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Kesavananda Bharati v. State of Kerala: A Case Commentary

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ABSTRACT

Democratic systems have historically demonstrated a certain degree of vulnerability over time. Although foundational texts like the Indian Constitution embody the aspirations and principles of a newly independent nation, future governments often adopt practical approaches that may not always align with those original ideals. In this context, the decision in Kesavananda Bharati v. State of Kerala represents a pivotal moment in Indian constitutional law, addressing the tension between legislative authority and constitutional values, with the judiciary playing a crucial supervisory role. While determining the scope of Parliament's amending power, the Supreme Court introduced the doctrine of the "basic structure," thereby ensuring that the essential features of the Constitution remain protected from alteration. This principle serves as a safeguard against potential misuse of power by preventing any authority from undermining the Constitution's core framework for political or strategic purposes. This case commentary aims to critically examine the background of the dispute, its broader constitutional implications, and its enduring relevance. It also evaluates both the strengths and shortcomings of the judgment, recognizing that despite its significance in preserving constitutional integrity, it raises important concerns and debates within Indian legal scholarship.

INTRODUCTION

At the time of its adoption, the Constitution of India embodied the aspirations, values, and collective vision of a nation emerging from colonial rule into an uncertain but hopeful future.

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Over the years, however, the political landscape of the country has evolved, along with the perspectives and priorities of those in power. Article 368 of the Constitution grants Parliament the authority to amend its provisions, enabling the legal framework to adapt to changing societal and political needs. At the same time, historical experience has demonstrated that the interests of the ruling class do not always align with those of the general public. Recognizing this concern, the Indian constitutional framework incorporates a system of checks and balances to ensure that no single organ of the State exercises unchecked authority. This principle becomes particularly significant when dealing with essential constitutional features, such as fundamental rights, which reflect the core spirit and philosophy of the Constitution. In this context, the decision in *Kesavananda Bharati v. State of Kerala* assumes great importance. In adjudicating the scope of Parliament's amending power, the Supreme Court established the basic structure doctrine, thereby affirming that certain foundational elements of the Constitution cannot be altered. Through this determination, the judiciary reinforced its role as the guardian of constitutional principles, ensuring that the foundational framework agreed upon at the time of independence is not undermined by subsequent political actions. This judgment stands as a landmark in defining the limits of constitutional amendments and in safeguarding individual rights against potential State overreach. By examining the balance of power between the legislature and the judiciary, the Court ensured that constitutional changes remain consistent with the underlying principles of the document. This case commentary seeks to analyse the factual background of the case, evaluate the Court's reasoning, and examine both prior and subsequent judicial developments relating to the basic structure doctrine. It further aims to assess the broader implications and continuing relevance of the judgment within Indian constitutional law.

II. FACTS

The events leading to *Kesavananda Bharati v. State of Kerala*² can be traced back to the decision in *I.C. Golak Nath v. State of Punjab (1967)*³, wherein an eleven-judge bench of the Supreme Court held that Parliament lacked the authority to amend Fundamental Rights enshrined in Part III of the Constitution. This ruling triggered significant constitutional debate regarding the extent of Parliament's amending power and laid the groundwork for the development of the basic structure doctrine.

² (1973) 4 S.C.C. 225 (India).

³ *Golak Nath and Ors. v. State of Punjab*, AIR 1967 SCC 1643 (India).

Article 13⁴ of the Constitution declares that any law inconsistent with Fundamental Rights shall be void; however, it does not explicitly address whether constitutional amendments fall within the scope of “law.” In response to the Golak Nath ruling, the government, led by Prime Minister Indira Gandhi, enacted the Twenty-Fourth Constitutional Amendment, which expressly affirmed Parliament’s power to amend any provision of the Constitution, including Fundamental Rights. Subsequently, the Twenty-Fifth Amendment curtailed property rights by enabling the State to acquire private property on terms determined by it, while the Twenty-Ninth Amendment placed certain land reform legislations within the Ninth Schedule, thereby seeking to immunize them from judicial review.

Kesavananda Bharati, the head of the Edneer Mutt in Kerala, challenged the constitutional validity of these developments. The Kerala government had introduced land reform laws that imposed restrictions on the management of religious property, thereby affecting rights protected under Article 26 of the Constitution. Arguing that such measures infringed upon his Fundamental Rights, Bharati, represented by senior advocate Nani Palkhivala, initiated legal proceedings.

The matter was first brought before the Kerala High Court and subsequently escalated to the Supreme Court, where it was heard by a thirteen-judge bench—the largest in the Court’s history—with arguments extending over sixty-eight days. The central issue before the Court was the determination of the scope and limits of Parliament’s amending power under Article 368⁵, particularly whether such power extended to altering Fundamental Rights. This question had earlier been addressed in Golak Nath, but required reconsideration in light of the constitutional amendments enacted thereafter.

III.HOLDING

In *Kesavananda Bharati v. State of Kerala*, the Supreme Court affirmed that Parliament possesses the power to amend the Constitution under Article 368, thereby departing in part from the position adopted in *I.C. Golak Nath v. State of Punjab*. However, in determining the extent of this power, the Court introduced a crucial limitation: Parliament cannot alter or destroy the “basic structure” of the Constitution.

⁴ INDIA CONST. art. 13.

⁵ INDIA CONST. art. 368.

By a narrow majority of 7:6, the thirteen-judge bench upheld the constitutional validity of the Twenty-Fourth Amendment, recognizing Parliament's authority to amend any provision of the Constitution. At the same time, the Court clarified that the term "amendment" does not encompass the power to abrogate the fundamental framework of the Constitution. Consequently, all constitutional amendments are subject to judicial review and must satisfy the test of the basic structure doctrine.

With respect to the Twenty-Fifth Amendment, the Court adopted a partially approving approach. It distinguished between the concepts of "amount" and "compensation" in the context of property acquisition, emphasizing that the payment determined by the State must not be arbitrary or illusory. Furthermore, the Court invalidated the provision that sought to exclude such laws from the ambit of judicial review, reaffirming the judiciary's supervisory role.

The dissenting judges, including Justices D.G. Palekar, K.K. Mathew, M.H. Beg, A.N. Ray, and Y.V. Chandrachud, advanced the view that Article 368 conferred unlimited amending power upon Parliament, extending even to Fundamental Rights. Justice H.R. Khanna, while ultimately concurring with the majority outcome, expressed a nuanced position by asserting that although the basic structure is inviolable, it cannot be conclusively stated that all Fundamental Rights form part of that structure and are therefore entirely immune from amendment.

The majority, comprising Chief Justice S.M. Sikri and Justices Shelat, Grover, Hegde, Mukherjea, and Reddy, held that while constitutional evolution is permissible, it cannot come at the cost of eroding essential features such as Fundamental Rights and the Preamble. Although the Court did not provide an exhaustive definition of the basic structure, it emphasized that its identification would remain subject to judicial interpretation. This approach preserves the dynamic character of the Constitution while ensuring that its foundational principles remain intact.

IV. POST LAW

The period following *Kesavananda Bharati v. State of Kerala* witnessed significant constitutional developments and political controversy. Allegations were raised against Prime Minister Indira Gandhi for engaging in electoral malpractices, culminating in a legal challenge

brought by Raj Narain.⁶ During the pendency of this dispute, the government enacted the Thirty-Ninth Constitutional Amendment, which sought to bar judicial scrutiny of the Prime Minister's election. However, the Supreme Court examined the validity of this amendment and struck it down, holding that it violated the basic structure doctrine established in *Kesavananda Bharati*.

This decision reaffirmed the judiciary's commitment to preserving constitutional supremacy. Notably, judges who had earlier expressed differing views demonstrated alignment in defending the doctrine, thereby underscoring its growing acceptance in constitutional jurisprudence. Following this, a series of cases further developed and clarified the contours of the basic structure principle.

In *Minerva Mills v. Union of India*⁷, the Court evaluated the constitutional validity of certain provisions of the Forty-Second Amendment, which aimed to neutralize the limitations imposed by *Kesavananda Bharati*. These provisions attempted to grant Parliament unlimited amending power and restrict judicial review. The Court invalidated these clauses, emphasizing that limited amending power and judicial review themselves form part of the basic structure of the Constitution.

Subsequently, in *Waman Rao v. Union of India*,⁸ the Court addressed the question of retrospective application of the doctrine. It held that the principles laid down in *Kesavananda Bharati* would operate prospectively, meaning that only amendments enacted after the judgment would be subject to scrutiny under the basic structure doctrine. This approach ensured fairness and avoided imposing undue burdens arising from retrospective application.

In *M. Nagraj v. Union of India*⁹, the Court considered constitutional amendments relating to reservations in public employment. While acknowledging that equality is a component of the basic structure, the Court determined that the specific mechanisms introduced through the amendments did not necessarily violate that structure, thereby upholding their validity.

The scope of judicial review was further expanded in *I.R. Coelho v. State of Tamil Nadu*¹⁰, where the Court held that even laws placed under the Ninth Schedule are not immune from scrutiny if they infringe upon Fundamental Rights forming part of the basic structure. This

⁶ 1975 (Supp) S.C.C. 1 (India).

⁷ (1980) 3 S.C.C. 625 (India).

⁸ (1981) 2 S.C.C. 362 (India).

⁹ (2006) 8 S.C.C. 212 (India).

¹⁰ (1999) 7 S.C.C. 580 (India).

ruling reinforced the principle that constitutional protection cannot be used as a shield for laws that damage core constitutional values.

Finally, in *Ashok Kumar Thakur v. Union of India*¹¹, the Court dealt with challenges to provisions concerning reservations in educational institutions. It upheld the constitutional validity of such measures, emphasizing the evolving nature of the Constitution. The Court recognized that the concept of the basic structure is dynamic and must adapt to societal progress, particularly in achieving substantive equality.

V. ANALYSIS

The judgment in *Kesavananda Bharati v. State of Kerala* presents a considerable challenge for both comprehension and critical evaluation, primarily due to the multiplicity of judicial opinions that ultimately converged into a narrow majority. The reasoning across the opinions is complex and, at times, fragmented, making it difficult to trace a single, coherent line of logic. The basic structure doctrine itself reflects this complexity, as it was deliberately left undefined and flexible, resisting precise formulation within rigid legal boundaries. Scholars such as Upendra Baxi have characterized the decision as one marked by doctrinal ambiguities and internal inconsistencies, leaving substantial scope for interpretation by subsequent courts and legal thinkers.

Certain aspects of the reasoning have attracted criticism for relying on assumptions that may not withstand closer scrutiny. For instance, the Court's treatment of the right to property under the Twenty-Fifth Amendment appears to reflect a tension between its commitment to constitutional protection and broader socio-economic objectives. The argument that State acquisition of property is inherently unjust may be questioned, particularly where compensation is provided. In such circumstances, it may be argued that the State is not necessarily acting in an inequitable manner, especially when pursuing redistributive policies.

Additionally, the institutional role of the judiciary itself invites critical reflection. Historically, judicial systems have often functioned in alignment with prevailing State structures and authority. In this light, portraying the judiciary as entirely detached from political or ideological influences may be somewhat idealized. This raises important questions about the extent to which judicial review can operate as a truly neutral check on governmental power.

¹¹ (2008) 6 S.C.C. 1 (India).

The judgment also touches upon the relationship between Fundamental Rights and Directive Principles of State Policy, an area that continues to generate debate. While Directive Principles are often associated with goals of social welfare, not all such provisions uniformly reflect notions of social justice. In contrast, Fundamental Rights are explicitly designed to safeguard individual freedoms and limit State interference. Treating Directive Principles as superior in all contexts may therefore create conceptual tension within the constitutional framework.

Despite these criticisms, the significance of the judgment lies less in the precision of its reasoning and more in its institutional impact. By establishing limits on Parliament's amending power, the Court articulated a powerful mechanism for constitutional control, ensuring that the foundational principles of the Constitution cannot be eroded by transient political majorities. The deliberate openness of the basic structure doctrine arguably enables the judiciary to respond to evolving challenges, thereby preserving the Constitution's character as a living document.

The practical consequences of the decision further highlight its importance. The tensions between the judiciary and the executive in the period following the judgment-including controversies surrounding judicial appointments and attempts to revisit the ruling-demonstrate the extent to which it constrained governmental authority.¹² These developments underscore the enduring relevance of the case as a safeguard against the concentration and potential misuse of power.

VI. CONCLUSION

The decision in *Kesavananda Bharati v. State of Kerala* represents a defining moment in Indian constitutional law, as it firmly established that Parliament's power to amend the Constitution is not absolute.¹³ By introducing the basic structure doctrine, the Supreme Court ensured that the foundational principles of the Constitution cannot be altered in a manner that would compromise its core identity. In doing so, the judiciary assumed a crucial role in safeguarding the constitutional framework against potential excesses of legislative authority.

Although there have been recurring arguments in favour of restoring unrestricted amending power to Parliament, such a position carries the risk of enabling a dominant political majority

¹² The Constitutional Quicksand's of *Kesavananda Bharati* and the Twenty Fifth Amendment, 1 S.C.C. (Jour) 45 (1974).

¹³ Upendra Baxi, *Courage, Craft and Contention: The Indian Supreme Court in the Eighties*, 28 NM TRIPATHI PVT.LTD. 112, (1985).

to reshape the constitutional order without meaningful limitations. The doctrine laid down in *Kesavananda Bharati* acts as an essential restraint, preventing the concentration of power and preserving the balance envisioned by the framers of the Constitution.

The judgment therefore serves as a vital check within India's democratic structure, ensuring that constitutional governance remains anchored in its Fundamental principles even in the face of shifting political priorities. Its relevance is particularly evident in periods of constitutional stress, where the possibility of executive or legislative overreach becomes more pronounced.

Ultimately, the enduring legacy of *Kesavananda Bharati* lies in reinforcing public confidence in the judiciary as a guardian of constitutional values. While the doctrine itself continues to evolve through judicial interpretation, it remains a powerful instrument for protecting the rights of citizens and maintaining the integrity of the constitutional order in India.¹⁴

¹⁴ (1973) 4 S.C.C. 225 (India).