹ Sick Textile Undertakings (Nationalisation) Act No. 57 of 1974 (India).

the Fundamental Rights under article 14⁹² and 19⁹³ of the Constitution of India and added the clauses 4 and 5 to article 368⁹⁴ of the Constitution of India to bar the judicial review of amendments. The Court held these provisions violated the Constitution's basic structure, including the limited amending power and judicial review.

- **Background:**

Minerva Mills, a textile mill in Karnataka, was taken over under public ownership as part of a socialist-era reorganization of industry. The government established a committee and utilized provisions under the Industries (Development and Regulation) Act, 1951⁹⁵, and later enacted the Sick Textile Undertakings (Nationalisation) Act, 1974⁹⁶, to administer the mill. The petitioners challenged the constitutional validity of Articles 31B⁹⁷ and 31C⁹⁸ and relevant sections of the 42nd Amendment Act, arguing that these measures undermined fundamental rights and the judicial review power. The litigation centred on whether amendments could primarily prioritize directive principles over rights or otherwise removes judicial oversight.

- **Main Body:**

The Supreme Court, by a majority, held that sections 4 and 55 of the 42nd Amendment Act were unconstitutional as they violated the basic structure of the Constitution. The Court emphasized that while Parliament has amending power under Article 368, this power is not unlimited and cannot destroy the essential features of the Constitution. In particular, the Court rejected the claim that Directive Principles could override Fundamental Rights or that the amending power could remove judicial review entirely. The decision thus preserved a balance between fundamental rights and directive principles and reasserted the

⁹² INDIA CONST. art. 14.

⁹³ INDIA CONST. art. 19.

⁹⁴ INDIA CONST. art. 368.

⁹⁵ Industries (Development and Regulation) Act, No. 65 of 1951 (India).

⁹⁶ Sick Textile Undertakings (Nationalisation) Act No. 57 of 1974 (India).

⁹⁷ INDIA CONST. art. 31B

⁹⁸ INDIA CONST. art. 31C

supremacy of the Constitution's basic structure.

- **Conclusion:**

Minerva Mills marked a crucial step in the evolution of the basic structure doctrine, clarifying that constitutional amendments must respect the core framework of constitutional democracy and cannot erase judicial review or essential constitutional rights. It also signalled that Parliament's power to amend is constrained by the need to preserve the constitutional order's essential features. The case remains a foundational reference in Indian constitutional law for evaluating the validity of constitutional amendments and the limits of amending power.

STAGE V: Ninth Schedule (a short analysis)

This stage includes two important landmark cases which had played an important role in the evolution of the basic structure doctrine. These cases include:

- **Waman Rao v. Union of India, (1981).**

Waman Rao v. Union of India⁹⁹ addressed the application of the basic structure doctrine to laws placed in the Ninth Schedule. The petitioners had challenged the constitutional validity of Articles 31A¹⁰⁰, 31B¹⁰¹, and 31C¹⁰², along with post-1973 inclusions in the Ninth Schedule, arguing that they shielded laws violating fundamental rights from judicial review. The case arose from land reform laws in Karnataka added to the Ninth Schedule to bypass challenges under Articles 14¹⁰³, 19¹⁰⁴, and 31¹⁰⁵.

A five-judge bench led by Justice Y.V. Chandrachud examined whether the basic structure doctrine from Kesavananda Bharati case (1973) applied retrospectively. The Court held that the doctrine prospective only, setting April 25, 1973 (Kesavananda judgment date) as the cut-off. Laws and Ninth Schedule entries before this date remained immune from basic structure

⁹⁹ Waman Rao v. Union of India, AIR 1981 SC 271 (India).

¹⁰⁰ INDIA CONST. art. 31A

¹⁰¹ INDIA CONST. art. 31B

¹⁰² INDIA CONST. art. 31C

¹⁰³ INDIA CONST. art. 14.

¹⁰⁴ INDIA CONST. art. 19.

¹⁰⁵ INDIA CONST. art. 31.

challenges. Post-1973 additions could be struck down if they damaged the Constitution's basic features like judicial review, rule of law, or separation of powers.

Article 31C was upheld as not violating the basic structure, as it harmonized Directive Principles with limited rights curtailment. Article 31B's expanded Ninth Schedule was valid pre-1973 but subject to scrutiny thereafter. This balanced parliamentary reform powers with constitutional supremacy.

- **I.R. Coelho v. State of Tamil Nadu, (2007)**

The case of *I.R. Coelho v. State of Tamil Nadu*¹⁰⁶ had scrutinized the Ninth Schedule laws post-Waman Rao, invoking the basic structure doctrine. The petitioners contested 20th century land reform laws (e.g., Tamil Nadu Land Reforms Act¹⁰⁷) added to the Ninth Schedule after 1973, claiming they violated Articles 14, 19, and 21¹⁰⁸ by enabling arbitrary state acquisition without compensation.

A nine-judge bench unanimously ruled that the Ninth Schedule laws are not immune from judicial review. Any law, including those under Articles 31B¹⁰⁹ or 31C¹¹⁰, must conform to the basic structure if it removes judicial scrutiny entirely. The Court clarified that the post-1973 inclusions lack blanket protection; they face strict scrutiny under Articles 14, 19, and 21 as proxies for basic features like equality, liberty, and dignity.

The outcome mandated a "rights-based test": Ninth Schedule laws violating core fundamental freedoms are unconstitutional if they harm the Constitution's identity. Several challenged laws were remanded for reconsideration. This expanded the doctrine, reinforcing judicial primacy over legislative overreach and curbing Ninth Schedule misuse for socio-economic laws conflicting with rights.

STAGE VI: Modern Developments.

- **P Sambamurthy v. State of Andhra Pradesh, 1987.**

¹⁰⁶ *I.R. Coelho v. State of Tamil Nadu*, AIR 2007 SC 861 (India).

¹⁰⁷ Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act No. 58 of 1961, (India).

¹⁰⁸ INDIA CONST. art. 21.

¹⁰⁹ INDIA CONST. art. 31B

¹¹⁰ INDIA CONST. art. 31C

In the case of *P. Sambamurthy v. State of Andhra Pradesh*, 1987¹¹¹, the Supreme Court had examined the constitutional validity of the clause (5) and its proviso under article 371D¹¹² of the Constitution of India as introduced by the Thirty Second Constitutional Amendment Act, 1973. This provision allowed the Andhra Pradesh State Government to modify or annul final orders of the Administrative Tribunal for public services disputes, thus replacing the High Court jurisdiction. The Petitioners had challenged government overreach in overriding tribunal decisions, arguing it undermined judicial independence.

Moreover, the Court has struck down the proviso and clause (5) as violates the basic structure doctrine from the *Kesavananda Bharati v. State of Kerala*, 1973¹¹³. It held that empowering the executive to nullify quasi-judicial tribunal orders breached the rule of law, judicial review, and separation of powers as core constitutional features, Such power has rendered tribunals ineffective compared to the High Courts, allowing the government to “defy the law”, thus emasculating judicial authority.

Furthermore, the judgment invalidated all prior government modifications under the provision, directing the constitutional amendments to align with the verdict. It reinforced that the Parliament cannot amend the Constitution to dilute judicial review mechanisms, preserving the judiciary’s supremacy in service matters. This decision has limited the executive interference, upholding the justice as integral to the basic structure of the Constitution of India.

- **Kinhoto Hollohan v. Zachillhu, 1992.**

In the case of *Kinhoto Hollohan v. Zachillhu*, 1992¹¹⁴, the Constitutional validity of the Tenth Schedule of the Indian Constitution was challenged which was introduced by the Fifty Second Constitutional Amendment Act, 1985 to curb the political defections. The petitioners argued that the Tenth Schedule has violated the basic structure doctrine of the Indian Constitution by infringing the freedom

¹¹¹ *P Sambamurthy v. State of Andhra Pradesh*, AIR 1987 SC 663 : 1987 1 SCC 362: 1987 1 SCR 879 (India).

¹¹² INDIA CONST. art. 371D.

¹¹³ *His Holiness Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr.*, (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

¹¹⁴ *Kinhoto Hollohan v. Zachillhu*, AIR 1993 SC 412 : 1992 1 SCR 686 : 1992 1 JT 600 (India).

of speech, conscience, and judicial review, particularly through the Speaker's final authority under the Paragraphs 6 and 7, and lacking state ratification under article 368(2)¹¹⁵ of the Constitution of India.

Moreover, in a five judge bench, the 3:2 decision of the Supreme Court had upheld most provisions, deeming them the essential for parliamentary stability without altering the Constitution's basic structure doctrine. It has struck down the Paragraph 7 via severability for barring judicial review as a basic feature of Indian Constitution but allowed the limited review of the speaker's decisions for mala fides or arbitrariness under Paragraph 6.

This reinforced the judicial review's inviolability while validating anti defection measures.

- **Indra Sawhney v. Union of India, 1992.**

In the case of Indra Sawhney v. Union of India, 1992¹¹⁶, the Mandal Commission Report of 1980¹¹⁷ was sought to be implement by creating a reservation of 27% in favour of other backward classes. This was the subject matter of challenge before the nine judges of the Supreme Court. We are not concerned here with the merits of the challenge, except to state that Justice Kuldip Singh held that secularism would be part of the basic structure of Indian Constitution and referred to article 15(2)¹¹⁸ to buttress this submission.

- **Shri Raghunathrao Ganpatrao v. Union of India, 1993.**

In the case of Shri Raghunathrao Ganpatrao v. Union of India, 1993¹¹⁹, the petitioners had challenged the Twenty Sixth Constitutional Amendment Act, 1971 on the ground that it had offended the basic structure of the Constitution of India and hence must be struck down. This constitutional amendment act had abolished the privy purses and privileges for former princely state rulers by deleting the

¹¹⁵ INDIA CONST. art. 368, cl. 2.

¹¹⁶ Indra Sawhney v. Union of India, AIR 1992 SC 477 : 1992 3 SCC 217 : 1992 Supp 2 SCR 454 (India).

¹¹⁷ B.P.Mandal, Rep. of the Backward Classes Comm'n (1980) (India).

¹¹⁸ INDIA CONST. art. 15, cl. 2.

¹¹⁹ Shri Raghunathrao Ganpatrao v. Union of India, 1993, 1 SCR 480 (India).

article 291¹²⁰, article 362¹²¹ and article 366(22)¹²² of the Constitution of India.

Moreover, the petitioners had argued that these provisions formed the Constitution of India's basic structure, essential for India's unification, as they honored merger covenants and ensured political stability.

The Supreme Court had rejected this argument of the petitioner, ruling that such rights were non-justiciable under the article 363¹²³ of the Constitution of India and did not constitute basic features like democracy or rule of law. Thus, the Twenty Sixth Constitutional Amendment Act promoted equality without altering the Constitution's core identity.

- **SR Bommai v. Union of India, 1994.**

In the case of SR Bommai v. Union of India, 1994¹²⁴, the petitioner's had challenged the dismissal of state governments via the President's Rule under article 356¹²⁵ of the Constitution of India in various States including the States of Madhya Pradesh, Himachal Pradesh and Rajasthan. In these three States, the reason for the proclamation was that the governance of such States could not be carried on in accordance with constitutional principles as the principle of secularism has been breached by the allowance of miscreants to disrupt public order on the destruction of the Babri Masjid in Ayodhya.

A nine judge bench ruled that the article 356 of the Constitution of India proclaimed justiciable, subjecting them to judicial review for relevance and non-arbitrariness, as federalism forms the Constitution of India's basic structure alongside secularism and democracy.

Moreover, the verdict had curtailed the misuse of emergency powers, mandating floor tests for majority claims and parliamentary approval within two months,

¹²⁰ INDIA CONST. art. 291.

¹²¹ INDIA CONST. art. 362.

¹²² INDIA CONST. art. 366, cl. 22.

¹²³ INDIA CONST. art. 363.

¹²⁴ SR Bommai v. Union of India, AIR 1994 SC 1918 : 1994 2 JT 215 : 1994 2 SCR 644 (India).

¹²⁵ INDIA CONST. art. 356.

reinforcing cooperative federalism as unamendable.

- **M Nagaraj v. Union of India, 2006.**

In the case of M Nagaraj v. Union of India, 2006¹²⁶, the court had upheld that the Seventy Seventh Constitutional Amendment Act, 1995, the Eighty First Constitutional Amendment Act, 2000, the Eighty Second Constitutional Amendment Act, 2000 and the Eighty Fifth Constitutional Amendment, 2001 enabling reservations in promotions for Scheduled Castes and Scheduled Tribes, subject to conditions.

The Petitioners claimed these violated the basic structure doctrine by breaching equality under article 14¹²⁷ of the Constitution of India and article 16 of the Constitution of India and the 50% reservation ceiling from Indira Sawhney case, overriding judicial mandates.

A nine judge bench applied the “width” and “identity” tests, ruling amendments valid as enabling provisions that the states must prove the backwardness and inadequate representation via quantifiable data, preserving equality and judicial review as basic features without altering constitutional identity.

- **K Krishnamurthy v. Union of India, 2010.**

In the case of K Krishnamurthy v. Union of India, 2010¹²⁸, the petitioners had challenges the articles 243D (6)¹²⁹ and 243T (6)¹³⁰, inserted by the 73rd Constitutional Amendment Act, 1992 and 74th Constitutional Amendment Act, 1992, which exempted the panchayat and municipal reservations for Scheduled Caste, Scheduled Tribes and backward classes from judicial review.

The petitioners had argued that these ouster clauses had violated the basic structure doctrine by shielding arbitrary quotas from scrutiny, akin to the Ninth Schedule

¹²⁶ M Nagaraj v. Union of India, AIR 2007 SC 71 : 2006 8 SCC 212 : 2006 Supp 7 SCR 336 (India).

¹²⁷ INDIA CONST. art. 14.

¹²⁸ K Krishnamurthy v. Union of India, 2010 AIR SCW 3368 : 2010 7 SCC 202 : 2010 6 SCR 972 (India).

¹²⁹ INDIA CONST. art. 243D, cl. 6.

¹³⁰ INDIA CONST. art. 243T, cl. 6

overreaches struck in the case of I.R. Coelho.

Thus, a nine judge bench of the Supreme Court of India had upheld that the enabling provisions for OBC reservations but struck the non- reviewability, mandating triple tests (quantifiable data, backwardness, representation) under judicial oversight to preserve constitutional checks.

- **Glanrock Estates Pvt. Ltd. v. Tamil Nadu, 2010.**

The case of Glanrock Estates Pvt. Ltd. v. Tamil Nadu, 2010¹³¹ is a landmark Supreme Court case affirming the basic structure doctrine. Petitioners challenged the Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969 (Janmam Act)¹³², added to the Ninth Schedule via the 34th Constitutional Amendment, 1974, claiming it violated Article 14's¹³³ equality by vesting forests in the state without compensation or redistribution, unlike ceiling laws. The Court rejected arguments that this abrogated basic features like judicial review, separation of powers, rule of law, and equality. It upheld Ninth Schedule laws' judicial scrutiny if they damage the Constitution's basic structure, derived from Kesavananda Bharati (1973)¹³⁴, while noting property rights' post-44th Amendment limits.

This ruling reinforced limits on Parliament's amending power, prioritizing constitutional supremacy over land reform immunities.

- **Pramati Educational and Cultural Trust v. Union of India, 2014.**

The case of Pramati Educational and Cultural Trust v. Union of India, 2014¹³⁵ had challenged the validity of article 15(5)¹³⁶, enabling reservations for backward classes in private unaided institutions (except minorities), and the RTE Act's¹³⁷

¹³¹ Glanrock Estates Pvt. Ltd. v. Tamil Nadu, 2010 AIR SCW 6045 : 2010 10 SCC 96 : 2010 12 SCR 597(India).

¹³² Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act No. 24 of 1969, (India).

¹³³ INDIA CONST. art. 14.

¹³⁴ His Holiness Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr., (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

¹³⁵ Pramati Educational and Cultural Trust v. Union of India, 2014 11 SCR 712 (India).

¹³⁶ INDIA CONST. art. 15, cl. 5.

¹³⁷ Right of Children to Free and Compulsory Education Act No. 35 of 2009, (India).

application to such schools. The petitioners claimed that these violated the basic structure which includes the equality under article 14¹³⁸, occupational freedom under article 19(1) (g)¹³⁹ and the Parts III and IV harmony from the case of *Minerva Mills v. Union of India*.¹⁴⁰

Moreover, the Supreme Court upheld that the article 15(5) as not abrogating the basic features of the Constitution of India and therefore serving social justice without destroying constitutional balance. It exempted unaided minority institutions from RTE quotas, preserving their article 30¹⁴¹ autonomy as integral to secularism and equality within the basic structure.

- **Supreme Court Advocates on Record Association v. Union of India, 2015.**

In the case of *Supreme Court Advocates on Record Association v. Union of India, 2015*¹⁴² also known as the Fourth Judges Case, the Supreme Court struck down the 99th Constitutional Amendment Act and the National Judicial Appointments Commission (NJAC) Act by a 4:1 majority. This decision addressed challenges to judicial independence in appointing judges to higher courts.

The Court reaffirmed the basic structure doctrine from *Kesavananda Bharati (1973)*¹⁴³, ruling that judicial primacy in appointments is integral to the Constitution's basic features, including judicial independence and separation of powers. The NJAC's inclusion of executive and lay members was held to dilute this primacy, violating the basic structure and risking political influence over the judiciary. The collegium system was thus upheld, though reforms for transparency were suggested.

- **Dr. Jaishri Laxmanrao Patil v. The Chief Minister, 2021.**

In the case of *Dr. Jaishri Laxmanrao Patil v. The Chief Minister, 2021*¹⁴⁴ the

¹³⁸ INDIA CONST. art. 14.

¹³⁹ INDIA CONST. art. 19, cl. 1, sub.cl. g.

¹⁴⁰ *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 (India).

¹⁴¹ INDIA CONST. art. 30.

¹⁴² *Supreme Court Advocates on Record Association v. Union of India*, 2015 13 SCR 1, (India).

¹⁴³ *His Holiness Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr.*, (1973) AIR 1973 SC 1461, 1973 4 SCC 225 (India).

¹⁴⁴ *Dr. Jaishri Laxmanrao Patil v. The Chief Minister*, 2021 8 SCC 1 : 2021 8 JT 337 : 2021 6 Scale 523 (India).

Supreme Court struck down Maharashtra's 16% reservation for the Maratha community in jobs and education. This breached the 50% ceiling limit on reservations set by *Indira Sawhney v. Union of India* (1992)¹⁴⁵, part of the basic structure doctrine protecting equality under Article 14.¹⁴⁶

The Court reaffirmed the 50% cap as integral to the Constitution's basic structure, allowing breaches only in extraordinary circumstances, which Maharashtra failed to prove. It ruled the reservation unconstitutional, violating equality and the creamy layer principle. No state power under Articles 15(4)¹⁴⁷ or 16(4)¹⁴⁸ could override this judicially evolved limit.

The judgment reinforced that altering reservation caps without basic structure justification undermines constitutional equality, ending Maratha quota claims.

- **Janhit Abhiyan v. Union of India, 2022.**

The case of *Janhit Abhiyan v. Union of India, 2022*¹⁴⁹ challenged the 103rd Constitutional Amendment introducing 10% EWS reservation. Petitioners argued it violated the basic structure doctrine by breaching equality (Articles 14¹⁵⁰, 15¹⁵¹, 16¹⁵²), using economic criteria alone, excluding SC/ST/OBCs, exceeding the 50% ceiling from *Indira Sawhney* case, and applying to private unaided institutions.

In a 3:2 verdict, the Supreme Court upheld the amendment. The majority ruled it enables socio-economic justice without altering the Constitution's core—equality code or reservation balance—and the 50% cap is not rigid.

Dissenters such as CJI Lalit and Justice Bhat had deemed exclusion of backward classes discriminatory, damaging equality's essence.

¹⁴⁵ *Indira Sawhney v. Union of India*, AIR 1992 SC 477 : 1992 3 SCC 217 : 1992 Supp 2 SCR 454 (India).

¹⁴⁶ INDIA CONST. art. 14.

¹⁴⁷ INDIA CONST. art. 15, cl. 4.

¹⁴⁸ INDIA CONST. art. 16, cl. 4.

¹⁴⁹ *Janhit Abhiyan v. Union of India, 2022* 5 SCC 1 : 2022 14 SCR 1 (India).

¹⁵⁰ INDIA CONST. art. 14.

¹⁵¹ INDIA CONST. art. 15.

¹⁵² INDIA CONST. art. 16.

Critiques and Justification

The following points will describe theoretical justifications and critiques of the basic structure doctrine of the Constitution of India:

- **Justifications:**

- a. Guarding constitutional identity.
- b. Judicial safeguard.
- c. Allows constitutional evolution without rigid entrenchment.

- **Critiques:**

- a. Supremacy of the Judiciary and Judicial Activism.
- b. Lack of textual basis.
- c. Vagueness and uncertainty.

Conclusion

From the case of *Shankari Prasad* to *Kesavananda Bharati*, the basic structure doctrine of the Indian Constitution has evolved into Indian Constitutionalism's bulwark. It adapts via case laws, embodying the framers' unwritten intent for enduring identity amid change. Future challenges such as federal strains, rights expansions will test its resilience, but its genesis ensures constitutionalism prevails. Moreover, the Basic Structure Doctrine represents a landmark jurisprudential development that balances the dynamics of constitutional change with the preservation of foundational constitutional ethos.

From anchoring judicial review to intrinsic constitutional values, the Basic Structure Doctrine reaffirms that the Constitution of India is not mere procedural charter but embodiments of enduring the political and moral commitments.