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Preserving Constitutional Integrity: The Case for India's Doctrine of Basic Structure

INTRODUCTION

The current legal framework underscores the significance of the constitution, which is built upon a fundamental structure crucial for the country's advancement. Amid debates regarding whether constitutional amendments fall under ordinary legislative power (Article 13(4)) or constitutional power (Article 368), the concept of basic structure emerged. H.R. Khanna notably articulated that the Indian constitution encompasses a set of fundamental principles that are beyond the scope of any organ to amend. While acknowledging the evolving world, it's recognized that constitutional amendments are essential to pursue various developmental goals, be it economic, political, or social. Thus, there's a pressing need to amend the constitution to foster progress in these areas.

EVOLUTION OF THE CONCEPT OF THE BASIC STRUCTURE

The evolution of constitutional interpretation in India is marked by several landmark cases that have shaped the legal landscape. In the **Shankari Prasad Case**¹(1951) and the **Sajjan Singh Case**²(1965), the Supreme Court affirmed Parliament's authority to amend the Constitution, including its Fundamental Rights provisions. However, dissenting voices raised concerns about the potential misuse of this power. Justice Hidayatullah and Justice Mudholkar sown the seeds for the doctrine of basic structure.

The Golak Nath Case³(1967) reversed this stance, asserting that Fundamental Rights are beyond the scope of parliamentary amendment. It emphasized the need for a Constituent Assembly to amend these rights, underscoring their transcendental importance. The **Kesavananda Bharati Case**⁴(1973) solidified this notion by establishing the basic structure

¹ Shankari Prasad vs Union of India 1951 AIR 458

² Sajjan Singh vs State of Rajasthan 1965 AIR 845

³ IC Golak Nath vs State of Punjab 1967 SCR (2) 762

⁴ Kesavananda Bharti vs State of Kerala AIR 1973 SC 1461

doctrine, asserting that while Parliament can amend the Constitution, it cannot abrogate its fundamental framework.

Subsequent cases like **Indira Nehru Gandhi v. Raj Narain** ⁵(1975), **Minerva Mills Case** ⁶(1980), and Waman Rao Case (1981) reiterated the basic structure doctrine's significance. They emphasized limitations on parliamentary power, highlighting features such as judicial review and the balance between Fundamental Rights and Directive Principles of State Policy (DPSP). In these cases, 39th Amendment and 42nd Amendment to the Indian constitution was held to be invalid as separation of power, judicial review free and fair election was held to be the part of the basic structure. It was famously said "the servant cannot become the master".

The Indra Sawhney vs Union of India Case ⁷(1992) upheld the constitutionality of reservations for Other Backward Classes (OBCs) while adding the "Rule of Law" to the basic features of the Constitution. **The S.R. Bommai Case** ⁸(1994) addressed the misuse of Article 356 regarding the imposition of President's Rule, illustrating how policies against the Constitution's basic structure could warrant central intervention.

These cases collectively underscore the judiciary's role in safeguarding the Constitution's core principles and ensuring its stability and integrity in the face of evolving societal and political dynamics.

CRITICAL ANALYSIS OF THE BASIC STRUCTURE DOCTRINE

The emergence of the Kesavananda Bharati case marked a pivotal moment, leading to the assertion that the basic structure of the constitution cannot be subject to amendment. In the contemporary context, allowing amendments to the basic structure raises concerns due to the potential for exploitation by those with power or resources. The basic structure serves as a crucial mechanism for balancing the functioning of the constitution, encompassing fundamental rights and directive principles of state policy.

Given India's democratic ethos, the preservation of the basic structure ensures equality for all citizens regardless of caste, gender, religion, or other factors. Upholding the basic structure safeguards the principles of constitutionalism and individual rights, integral to the democratic fabric of the nation.

⁵ Indira Gandhi vs Raj Narain 1976 2 SCR 347

⁶ Minerva Mills vs Union of India AIR 1980 SC 1789

⁷ Indira Sawhney vs Union of India AIR 1993 SC 477

⁸ SR Bommai vs Union of India 1994 2 SCR 644

It's essential to recognize that not all amendments constitute law, particularly those pertaining to the expansion of the basic structure. Amendments enhancing the scope of the basic structure can only be considered legitimate law once enacted. The unwritten doctrine of the basic structure is sacrosanct, as it guarantees citizens the right to dignity and freedom.

The precise delineation of basic features within the constitution remains a matter for judicial interpretation, with the courts determining the inclusion of specific features on a case-by-case basis. This ensures the continued protection of essential constitutional principles and safeguards the rights of citizens in the face of evolving legal and societal dynamics.

Importance of the Basic Structure Doctrine:

Safeguarding Fundamental Rights:

The doctrine serves as a bulwark, ensuring that the fundamental rights guaranteed by Part III of the Constitution remain intact, even in the face of constitutional amendments by

Parliament. This was exemplified in the Indira Nehru Gandhi vs. Raj Narain case (1975), where the doctrine was invoked to nullify a clause exempting the Prime Minister's election from judicial review.

Preserving Constitutional Integrity:

It acts as a safeguard against arbitrary alterations to the Constitution, thereby upholding its integrity. By preventing Parliament from tampering with the core principles of the Constitution under the guise of amendment, the doctrine maintains the sanctity of the constitutional framework.

Balancing Powers between Judiciary and Legislature:

The doctrine establishes a delicate balance between the judiciary and the legislature. While Parliament retains the authority to adapt the Constitution to changing circumstances, the judiciary ensures that such amendments do not undermine the Constitution's foundational principles. This equilibrium was demonstrated when the Supreme Court struck down the 39th Amendment, which sought to shield certain electoral processes from judicial scrutiny.

Upholding Constitutional Ideals:

By preserving the essence of the Constitution, the doctrine ensures that its founding ideals – including justice, liberty, equality, and fraternity – remain untarnished. Through its application,

the doctrine reinforces the enduring commitment to these principles, safeguarding them from erosion or manipulation.

CONCLUSION

The Basic Structure Doctrine, while not directly articulated within the Constitution, has emerged as its cornerstone. By protecting citizens' fundamental rights and preserving the Constitution's alignment with its original principles, this doctrine maintains the integrity and unwavering essence of the Indian Constitution amid changing socio-political environments. Chief Justice of India Dr. DY Chandrachud has described the 'basic structure doctrine' as a guiding principle, akin to a "north star," that provides clarity and direction to those interpreting and implementing the Constitution, particularly in complex situations.