Doctrine of Basic Structure

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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

1951 & 1965 — **Shankari Prasad case and Sajjan Singh case**
The SC held that Parliament has the absolute power to amend the Constitution under Article 368.

1967 — **Golak Nath v/s State of Punjab**
Parliament cannot amend Fundamental Rights, and this power rests only with a Constituent Assembly; 24th Amendment Act, 1971 was

1973 — **Kesavananda Bharti v/s State of Kerala**
Parliament could amend any part of the Constitution, but it cannot not alter the basic structure or essential features of the Constitution.

1975 — **Indira Nehru Gandhi v/s Raj Narain**
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.

1980 — **Minerva Mills v/s Union of India**
Judicial review and harmony between Fundamental Rights and DPSP were added to the basic structure.

1981 — **Waman Rao v/s Union of India**
The SC held that the doctrine would apply to constitutional amendments enacted after the date of the judgement in the KB case.

1992 — **Indira Sawhney Vs. Union of India**
Rule of law declared as a part of the basic structure.

1994 — **S.R Bommai vs Union of India**
Federalism, Secularism, Democracy, Unity and integrity of the nation and Social justice were iterated as basic structure of the Constitution.

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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