



## Mains Practice Question

Q. What do you understand by 'Doctrine of Basic Structure'? Discuss its evolution and significance in strengthening democracy. (250 words)

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### Approach:

- Explain the meaning of doctrine of basic structure in introduction.
- Trace the evolution of this doctrine.
- Give significance of it in strengthening the democracy in India.

### Introduction

- '**Doctrine of Basic Structure**': It was propounded by the Indian Judiciary on 24th April 1973 in Keshavananda Bharati case to put a limitation on the amending powers of the Parliament so that the 'basic structure of the basic law of the land' cannot be amended in exercise of its 'constituent power' under the Constitution.
- Basic structure though is not exactly defined but through its contents which have been provided by the judicature clarifies a scope defining the frame or the structure of the constitution. Some of its constituents are Rule of law, Sovereignty, liberty and republic nature of Indian polity, judicial review, Separation of power, secularism, and Republic nature of India etc.

### Body

The development history of the doctrine of basic structure can be divided into following stages:

- **Sankari Prasad judgement 1951**: Initially judiciary was of the view that the amendment power of the parliament is unrestricted because it can amend any part of the constitution, even the Article-368 which provides the power to amend to the parliament
- **Golak Nath V State of Punjab 1967**: The Supreme Court adopted a new vision to see the powers of parliament that it cannot amend the Part III of the constitution i.e Fundamental rights and thus awarded fundamental rights a "Transcendental Position".
- **Keshavanada Bharti V State of Kerala 1973**: It gave birth to the landmark judgement which pronounced that the parliaments 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 re-writing 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 restoration of Indian democracy. The Supreme Court's position on constitutional amendments laid out in its judgement is that Parliament can amend the Constitution but cannot destroy its "basic structure".

### Significance in strengthening democracy

- **Protection from authoritarian regime**: It certainly saved Indian democracy from degenerating

into authoritarian regime.

- **Independence of judiciary:** It strengthens our democracy by delineating a true separation of power where Judiciary is independent of other two organs. It has also given immense untold unbridled power to Supreme Court and made it the most powerful court in the world
- **Citizenship rights:** It, by restraining the amending powers of legislative organ of State, provides basic Rights to Citizens which no organ of State can overrule. These rights are called Fundamental Rights.
- Being dynamic in nature, it is more progressive and open to changes in time unlike the rigid nature of earlier judgements.

## Conclusion

Even though judiciary never gave a solid test to discover what basic structure is, it however, has acted as a brake to the legislative enthusiasm of Parliament, thereby preserving the original ideals envisioned by the constitution-makers and strengthening the democracy.

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