

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 9 | Issue 3

2026

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Basic Structure Doctrine: An Analysis of Kesavananda Bharati Case

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ABSTRACT

This paper examines the Basic Structure Doctrine in Indian constitutional law through an analysis of the seminal decision in Kesavananda Bharati v. State of Kerala (1973). It traces the constitutional contest between Parliament and the Judiciary over the scope of the amending power under Article 368, surveying the earlier line of authority in Shankari Prasad, Sajjan Singh and Golak Nath that preceded the doctrine. The paper sets out the background and key judicial features of the Kesavananda Bharati case, including its thirteen-judge Bench and 7:6 majority, and explains the decision and the constitutional provisions it engaged. It concludes that the doctrine, by permitting amendment of the Constitution while protecting its essential features, secures a durable equilibrium between parliamentary authority and constitutional supremacy.

Keywords: Basic Structure Doctrine, Kesavananda Bharati, Article 368, constitutional amendment, judicial review, fundamental rights, Indian Constitution.

I. INTRODUCTION

A Constitution functions as the highest legal authority of a nation. It establishes the basic structures of government, defines the powers of the various governmental organs and protects the essential rights of citizens. The Constitution of India embodies democratic values together with the ideals of justice, liberty, equality and the rule of law. The document operates as a framework of governance that regulates the exercise of State power within established limits.

The framers of the Indian Constitution understood that social conditions and economic and political circumstances undergo continuous transformation. Accordingly, the Constitution empowers Parliament to alter its provisions through Article 368, which permits amendments that address evolving needs and new challenges.¹ This power was conferred so that the Constitution could maintain its relevance through changing times.

A question soon emerged about whether this power to amend was unlimited. If Parliament could modify any part of the Constitution without limitation, it would be able to destroy the

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¹ INDIA CONST. art. 368.

document's fundamental principles, such as democracy, secularism and judicial independence. Such unrestricted power could undermine the very spirit of the Constitution. It therefore became essential that Parliament face restrictions on its amending authority in order to safeguard the essential principles and identity of the Constitution.

The Basic Structure Doctrine developed from this necessity. The Supreme Court of India established the doctrine through its decision in the seminal case of *Kesavananda Bharati v. State of Kerala* (1973).² The doctrine permits Parliament to amend the Constitution but prevents it from altering the Constitution's fundamental structure.

II. MEANING OF BASIC STRUCTURE

The Basic Structure Doctrine establishes the constitutional principle that, although Parliament may amend the Constitution under Article 368, this authority is subject to limitations. The basic elements of the Constitution remain protected from any amendment that Parliament may attempt to enact. Any amendment that damages or abrogates the basic structure is unconstitutional and void.

The Constitution does not define the term basic structure. The Supreme Court developed the concept through judicial decisions in order to protect the Constitution's fundamental identity and its essential core values. The doctrine provides a framework for constitutional amendment that maintains essential constitutional principles while preventing their unrestrained modification.

The landmark judgment in *Kesavananda Bharati v. State of Kerala* (1973) established this doctrine as a permanent principle that protects against the abuse of the power to amend the Constitution.

III. BACKGROUND OF THE KESAVANANDA BHARATI CASE

The Kesavananda Bharati case originated from an ongoing power struggle between Parliament and the Judiciary that centred on Parliament's ability to alter the Constitution through its amending power. The litigation called into question two propositions that had earlier been asserted in favour of Parliament: first, that Parliament had the authority to amend fundamental rights through its constitutional amending power; and second, that Article 368 permitted Parliament to amend the Constitution without legal restriction.

² *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461; (1973) 4 SCC 225 (India).

After independence, the Indian Government passed multiple land reform laws to abolish the zamindari system and redistribute land in order to achieve social and economic equity. Property rights, which Article 31 designated as a fundamental right at that time, became the basis for challenges in court against many of these laws. Parliament responded by enacting several constitutional amendments, including the First, Fourth, Seventeenth, Twenty-fourth, Twenty-fifth and Twenty-ninth Amendments, which sought to protect specific laws from judicial review. Judicial rulings on Parliament's ability to amend the Constitution disclosed a marked divergence. The Supreme Court recognised Parliament's right to alter fundamental rights through the amending power in *Shankari Prasad v. Union of India* (1951)³ and *Sajjan Singh v. State of Rajasthan* (1965).⁴ The Court reached a contrary conclusion in *Golak Nath v. State of Punjab* (1967),⁵ holding that Parliament lacked the authority to amend fundamental rights. This ruling produced a state of constitutional uncertainty, which led Parliament to reassert its authority to amend the Constitution through the Constitution (Twenty-fourth Amendment) Act, 1971.⁶

His Holiness Kesavananda Bharati, the head of the Edneer Mutt in Kerala, challenged the State of Kerala's Land Reforms Act, 1963, and its subsequent amendments, which he contended infringed his fundamental rights under Articles 14, 19, 25 and 26.⁷ The Constitution (Twenty-ninth Amendment) Act, 1972, was enacted by Parliament during the pendency of the case.

IV. KEY JUDICIAL DETAILS OF THE KESAVANANDA BHARATI CASE

The case, formally titled *His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala* (1973), is one of the most significant constitutional decisions in Indian legal history. The Supreme Court of India resolved the matter in 1973.

The largest Constitutional Bench in India was assembled to hear this matter, with thirteen judges sitting to address the important constitutional questions involved. The Court was required to determine the extent of Parliament's power to amend the Constitution through Article 368.

The judgment did not result in a single unanimous opinion. The judges delivered separate judgments that reflected different approaches to interpreting the Constitution. By a narrow majority of 7:6, the Court established the Basic Structure Doctrine, holding that Parliament may amend the Constitution but cannot remove its fundamental elements.

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

⁴ *Sajjan Singh v. State of Rajasthan*, AIR 1965 SC 845 (India).

⁵ *I.C. Golak Nath v. State of Punjab*, AIR 1967 SC 1643 (India).

⁶ The Constitution (Twenty-fourth Amendment) Act, 1971 (India).

⁷ *Kesavananda Bharati v. State of Kerala*, *supra* note 2.

The summary of the judgment was signed and announced by Chief Justice S. M. Sikri, who played a pivotal role in articulating the majority position. The decision established a lasting limitation on constitutional amendments and became a fundamental principle of Indian constitutional law.

V. DECISION AND LAW INVOLVED IN THE KESAVANANDA BHARATI CASE

A. Decision of the Court

The Supreme Court of India delivered its landmark ruling in *His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala* (1973) by a split decision, with seven judges in the majority and six in dissent. The Court confirmed that Parliament possesses constitutional authority to amend the Constitution under Article 368, while imposing substantial restrictions on that power.

The Court held that, although Parliament holds extensive power to modify any provision of the Constitution, including the provisions relating to fundamental rights, this authority is not unlimited. Parliament lacks the authority to enact amendments that would eliminate or compromise the fundamental elements that constitute the Constitution's basic structure. Any constitutional amendment found to violate the basic structure is liable to be declared unconstitutional and void.

The judgment thereby established the Basic Structure Doctrine, which creates an essential equilibrium between constitutional change and the need to maintain constitutional authority. The decision recognised that social and political change may affect the Constitution, yet its core principles and national identity remain secure, thereby protecting India's democratic system and judicial authority.

B. Law involved

The case required the Court to determine the scope and constitutional standing of several essential provisions of the Indian Constitution and the corresponding constitutional amendments. The Supreme Court assessed the following core legal elements of the case:

The central issue arose from Article 368, which establishes parliamentary authority to effect constitutional amendments. The Court examined whether this power was unlimited or subject to inherent constitutional limitations.

The Supreme Court examined Article 13, which establishes judicial review and renders void any law that violates fundamental rights, and considered whether constitutional amendments fell within the scope of that judicial review.

The case engaged several fundamental rights, including Articles 14, 19, 25 and 26, which respectively guarantee equality before the law, certain freedoms, and the right to freedom of religion. The effect of the constitutional amendments upon these rights formed a major point of discussion.

The Court was required to decide whether several constitutional amendments retained their legal validity. The Constitution (Twenty-fourth Amendment) Act, 1971, restored Parliament's power to amend fundamental rights and clarified the procedure to be followed under Article 368.

The Constitution (Twenty-fifth Amendment) Act, 1971, restricted the right to property and introduced Article 31C, which accorded certain Directive Principles precedence over particular fundamental rights.

The Constitution (Twenty-ninth Amendment) Act, 1972, which placed the Kerala land reform legislation in the Ninth Schedule, also came under review because it sought to provide judicial protection against legal challenge.

VI. CONCLUSION

The ruling in *Kesavananda Bharati v. State of Kerala* (1973) marked a critical milestone that transformed the development of Indian constitutional law. The Basic Structure Doctrine establishes a framework through which the Supreme Court protects the fundamental values and essential principles of the Constitution from unrestrained change, while permitting social, political and economic transformation to occur. The judgment provided a solution that balanced the two conflicting principles of parliamentary authority and constitutional supremacy by permitting Parliament to modify the Constitution within established constitutional boundaries. The doctrine guards against dangerous uses of the amending power and protects essential constitutional elements, including democracy, the rule of law, the separation of powers and judicial independence. The continued application of this principle has strengthened constitutional governance and established the Constitution as superior to transient political majorities. The *Kesavananda Bharati* judgment thus serves as a foundational element of Indian constitutional law and sustains a balanced relationship between democratic power and constitutional protection.

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