



Doctrine of Basic Structure

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Doctrine of Basic Structure

Original Idea:

- German Constitution

Landmark Judgement:

- Kesavananda Bharati case 1973 (the phrase 'basic structure of the Constitution' was used for the first time)

Constituents of Basic Structure:

- Supremacy of the Constitution, Parliamentary system, Free and fair elections, Independence of Judiciary, Limited power of Parliament to amend the Constitution, Powers of the Supreme Court under Articles 32, 136, 141 and 142, Powers of the High Courts under Articles 226 and 227...

Evolution

Shankari Prasad case and Sajjan Singh case

1951 & 1965

The SC held that Parliament has the absolute power to amend the Constitution under Article 368.

Parliament cannot amend Fundamental Rights, and this power rests only with a Constituent Assembly; 24th Amendment Act, 1971 was introduced.

1967

Golak Nath v/s State of Punjab

Kesavananda Bharti v/s State of Kerala

1973

Parliament could amend any part of the Constitution, but it cannot not alter the basic structure or essential features of the Constitution.

The Doctrine of Basic Structure reaffirmed and a provision of the 39th Amendment Act (1975) (keeping election disputes involving the PM and the Speaker outside the jurisdiction of all courts) was invalidated.

1975

Indira Nehru Gandhi v/s Raj Narain

Minerva Mills v/s Union of India

1980

Judicial review and harmony between Fundamental Rights and DPSP were added to the basic structure.

The SC held that the doctrine would apply to constitutional amendments enacted after the date of the judgement in the KB case.

1981

Waman Rao v/s Union of India

Indira Sawhney Vs. Union of India

1992

Rule of law declared as a part of the basic structure.

Federalism, Secularism, Democracy, Unity and integrity of the nation and Social justice were iterated as basic structure of the Constitution.

1994

S.R Bommai vs Union of India

Significance:

- Limits the power of a majoritarian government to undermine the Constitution's central ideals.

Criticism:

- "Basic Structure" finds no mention anywhere in the Indian Constitution. Further, there is no exclusive definition of basic structure given by the judiciary.
- The SC has assumed much power in the name of basic structure.

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