

MCQ Question · mcqquestion.com

Basic Structure Doctrine and Constitutional Foundations

Free · Share

Basic Structure Doctrine and Constitutional Foundations

The words “basic structure” appear nowhere in the Constitution. Judges added the idea. It is now one of the most important rules in Indian constitutional law.

The doctrine says Parliament can amend the Constitution, but it cannot change its core identity. This lesson looks at the doctrine as an idea.

It asks where the doctrine comes from and which features the Court has named. It then looks at Germany’s written version. Last, it asks why unelected judges get the final word.



The Supreme Court of India, which laid down the doctrine. Photo: Subhashish Panigrahi, CC BY-SA 4.0, via Wikimedia Commons.

For the full case history and the 42nd and 44th Amendments, see Amending the Constitution and the Basic Structure Doctrine. This article covers different ground: the doctrine as constitutional theory.

Where does the basic structure doctrine come from?

Why is it called judge-made?

The doctrine comes from a court judgment, not from the text of the Constitution. A **judicial doctrine** is a rule that courts build through interpretation.

Article 368(1) gives Parliament the power to amend the Constitution. It may do so by **addition, variation or repeal** of any provision.

The Supreme Court read a limit into that power. It did so in **Kesavananda Bharati v. State of Kerala**, decided on **24 April 1973**.

The case was heard by a bench of **thirteen judges**. Justice Beg wrote that it was larger than any earlier bench of the Court.

In plain words, the Court said Parliament has wide power to amend. It does not have unlimited power.

Sources: indiankanoon.org; constitutionofindia.net

How close was the verdict?

Very close. Justice Beg described the earlier view as binding law “by a narrow majority of one”.

That is why the Kesavananda judgment is read so carefully. A view that rests on one vote needs close reading.

The bench heard the case because the earlier ruling in Golak Nath was in doubt. The Court asked whether that ruling had been right.

The judgment began as a writ petition filed in 1970. It reached the Court as **Writ Petition (civil) 135 of 1970**.

Sources: indiankanoon.org

Which features did the Kesavananda opinion name?

One opinion in the case said the basic structure "may be said to consist of" a list of features. The first five were:

- **Supremacy** of the Constitution.
- A **republican and democratic** form of government.
- The **secular** character of the Constitution.
- **Separation of powers** between the legislature, the executive and the judiciary.
- The **federal** character of the Constitution.

The wording "may be said to consist of" matters. It marks the list as an illustration, not a closed code.

Sources: indiankanoon.org

TextArt 368 lets Parliament amend
QuestionCan it amend anything?
AnswerNot the basic structure
SourceCourt judgment, 1973

> **Quick check 1.** The phrase "basic structure" is written in Article 368 of the Constitution. *(True or False?)* See answer ↓

Which features has the Court named, case by case?

What did each case add?

The list grew one case at a time. This table gathers the main steps.

Case	Date	What the Court said
Kesavananda Bharati	24 April 1973	Gave a list of features that includes supremacy of the Constitution, secular character and separation of powers.
Indira Nehru Gandhi v. Raj Narain	7 November 1975	Free and fair elections are part of the democratic structure.
Minerva Mills	31 July 1980	Harmony between fundamental rights and directive principles is an essential feature.
S.R. Bommai	11 March 1994	Secularism is a part of the basic structure.

Each later case built on the idea first set out in 1973.

Sources: indiankanoon.org



The cases above, in date order. Kihoto (1992) is shown because it is often misread. See the card below.

What did Raj Narain add?

In **Indira Nehru Gandhi v. Raj Narain** (7 November 1975), the Court examined clause 4 of Article 329A.

That clause declared one election valid despite any court order that had called it void.

The challenge said the clause damaged the basic structure. The Court held that **free and fair elections** are part of the democratic structure.

The case shows a pattern. The Court tests each amendment against a feature, and then names the feature.

Sources: indiankanoon.org

What did Minerva Mills add?

Minerva Mills v. Union of India (31 July 1980) tested two clauses added by the 42nd Amendment.

The Court held that harmony and balance between fundamental rights and directive principles is an essential feature of the basic structure.

It also struck down clause 4 of Article 368, since clauses 4 and 5 were linked.

The Court's reasoning is short. **"The power to destroy is not a power to amend."**

Sources: indiankanoon.org; constitutionofindia.net

What did Bommai add?

In **S.R. Bommai v. Union of India** (11 March 1994), the Court held that **secularism** is a part of the basic structure.

The case also dealt with the President's power to issue Proclamations under Article 356(1). Its statement on secularism is the part that matters for this doctrine.

The Court added that acts of a State Government calculated to subvert secularism can be treated as a breakdown of constitutional government in the State.

Sources: indiankanoon.org

Did Kihoto Hollohan strengthen democracy as a basic feature?

No. This is a common mistake. In **Kihoto Hollohan v. Zachillhu** (18 February 1992), the Court refused to decide the question.

It said it was unnecessary to pronounce on the claim that judicial review is a basic structure of the Constitution.

The Court struck down paragraph 7 of the Tenth Schedule for a different reason. That paragraph needed ratification under the proviso to Article 368(2).

So Kihoto should not be listed as a case that added a basic feature.

Sources: indiankanoon.org

Quick check 2. In Minerva Mills (1980), the Court said the power to amend includes the power to destroy the Constitution. *(True or False?)* See answer ↓

Quick check 3. In Kihoto Hollohan (1992), the Court ruled that judicial review is a basic structure of the Constitution. *(True or False?)* See answer ↓

Does the doctrine apply to ordinary laws or only to amendments?

Why is it a tool against amendments?

The doctrine tests **constitutional amendments**. Article 368 covers amendments, and the doctrine limits that power.

Ordinary laws are a different matter. In **Raj Narain**, one opinion held that legislative measures are not subject to the theory of basic features.

Ordinary laws face other checks. This lesson does not cover them.

An amendment changes the Constitution itself. An ordinary law works inside the Constitution. That is why the two get different tests.

The basic structure test asks a narrower question: has an amendment damaged the Constitution's core identity?

Sources: indiankanoon.org; constitutionofindia.net

> **Quick check 4.** The basic structure doctrine is mainly a test for constitutional amendments. *(True or False?)* See answer ↓

How did Germany write the same idea into its text?

What does Article 79(3) of the German Basic Law say?

Germany has an **eternity clause**. It is the Constitution's own written promise that certain core features can never be amended away.

Article 79(3) says amendments are inadmissible if they affect three things:

- The division of the Federation into **Länder** (states).
- Their participation in principle in the **legislative process**.
- The principles laid down in **Articles 1 and 20**.

Article 1(1) says human dignity shall be inviolable. Article 20(1) calls Germany a democratic and social federal state.

Sources: gesetze-im-internet.de

How is India different?

India has no such clause. Indian judges found the limit by reading the Constitution as a whole.

Germany's protected core is written down. India's protected core is found case by case.

Both countries rest on the same thought. A constitution should not allow itself to be amended out of existence.

Sources: gesetze-im-internet.de; indiankanoon.org

> **Quick check 5.** Germany protects its core features through a written clause, while India does so through judicial interpretation. *(True or False?)* See answer ↓

Why can unelected judges limit an elected Parliament?

What is the countermajoritarian puzzle?

Countermajoritarian is the tension of unelected judges limiting a Parliament that citizens voted for.

Parliament speaks for the majority. Judges do not face elections. So a judge-made limit looks odd at first.

The Court's answer in Minerva Mills was simple. An amending power cannot be used to destroy the thing it comes from.

If the majority could change anything, it could end the Constitution itself.

A simple test helps. Ask whether the change repairs a part or removes the base.

Sources: indiankanoon.org

What does the Chief Justice say today?

In **November 2025**, Chief Justice of India Surya Kant spoke at a session organised by O.P. Jindal Global University. The session marked fifty years of the Kesavananda ruling.

He described the doctrine as the constitutional “conscience” that stops Indian democracy from sliding into absolutism.

He also used the image of a **khaat** (cot). The doctrine is the woven rope that keeps the Constitution balanced, resilient and morally anchored.

Sources: jgu.edu.in; livelaw.in

> **Quick check 6.** The countermajoritarian difficulty is the tension of unelected judges limiting an elected Parliament. *(True or False?)*
>
> See answer ↓

Is the list of basic features closed?

Why is the list never finished?

No. The Court named features one at a time. It has never said the list is complete.

The Kesavananda opinion itself used the words “may be said to consist of”. Later cases added elections, the balance of rights and directive principles, and secularism.

So a new case can add a feature. Each addition has come through a real dispute, not from a committee.

Think of a house. Rooms can be rebuilt or changed. The walls that hold up the roof must stay.

For exam purposes, learn the case with its feature. Do not memorise a fixed number of features.

Sources: indiankanoon.org

What does Article 32 add to the story?

Why does Article 32 matter here?

Article 32(1) guarantees the **right to move the Supreme Court** by appropriate proceedings. The right is for enforcing the rights in Part III.

That is how many of these disputes reach the Court. Kesavananda itself reached the Court as a writ petition.

A doctrine is only useful if a court can hear the challenge. Article 32 supplies that route.

The right itself is part of the Constitution's promise. A right with no remedy would be only words.

Sources: constitutionofindia.net; indiankanoon.org

> **Quick check 7.** Article 32(1) guarantees the right to move the Supreme Court to enforce the rights in Part III. *(True or False?)*
>
> See answer ↓

How did UPSC test the basic structure in CSP 2020?

What did the question ask?

UPSC CSP 2020, GS Paper I, Q13 gave two statements. The first said the Constitution defines its basic structure in terms of federalism, secularism, fundamental rights and democracy.

The second said the Constitution provides for judicial review to safeguard citizens' liberties and preserve the ideals on which it is based.

The correct option was **(d), neither 1 nor 2**.

The lesson of the first statement is the one in this article. The Constitution does not define the basic structure. The Court named its features case by case.

The trap is to think the Constitution lists them. It does not. The list lives in judgments.

Sources: upsc.gov.in

> **Quick check 8.** The Constitution of India itself lists the features of its basic structure. *(True or False?)* See answer ↓

Is the doctrine still discussed today?

What happened in November 2025?

LiveLaw reported the Chief Justice's remarks on **30 November 2025**. The occasion was fifty years since the Kesavananda ruling.

He said judicial independence depends on the doctrine. The doctrine is still a living topic, not only a history lesson.

Expect current affairs questions to link a news event with the original case.

Sources: livelaw.in; jgu.edu.in

Practice MCQs

1. Under Article 368, a Constitution Amendment Bill must be passed in each House by:

A. A simple majority of members present and voting

B. A majority of total membership only

C. A majority of total membership and two-thirds of members present and voting

D. Two-thirds of total membership only

See answer ↓

2. The 24th Amendment, 1971, made which change to the amending process?

A. Ratification by all States was required

B. Fundamental Rights were removed

C. Courts could never review amendments

D. The President must give assent to an amendment Bill

See answer ↓

3. The basic structure doctrine was laid down by the Supreme Court in:

A. Shankari Prasad v. Union of India

B. Golak Nath v. State of Punjab

C. Sajjan Singh v. State of Rajasthan

D. Kesavananda Bharati v. State of Kerala

See answer ↓

4. Article 368(4) and (5), inserted by the 42nd Amendment, were struck down in:

A. Golak Nath v. State of Punjab

B. Minerva Mills v. Union of India

C. Waman Rao v. Union of India

D. I.R. Coelho v. State of Tamil Nadu

See answer ↓

5. In Kesavananda Bharati (1973), the majority held that Parliament cannot alter what?

A. Any Fundamental Right

B. The basic structure or framework

C. The right to property

D. Article 368 itself

See answer ↓

Answer Key

1. **C.**
   Article 368(2) needs both thresholds in each House.
   Sources: Article 368, text · Kesavananda, Indian Kanoon.
   ↑ Q1
2. **D.**
   It added Article 13(4) and Article 368(3). Under the amended Article 368, the President shall give assent to the Bill.
   Sources: Article 368, text · Kesavananda, Part IV (24th Amendment).
   ↑ Q2
3. **D.**
   A bench of thirteen judges decided Kesavananda Bharati on 24 April 1973.
   Sources: Kesavananda, Indian Kanoon · Article 368, text.
   ↑ Q3
4. **B.**
   Minerva Mills (1980) struck down clause 4 of Article 368 as linked to clause 5.
   Sources: Minerva Mills, Indian Kanoon · Article 368, text.
   ↑ Q4
5. **B.**
   The Kesavananda majority held that the amending power does not extend to altering the basic structure or framework.
   Sources: Kesavananda, Indian Kanoon · Article 368, text.
   ↑ Q5

Quick-check answers

1. **False.** The doctrine was developed by the Supreme Court in Kesavananda Bharati (1973). Article 368 only speaks of amending by addition, variation or repeal. ↑ 1
2. **False.** The Court said the power to destroy is not a power to amend. ↑ 2
3. **False.** The Court said it was unnecessary to pronounce on that contention. ↑ 3
4. **True.** It limits the amending power under Article 368. ↑ 4
5. **True.** Article 79(3) is written text. India's doctrine comes from judgments. ↑ 5
6. **True.** That is what the term means. ↑ 6

7. **True.** That is what Article 32(1) provides. ↑ 7
8. **False.** The Court named the features in judgments. UPSC marked such a statement wrong in CSP 2020. ↑ 8

Curated by Arsalan Zuberi · mcqquestion.com



Scan to read online

https://mcqquestion.com/articles/basic-structure-doctrine-and-constitutional-foundations/