



Mains Practice Question

Q. How did the doctrine of the basic structure of the Constitution emerge and evolve in India? (150 Words)

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Approach

- Briefly define what is basic structure doctrine.
- Explain various judgements that acted as important landmarks in the evolution of the doctrine.
- Explain how the spirit of the constitution is kept alive through the doctrine of the basic structure.

Answer

The doctrine of 'basic structure' is considered the most potent tool in the hands of the Indian judiciary to maintain the balance of power, the checks and balances that are required for the smooth functioning of a democracy. According to the doctrine, if the Supreme Court finds any law made by the Parliament inconsistent with the basic ideals and philosophy of the constitution, it has the power to declare that law to be invalid.

Basic structure doctrine evolved through numerous landmark judgments over the years and has been critical to the upkeep of the spirit of the constitution.

- **Sankari Prasad case 1951:** The First Constitution Amendment Act, 1951 was challenged in the Shankari Prasad vs. Union of India case. The amendment was challenged on the ground that it violated the Part-III of the constitution and therefore, should be considered invalid. The Supreme Court held that the Parliament, under Article 368, has the power to amend any part of the constitution including fundamental rights.
- **Golak Nath V State of Punjab 1967:** In this case, the Supreme Court overruled its earlier decision. It held that the Parliament has no power to amend Part III of the constitution as the fundamental rights are transcendental and immutable.
- **Kesavananda Bharati V State of Kerala 1973:** It gave birth to the landmark judgement which pronounced that the parliament cannot alter or disturb the basic structure of the constitution. It was held that, however, the parliament has unfettered power to amend the constitution but it cannot disturb or emasculate the basic structure or fundamental features of the constitution as it has only the power of amendment and not of rewriting the constitution.
- **In Indira Nehru Gandhi v. Raj Narain and Minerva Mills v. Union of India,** Constitution benches of the Supreme Court used the basic structure doctrine to strike down the 39th Amendment and parts of the 42nd Amendment respectively and paved the way for the restoration of Indian democracy after the emergency.

In order to endure the tides of time and adapt to the changing requirements of generations, a constitution needs to be flexible. However, at the same time, there are some intrinsic values, a basic framework on which the whole content of the constitution rests. This framework is the very essence of the legal system which the constitution document embodies and which the courts try to protect through their various doctrines and pronouncements. The doctrine of basic structure thus acts as the safeguard which keeps the soul of our constitution alive

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