

BASIC STRUCTURE DOCTRINE

1. What is the Basic Structure Doctrine?

- The **Basic Structure Doctrine** says that **Parliament can amend the Constitution**, but **cannot change its essential framework**.
- This principle was established in **Kesavananda Bharati vs State of Kerala (1973)**.
- It acts as a **safety shield** to protect the **Constitution's soul** from political misuse.

2. Why did the Doctrine emerge?

- Between 1950 and 1971, Parliament passed many amendments affecting **Fundamental Rights**.
- Tensions grew between the **government's reform agenda** and the **Supreme Court's protection of rights**, leading to major cases:

Timeline:

1. **Shankari Prasad (1951)** – Parliament *can* amend FRs.
2. **Sajjan Singh (1965)** – Same view repeated.
3. **Golaknath (1967)** – Parliament *cannot* amend FRs.
4. **24th Amendment (1971)** – Govt restores amendment power.
5. **Kesavananda Bharati (1973)** – Middle path:
 - Amendments allowed
 - But cannot damage the Constitution's core → **Basic Structure** born.

3. Landmark Cases that Shaped the Doctrine

Case	Key Takeaway
Shankari Prasad (1951)	Parliament can amend all parts, including. FRs.
Sajjan Singh (1965)	Supported Parliament's power again.
Golaknath (1967)	Parliament cannot amend FRs (reversed later).
Kesavananda Bharati (1973)	Created Basic Structure Doctrine.
Indira Gandhi vs Raj Narain (1975)	Free & fair elections = Basic Structure.

Case	Key Takeaway
Minerva Mills (1980)	Judicial review & balance between FRs and DPSPs = Basic Structure.
Waman Rao (1981)	Post-1973 laws in the 9th Schedule are open to judicial review.
S.R. Bommai (1994)	Federalism & secularism protected.
Indra Sawhney (1992)	Equality and 50% ceiling upheld.
I.R. Coelho (2007)	9th Schedule laws are invalid if they harm the Basic Structure.
Kihoto Hollohan (1993)	Democracy & free elections upheld.

4. What forms the Basic Structure?

(There is **no fixed list**, but courts have identified core elements.)

Widely accepted components:

- Supremacy of the Constitution
- Republican & democratic forms of government
- Secularism
- Federalism
- Rule of law
- Separation of powers
- Judicial review
- Harmony between Fundamental Rights & DPSPs
- Independence of the judiciary
- Free & fair elections
- Unity & integrity of India
- Parliamentary system
- Welfare state
- Dignity of the individual
- Limited amending power of Parliament

5. Significance of the Doctrine

Why it matters:

1. **Protects Fundamental Rights**
Prevents Parliament from diluting freedoms like equality, liberty, and free speech.
2. **Maintains Constitutional Supremacy**
No temporary government can distort the permanent document.

3. **Ensures separation of powers**
Judiciary remains a check on legislative overreach.
4. **Keeps democracy functioning**
Free elections, judicial review, and federalism stay safe.
5. **Makes the Constitution a “living document”**
It allows changes, but with responsibility.
6. **Encourages judicial activism when needed**
Especially against arbitrary amendments.

6. Criticism of the Doctrine

Even though widely praised, it faces strong criticism:

1. **Not written anywhere**
Critics say the doctrine is **judge-made**, not Constitution-made.
2. **Vague and open-ended**
No fixed definition → courts can keep expanding it.
3. **Judicial overreach**
Courts are accused of acting like a **“third chamber of Parliament.”**
4. **Weakens Parliamentary sovereignty**
Parliament’s amending power is restricted.
5. **Ambiguity in what is ‘basic’**
Every judge interprets differently, creating inconsistency.

7. Why the Doctrine Still Survives

Despite criticism, it endures because:

- It prevented **abusive amendments during the Emergency.**
- It ensures **checks and balances.**
- It protects the **idea of India** envisioned in 1950.
- It gives the Constitution **stability and soul.**