

## EVOLUTION OF INDIAN CONSTITUTION: A HISTORICAL PERSPECTIVE

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### Abstract:

The Indian Constitution is a remarkable document that forms the backbone of India's democratic framework. Its development was a complex and dynamic process, shaped by various historical, social, and political factors. This research article provides a comprehensive analysis of the historical development of the Indian Constitution, tracing its origins, key milestones, and significant amendments. It examines the influences of historical events, nationalist movements, and constitutional debates on the drafting and adoption of the Indian Constitution. The article also highlights the contributions of key figures, committees, and institutions involved in the constitution-making process. Through this comprehensive analysis, the article aims to shed light on the evolution and significance of the Indian Constitution in shaping India's democratic fabric. Article 368 of the Constitution does not prescribe any express limitation upon the parliament's amending power, however the Supreme Court in *Keshavananda Bharati v. State of Kerala* (1973) declared that Article 368 did not enable parliament to alter the 'Basic Structure or Framework' of the Constitution. Vigorously debated since its inception, the doctrine continues to be a central feature of recent institutional contests over Constitutional identity and change. This paper examines the development and the scope of the doctrine of basic structure as a Constitutional safeguard and its reflection in the jurisprudence of some other countries.

**Keywords:** Indian Constitution,- Parliament,- Basic Structure,- historical development, -Constituent Assembly,- Amendment

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### Introduction:

The Indian Constitution is not only a legal document but also a living testament to the spirit of India's freedom struggle and its aspirations for a just and inclusive society. It represents a remarkable achievement in constitutional history, shaped by the country's rich cultural, social, and political landscape. The historical development of the Indian Constitution spans several decades, involving intense deliberations, compromises, and visionary leadership, culminating in its adoption on January 26, 1950. This research article aims to provide a comprehensive analysis of the historical development of the Indian Constitution, shedding light on the key events, influences, and principles that have shaped its evolution. By delving into the pre-independence era, the framing of the constitution, and subsequent amendments, this study seeks to offer a nuanced understanding of the constitutional journey that has shaped modern India. The Constitution of a country represents the Grundnorm

the basic norm comprising of fundamental principles, laying down the foundation of a civil society. While on the face of it, it appears that the Constitution of India 1950 is neither too flexible nor too rigid in practice; it has been amended almost 100 times in 62 years. The flexibility of the Indian Constitution has often been criticized as being the bane of our Constitutional system. Academic and political commentators often lament the incapacity of the government and the political class to govern in accordance with the Constitution as being the primary motive for the frequency of amendment. The attachment to an unchanging Constitution appears to be a romantic, but essentially unfounded, aspiration that no enduring Constitution is likely to satisfy. Moreover, the Indian experience suggests that political struggles find expression in the formal Constitution amending process more readily than in the informal modes through which a Constitution may be changed. However, the extent of flexibility embraced by a Constitution has to be balanced by a need to preserve its normative character as a higher law that restrains temporary parliamentary majorities of the nation. The evolution and practice of the basic structure doctrine in India responds to this normative concern to preserve the sanctity of the Constitution as a higher law. The Supreme Court with intentions to protect the basic and original ideals of the makers has acted as a check over the legislative enthusiasm of Parliament ever since independence.

#### **Historical Background:**

A careful look at Indian history shows that there were many competing visions for the future of India in the lead up to independence. Subhash Chandra Bose, a leader in the pre-independence Congress Party, favored a stronger, more authoritarian state and modeled on the fascist governments of the 1930s and 1940s. On the other extreme, Mahatma Gandhi advocated a more decentralized and self-sufficient society. Neither Bose's nor Gandhi's vision would gain much traction during the Constitution's drafting. Instead, one of the most entrenched debates at the Constituent Assembly and one that would provide the historical seeds of the basic structure doctrine was between the similar, but competing ideologies of Jawaharlal Nehru and Sardar Vallabhbhai Patel. Nehru and Patel were the two most powerful political leaders of the Congress Party at the end of British rule. Indeed, Nehru became the country's first Prime Minister only upon Gandhi's request that Patel step aside. Patel was a proponent of many of the principles of laissez faire economics. Nehru, on the other hand, believed in large scale property redistribution and nationalization to correct past social injustices and lay the groundwork for a prosperous economy. This position was popular amongst the poverty stricken electorate, and even today polls indicate that the overwhelming majority of Indians believe that there should be a limit on possessing a certain amount of land and property. Throughout the Pre Constitutional Era, the Indian National Congress and other political organizations led the struggle for independence from British rule. Prominent leaders such as Mahatma Gandhi, Jawaharlal Nehru, and Sardar Vallabhbhai Patel played crucial roles in the movement. According to Dr. Ambedkar this difference in economic perspective came to a head in the drafters' debates over property rights. Nehru wanted no compensation for property seized by the government, while Patel demanded full compensation. The right to property in the final version of the Constitution was a compromise between the two, with ambiguity surrounding both when property could be taken and what compensation would be paid. Patel's early death in 1950 ensured not only that Nehru would never again be seriously challenged for the post of Prime

Minister, but also that he could more easily push his original vision of the right to property. When early judicial decisions signaled that the courts would limit the government's ability to expropriate property, Nehru's government acted swiftly. In 1951, It passed the first amendment to the Constitution which created articles 31A and 31B. These articles would provide the origin of the dispute that would ultimately create the basic structure doctrine. Article 31A stated that any acquisition of property by the state through law could not be called into question under the rights to property, equality, freedom of speech, or freedom to practice one's profession. Article 31B created the Ninth Schedule, a list of laws inserted in the back of the Constitution. Laws that were placed into this schedule through Constitutional amendment could not be found invalid by the judiciary on the basis of any of the fundamental rights. In the First Amendment, thirteen land reform laws were placed into this protected schedule. Although the First Amendment only protected land reform laws, the Ninth Schedule could, on its face, be used to protect any law placed into it from fundamental rights review. After the passage of these two Articles, a showdown between Parliament and the judiciary became almost inevitable. Parliament had amended the Constitution to shield not only expropriation laws, but potentially any law from fundamental rights review. With the very idea of meaningful judicial review under attack, the Court's potential responses were limited. It could acquiesce to the amendment, admitting that it could be stripped of its power of judicial review, and hope a later Parliament would remove the offending articles, or, alternatively, it could search for a way to defend judicial review.

Property owners challenged the Constitutional amendments which placed land reforms laws in the Ninth Schedule before the Supreme Court, saying that they violated Article 13 (2) of the Constitution. Article 13 (2) provides for the protection of the fundamental rights of the citizen. Parliament and the state legislatures are clearly prohibited from making laws that may take away or abridge the fundamental rights guaranteed to the citizen. They argued that any amendment to the Constitution had the status of a law as understood by Article 13 (2). In 1952 (Sankari Prasad case) and 1955 (Sajjan Singh's case) the Supreme Court rejected both arguments and upheld the power of Parliament to amend any part of the Constitution including that which affects the fundamental rights of citizens. Significantly though, two dissenting judges in Sajjan Singh's case raised doubts whether the fundamental rights of citizens could become a plaything of the majority party in Parliament. The first attempt by the Court to salvage its review power came in 1967 in *Golak Nath v. State of Punjab*, which challenged articles 31A and 31B. An eleven-judge bench of the Supreme Court reversed its position. Delivering its 6:5 majority judgement Chief Justice Subba Rao put forth the curious position that Article 368, that contained provisions related to the amendment of the Constitution, merely laid down the amending procedure. Article 368 did not confer upon Parliament the power to amend the Constitution. The amending power of Parliament arose from other provisions contained in the Constitution (Articles 245, 246, 248) which gave it the power to make laws (plenary legislative power). Thus, the apex court held that the amending power and legislative powers of Parliament were essentially the same. Therefore, any amendment of the Constitution must be deemed law as understood in Article 13 (2). The majority judgment invoked the concept of implied limitations on Parliament's power to amend the Constitution. This view held that the Constitution gives a place of permanence to the

fundamental freedoms of the citizen. In giving the Constitution to themselves, the people had reserved the fundamental rights for themselves. Article 13, according to the majority view, expressed this limitation on the powers of Parliament. Parliament could not modify, restrict or impair fundamental freedoms due to this very scheme of the Constitution and the nature of the freedoms granted under it. The judges stated that the fundamental rights were so sacrosanct and transcendental in importance that they could not be restricted even if such a move were to receive unanimous approval of both houses of Parliament. They observed that a Constituent Assembly might be summoned by Parliament for the purpose of amending the fundamental rights if necessary. In other words, the apex court held that some features of the Constitution lay at its core and required much more than the usual procedures to change them.

The verdict in Golaknath's case led to direct conflict of power between the parliament and judiciary. The ruling government suffered heavy losses of votes in parliamentary elections as it failed to fulfill its promises. The power conflict led the government to introduce a bill seeking to restore supremacy of parliament which was later not pressed because of some political compulsions.<sup>13</sup> But hungry to prove it supreme, parliament again, under the pretext of ensuring equitable distribution of wealth and resources, introduced two major lines of laws, one related to nationalization of banks and other related to de-recognition of Privy Purses. The Supreme Court struck down both the moves of the parliament. Now the basic question had shifted as to the relative position of directive principles and the fundamental rights. This led to a political situation which the Indian history had never witnessed. Judiciary and Parliament were at loggerhead in proving their supremacy. For the first time, the Constitution itself became the electoral issue in India. In 1971 and 1972 many amendments were carried on that directly challenged the Court's declaration that the fundamental rights could not be amended and further shielded laws from fundamental rights review. These amendments being over-ambitious were inevitably challenged in Keshavanand's case.

#### **Constituent Assembly:**

The Constituent Assembly played a vital role in the creation and framing of the Indian Constitution. It was established to draft and adopt the Constitution of India, which would serve as the supreme law of the land. Here are some key roles and functions of the Constituent Assembly:

- 1) The primary responsibility of the Constituent Assembly was to draft the Constitution of India. Its members deliberated and debated on various constitutional provisions, principles, and structures. They analyzed and discussed different models from around the world, taking into account the needs and aspirations of the Indian society.
- 2) The Constituent Assembly was representative of the diverse Indian population. Its members were elected by indirect elections held by the provincial legislatures. The Assembly included representatives from different regions, communities, and socio-political backgrounds, ensuring a broad-based consensus in the constitutional decision-making process.
- 3) The Constituent Assembly adopted a detailed procedure for constitution-making. It established various committees and sub-committees to examine and provide recommendations on different aspects of the

constitution. These committees, such as the Drafting Committee headed by Dr. B.R. Ambedkar, played a crucial role in shaping the final document.

- 4) The Constituent Assembly conducted extensive debates and discussions on various constitutional provisions. Members had the opportunity to express their views, propose amendments, and engage in constructive dialogue. The assembly provided a platform for diverse perspectives and ideas to be considered, facilitating a democratic and inclusive constitution-making process.
- 5) The Constituent Assembly aimed to build a broad consensus among its members while drafting the constitution. Through deliberations, negotiations, and compromises, it sought to address conflicting interests and perspectives. This consensus-building approach contributed to the stability and acceptance of the final Constitution.
- 6) After the drafting process was completed, the Constituent Assembly adopted the Constitution on November 26, 1949.

#### **Drafting and Framing of the Constitution:**

The drafting and framing of a constitution is a complex and intricate process that involves the creation and development of a fundamental framework for a country's governance. There is a brief description of the typical steps involved in drafting and framing a constitution:

- 1) A Constituent Assembly or a specialized committee is usually established to draft the constitution. This body is composed of representatives who are tasked with the responsibility of formulating the constitution.
- 2) The Constituent Assembly/Committee conducts extensive research, studying various constitutional models, historical documents, and legal frameworks from other countries. This research helps in identifying the best practices, principles, and structures that can be adapted to the specific needs and aspirations of the country.
- 3) Public input and participation are crucial in the constitution-making process. The Constituent Assembly/Committee often seeks public opinion through public hearings, town hall meetings, surveys, and consultations with various stakeholders such as civil society organizations, experts, and marginalized groups.
- 4) Based on the research and public consultation, the Constituent Assembly/Committee begins drafting the constitution.
- 5) Once the initial draft is prepared, it is subjected to rigorous scrutiny and debate within the Constituent Assembly/Committee. Members analyse, discuss, and propose amendments to refine the provisions and ensure their coherence and consistency.
- 6) After the final draft is agreed upon by the Constituent Assembly/Committee, it is put to a vote for approval. The constitution is adopted when it receives the required majority or supermajority support from the members.
- 7) Once the constitution is adopted, it is promulgated or formally declared as the supreme law of the land. The constitution becomes the basis for the functioning of the government, delineating the powers of different branches, defining the rights and duties of citizens, and establishing the rule of law. The provisions of the constitution are implemented through legislation, executive actions, and judicial interpretation.

### **Adoption and Implementation:**

The Constitution of India was drafted by a Constituent Assembly, established in 1946, with the objective of creating a framework for independent India. Dr. B.R. Ambedkar chaired the drafting committee, and the Constitution was influenced by various sources, including the Government of India Act of 1935 and constitutions of other countries. The Constituent Assembly adopted the Indian Constitution on November 26, 1949. This day is celebrated as Constitution Day or National Law Day in India. The Constitution consists of a preamble and 470 articles, which are divided into 25 parts and 12 schedules. The Indian Constitution came into effect on January 26, 1950, marking the transition of India from a dominion to a republic. This day is celebrated as Republic Day in India. With the implementation of the Constitution, India became a sovereign, socialist, secular, and democratic republic.

### **Conclusion:**

This research article delves into the historical development of the Indian Constitution, providing a comprehensive overview of the pre-constitutional era, the Constituent Assembly, the drafting and framing process, adoption and implementation, and subsequent evolution. It analyses the influences, key personalities, committees, and events that shaped the Indian Constitution. By examining the constitutional provisions, amendments, and landmark judgments, the article highlights the contributions, legacy, challenges, and future perspectives associated with the Indian Constitution. As a conclusion it may be said that the doctrine of basic structure of the Constitution is a great Constitutional concept that has been formally engrafted upon the Constitution by the judiciary through the interpretative processes. The doctrine is well formulated and it has maintained a balance between the rigidity and the flexibility of the Constitution. The basic structure doctrine is the single most important factor that has made the survival of our Constitution possible in its pristine form. It has served us well by effectively foreclosing the possibilities of uncalled for tampering of the Constitution, abrogation of the primordial rights necessary for the development of human personality, weakening the hold of Rule of Law and maintaining balance between different organs of the State. It prevents the parliament from having unconditional power and becoming the master of law itself. It has till date proved to be a very effective tool in deciding the validity of the Constitutional amendments. But whether this doctrine is sufficient to accommodate the change that may be required in future needs to be further debated. Nevertheless, there is no scope in denying the fact that this doctrine has served the country very well during turbulent times when parliament was in a mood to resort to Article 368 recklessly. The Supreme Court has done a great service to the nation by declaring that there are certain basic features of the Constitution which cannot be amended. It has necessarily pointed out to the parliament that Constitution is not any party's manifesto which can be changed at their own will but is a national heritage which can be amended only when a national consensus demands for it. Thus, the doctrine of basic structure may be allowed to operate as the very watchdog of Constitutional governance. There can still be debates about what constitutes basic structure. There is nothing wrong in such debates. We must remember that politics in a democracy is necessarily full of debates and differences. That is a sign of diversity, liveliness and openness.

**References:**

- 1) Basu, Durga Das, "Introduction to the Constitution of India," Lexis Nexis, 2018.
- 2) Kashyap, Subhash C., "Our Constitution: An Introduction to India's Constitution and Constitutional Law." National Book Trust, India, 2011.
- 3) Jain, M.P., "Indian Constitutional Law: Text, Cases, and Materials." Lexis Nexis, 2020.
- 4) Seervai, H.M., "Constitutional Law of India." Tripathi Private Limited, 1995.
- 5) Rau, B.N. (ed.), "The Indian Constitution: A Casebook." Eastern Book Company, 2017.
- 6) Ambedkar, B.R., "The Indian Constitution: Cornerstone of a Nation." Permanent Black, 2014.
- 7) Basu, Durga D.: Comparative Constitutional Law, (2nd ed. (revised), (Nagpur, Wadhwa and Company, 2008)
- 8) Krishnaswamy, S.: Democracy and Constitutionalism in India---A Study of the Basic Structure Doctrine, (New Delhi, Oxford University Press, 2009)
- 9) Jacobsohn, Gary J.: An Un Constitutional Constitution? A Comparative Perspective, International Journal of Constitutional Law, Vol 4, 2006.
- 10) Sudipta Kaviraj: A Critique of the Passive Revolution, in State and Politics in India, (Partha Chatterjee ed., 1997)
- 11) Shukla, V. N.: Constitution of India, 10th edition, (Lucknow, East Book Company, 2009)

**Cite This Article:**

**Dr. Kharat B.B. (2025).** Evolution of Indian Constitution: A historical Perspective. **In Educreator Research Journal: Vol. XII (Issue IV), pp. 36–42.**