

Examrace

Basic Structure Doctrine: Political Science YouTube Lecture Handouts

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- This Doctrine was propounded by Hans Raj Khanna
- It held that Parliament cannot altered basic features of the Constitution
- It is Supreme Court power to constitutional amendments.
- The Basic structure features are dynamic

Evolution of the Basic Structure Doctrine

- It evolved with the question whether Fundamental Rights can be amended or not.
- In the Shankari Prasad Case 1951, the First Amendment Act was challenged.
- Supreme Court ruled that the Parliament cannot amend Fundamental Rights under Article 368.
- Article 13 doesn't includes Constitutional Amendment Act.
- In Golak Nath Case 1967, it challenged the Seventeenth Amendment Act of 1964
- The Supreme Court ruled that Parliament cannot take away any of the Fundamental Rights
- A Constitutional Amendment is a law within Article 13
- The Parliament enacted the 24th Amendment Act of 1971 which amended Article 13 and 368
- It held that Parliament can take away any of the Fundamental Rights
- In Kesavananda Bharati Case 1973 , the Supreme Court upheld the Validity of the 24th Amendment Act
- It held that Parliament can take away any of Fundamental Rights but introduced the Doctrine of Basic Structure and hence, Parliament cannot amend Fundamental Rights that are a part of the Basic Structure of the Constitution
- Parliament enacted the 42nd Amendment Act of 1976 which amended Article 368 and declared that Parliamentary Amendments cannot be questioned on any grounds.
- Supreme Court invalidated it in Minerva Mills Case , 1980 as it excluded Judicial Review

- The Supreme Court adhered to the Doctrine of Basic Structure in Waman Rao Case, 1981.

Basic Features of the Constitution

- Supremacy of the Constitution
- Sovereign, democratic and republic nature of the Indian Polity
- Secular Character of the Constitution
- Separation of powers between the legislature, executive and the judiciary
- Federal Character of the Constitution
- Unity and Integrity of the Nation
- Welfare State
- Judicial Review
- Freedom and Dignity of the Individual
- Parliamentary System
- Rule of Law
- Principle of Equality
- Free and Fair Elections
- Independence of Judiciary
- Limited power of Parliament to amend the constitution
- Effective access to Justice
- Principles underlying Fundamental Rights
- Harmony between Fundamental rights and Directive Principles of State Policy

Significance of Basic Structure

- Prevent damage to Constitution of India
- It limits totalitarian power of the Parliament
- It help to retain basic tenets of Indian Constitution
- It upheld Indian Democracy
- It strengthens Democracy
- It upheld basic rights of the citizens
- It is progressive as it is not rigid in nature

 Mayank

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