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Kesavananda Bharati case in association with the doctrine of Basic structure

This article covers “Daily current events “and the topic is ‘kesavananda Bharti case’ which is in news, it covers the ‘Indian polity’ In GS-2, and the following content has relevance for UPSC.

For Prelims: About basic structure

For Mains: GS-2, kesavanada bharti case, its evaluation and interpretation

Why in news:

The “Basic Structure” doctrine was recently brought up again by the Vice President during the 83rd All-India Presiding Officers Conference in Jaipur, particularly in light of the Supreme Court’s decision to invalidate the National Judicial Appointments Commission Act of 2015.

About

- In accordance with new difficulties, the Indian Constitution may be amended under Article 368, which also takes into account unexpected and unforeseen circumstances that were not taken into account by the constitution’s authors.
- In a major ruling in the Kesavananda Bharati case from 1973, the Supreme Court held that while Parliament had the authority to change the Constitution, it could not alter its core values or structural foundations.
- However, this core idea was left undefined and has subsequently begun to take on new dimensions.
- A statute may be declared ultra vires or illegal if it violates any provision of the Constitution. Courts employ judicial review as a tool to analyze and determine the legitimacy of any amendment presented by the Parliament.

- The breadth of the Parliament's amending authority still became a point of never-ending contention between the Parliament and the Supreme Court.

Kesavananda Bharati, who was he

- Kesavananda Bharati, a Hindu monk in Kasargod, Kerala, and the leader of the Edneer Mutt, was born in 1940. He contested the Constitution (29th Amendment) Act of 1972, which reinstated the Kerala Land Reforms Act, 1963,
- The First Amendment's 1951 addition of Article 31-B and the 9th Schedule to the Constitution gave land reform policies a "protective cover" that made it difficult for them to be legally challenged.
- He claimed that this action infringed upon his fundamental rights to property, freedom of religion (Article 26), and religion (Article 25). (Article 31).

What is meant by "Basic structure"

- In the famous case of Kesavananda Bharati v. State of Kerala in 1973, the Supreme Court acknowledged the term "fundamental structure" for the first time.
- **Definition:** The dignity and independence of the individual are considered to be of the utmost significance and cannot be damaged by any type of change, according to Indian court definitions of basic structure.

Evolution of Basic Structure through Supreme Court's interpretations:

A.K. Gopalan v. State of Madras:

According to the Supreme Court, only arbitrary executive activity is covered by Article 21 protection—not arbitrary legislative action.

Second, the Supreme Court ruled that "personal liberty" solely refers to freedom pertaining to an individual's person or body.

Shankari Prasad, Case 1951:

The Supreme Court concluded that altering Fundamental Rights is likewise within the scope of the Parliament's ability to modify the Constitution pursuant to Article 368.

Because of this, the Parliament may limit or eliminate any of the Fundamental Rights by passing a law amending the Constitution, and such a law will not be unconstitutional under Article 13.

The Berubari Union Case from 1960:

The Supreme Court claims that the Preamble reveals the overarching goals that underlie the Constitution's many articles and serves as a window into the minds of the document's authors.

The Supreme Court clearly stated that the Preamble is not a component of the Constitution and is not enforceable in a court of law despite the fact that it has been acknowledged for its importance.

Golaknath case 1967:

The Supreme Court ruled that no Fundamental Right can be eliminated or limited by the Parliament.

The Supreme Court ruled that the Directive Principles cannot be implemented by amending the Fundamental Rights.

By passing Constitutional Amendment Acts, the Parliament has the authority to limit or eliminate any of the Fundamental Rights, according to the 24th Amendment Act (1971), which was approved by the legislature.

Additionally, the 25th Amendment Act added a new Article 31C that stated that no law intended to implement the socialistic Directive Principles would be invalidated for violating the Fundamental Rights guaranteed by Articles 14, 19, or 31.

Kesavananda Bharati Case 1973:

It included a property dispute, and on April 24, 1973, a special bench of the Supreme Court of India of 13 judges concluded that Article 368 of the constitution did not provide the Parliament the power to alter the fundamental structure of the Constitution with a 7-6 majority.

The Court proposed the "Basic Structure of the Constitution," which was inviolable even by a constitutional change.

Raj Narain v. Indira Gandhi Case (1975):

The Supreme Court upheld and used the essential structure of the constitution theory.

The Supreme Court rejected a section of the 39th Amendment Act (1975) that maintained the Prime Minister's and the Lok Sabha Speaker's election disputes outside the purview of any courts.

The 42nd Amendment Act 1976:

The Parliament responded to this judicially developed notion of “fundamental structure” by enacting Act to amend Article 368 and stating that there is no restriction on the constituent power of Parliament.

Furthermore, no modification may be challenged in court on any grounds, including a claim that it violates a fundamental right.

Minerva Mills v. Union of India (1980):

The Supreme Court declared that “the Indian Constitution is established on the foundations of the balance between the Fundamental Rights and the Directive Principles.”

As long as the alteration does not weaken or undermine the Constitution’s fundamental principles, the Parliament may amend the Fundamental Rights to implement the Directive Principles.

Waman Rao case (1981):

The Kesavananda Bharati case was used as the date of demarcation for the Basic Structure concept, which was restated to hold that it should not be applied retroactively to review the legitimacy of any change to the Constitution that occurred previous to that date.

Indra Sawhney case (1992):

The scope and application of Article 16(4), which mandates the reservation of jobs for members of underprivileged sections, were scrutinised by the SC. With a few restrictions (such as the exclusion of the creamy layer, no reservations in promotions, the total reserved quota shall not exceed 50%, etc.), it upheld the constitutional legitimacy of the 27% reservation for OBCs.

Rule of Law was now included to the list of fundamental elements of the constitution.

1. R. Bommai Case 1994):

Federalism has been referred to as the Constitution’s “fundamental feature” by the Supreme Court, which established that it is a federal document.

It further noted that just because the Center has more authority than the States under the structure of our Constitution, it does not follow that the States are merely the Center’s appendages.

Critical Evaluation of kesavananda Bharti case:

In Support:

The Basic Structure Doctrine strikes a balance between the duties of Parliament and the Supreme Court in maintaining the interconnected web of the Indian Constitution, according to American constitutional scholar Granville Austin.

According to legal expert Upendra Baxi, the concept paves the stage for substantial social transformation through peaceful democratic methods by facilitating constitutional amendment.

In Against:

The Kesavananda judgment's diversity of viewpoints offered no clarity, making it an ambiguous authority with which to restrict the Parliament's amending powers.

It has resulted in: Judicial Activism, in which the court renders judgements based, in whole or in part, on the Judge's political or personal views rather than on current or established legislation.

Judicial overreach is the term for the judiciary's undue meddling with the legislative and executive branches.

The Basic Structure Doctrine is anti-democratic, according to Raju Ramachandran, a former Additional Solicitor General of India, because it eventually makes the court's own assessment of its scope of authority and efficacy the only restriction on the use of its own judicial power.

There is also criticism that, in the end, the unelected judges have taken on the political authority that the Constitution does not grant them.

Way Ahead:

The constitution must be amended to account for and manage the tension between the political system and constitutional principles as a result of the changing needs of the public.

Even while the judiciary must be respected, the ambiguity surrounding the fundamental structure needs to be reviewed in light of the fact that Parliamentary

sovereignty and autonomy cannot be limited or compromised since they are fundamental to the survival of democracy.

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