# Basic Structure Doctrine

## Why in news?

Bangladesh, and others in the Commonwealth have imported Indian judicial intervention Basic Structure Doctrine which reflects advocacy, idealism and independence.

## What is Basic Structure Doctrine?

- It is a *constitutional principle* that limits the power of Parliament to amend the Constitution and preserves its essential features.
- It is a form of judicial review that is used to test the legality of any legislation by the courts.
- It protects democracy from being distorted or destroyed by Parliament, and gives the courts the authority to decide what constitutes the Basic Structure Doctrine.
- Over the years, various facets of the basic structure doctrine have evolved, and are not openly defined by the judiciary

## What is the evolution of Basic Structure Doctrine?

| Key judicial cases | Major verdict |
|---|---|
| **Shankari Prasad Case (1951)** | The Court upheld that under Article 368, the Parliament has the power to amend the Constitution including the Fundamental rights. |
| **Sajjan Singh v. State of Rajasthan (1965)** | The Court reiterated the Parliament's power to amend any part of the Constitution |
| **I.C. Golak Nath v. State of Punjab (1967)** | The Supreme Court held that Parliament could not curtail fundamental rights guaranteed under the Constitution. |
| **Kesavananda Bharti Case (1973)** | The Supreme Court held that although Parliament has the power to amend any part of the Constitution, it could not use this power to alter or destroy its "basic structure". |
| **Indira Gandhi v. Raj Narain (1975)** | The basic structure theory was applied for the first time and the independent conduct of elections was categorized as basic structure |

| | |
|---|---|
| **Minerva Mills case (1980)** | It pertained to the 42nd Amendment Act introduced by the Indira Gandhi government.<br>In a majority verdict, the top court upheld the power of judicial review of constitutional amendments. |



## What is the significance of Basic Structure Doctrine?

- **Living spirit** - The basic structure of the Constitution is its living spirit, holding up the body of its text.

- **Soul of the Constitution** - It is the soul of the Constitution, inextricably linked to the values enshrined in the Preamble, without which the document and the ideas that make it sacred would collapse.

- **Bedrock of constitutional interpretation** - Granville Austin's Working of a Democratic Constitution said that the basic structure doctrine is fairly said to have become the bedrock of constitutional interpretation in India.

- **Secure the rule of law** - The courts have clarified that the basic structure aims to secure the rule of law essential for preservation of the democratic system.

- **Role of the judiciary**- It holds the judiciary as the final interpreter of our Constitution.

- **Ensures checks and balances**- It is applied to constitutional amendments to ensure the amendment does not dilute the fundamentals of the Constitutional itself.

*Article 368 in Part XX gives the Parliament the power to amend the Constitution and its procedure.*

- **Check on majoritarianism**- It checks the impulses of the Parliament since it places substantive limits on the power to amend the Constitution.

- **Safety valve-** Upendra Baxi  said that the doctrine is useful to apply the brakes when the engine of amending power threatened to overrun Constitution.

## Reference

Indian Express- BSD the strongest safeguards

