QUBAHAN POLITICAL JOURNAL
VOL. 1, NO. 3, July 2022
https://doi.org/10.48161/qpj.v1n3a4

CONSTITUENT POWER AND CONSTITUTIONAL IDENTITY: JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS IN INDIA

Aman Kumar Buri [1*]

[1] LL.M., Semester II Student, NIMS University, Jaipur, Rajasthan, India

* **Corresponding author:** work.amanlawyered@gmail.com.

ABSTRACT: The power of constitutional amendment under Article 368 of the Constitution of India reflects the dynamic nature of constitutional governance. However, the exercise of this power has historically generated intense constitutional conflict between Parliament and the Judiciary. This paper critically examines the evolution of judicial review in relation to constitutional amendments, tracing its doctrinal development through landmark judicial pronouncements. Beginning with the early phase of parliamentary supremacy in Sankari Prasad and Sajjan Singh, the analysis moves through the transformative decision in Golak Nath, culminating in the crystallisation of the Basic Structure Doctrine in Kesavananda Bharati and its reaffirmation in Minerva Mills. The study argues that judicial review of constitutional amendments has emerged not merely as a procedural safeguard but as a substantive constitutional mechanism to preserve the identity, supremacy, and structural integrity of the Constitution. The continuing tension between legislative sovereignty and constitutional supremacy is examined through contemporary developments, including electoral disqualification jurisprudence and institutional confrontations. The paper concludes that while Parliament possesses wide constituent power, such power is not unlimited. The Basic Structure Doctrine represents a uniquely Indian constitutional innovation that reconciles democratic will with constitutional morality. Judicial review, therefore, operates as a guardian of constitutional continuity rather than an adversary of democratic governance.

Keywords: judicial review, constitutional amendments, article 368, basic structure doctrine, parliamentary sovereignty, constitutional supremacy, separation of powers, fundamental rights, rule of law, indian supreme court.

I. INTRODUCTION: JUDICIAL REVIEW AND CONSTITUTIONAL SUPREMACY

Judicial Review, which is the salient feature of the modern constitutionalism means the examination by the courts the constitutionality of the legislative statutes and executive or administrative acts and to determine whether or not they are prohibited by the written constitution or are in excess of power granted by it. In other words, it means 'a limited government'. The powers of Government are limited by various concepts of the constitutions such as supremacy of constitution, division of power between Centre and the State, separation of power etc. Judicial review is an example of check and balances in a modern governmental system, where the Judiciary checks the functions of the state. However, the provision of Judicial Review is not explicitly mentioned in the constitution. In so far as the Fundamental Rights are concerned the Judicial Review is explicitly mentioned in Article 13 of the constitution.[i] The basic foundation of this concept lies in the statement of Sir Edward Coke in Dr. Boutham's case (1610) that "….when an act of Parliament is against common right and reason….the common law will control it and adjudge such act to be void…."[ii] The scope of judicial review before Indian courts has evolved in three dimensions – firstly, to ensure fairness in administrative action, secondly to protect the constitutionally guaranteed fundamental rights of citizens and

thirdly to rule on questions of legislative competence between the Centre and the states.[iii] Now the other important ingredient of Indian constitutionality is the procedure of 'Amendments' incorporated under Article 368 in the Constitution, reason being the Constitution should be a dynamic document. It should be able to adapt itself to the changing needs of the society.

The word "Amendment" means 'a minor improvement in a legal or statutory document'. The procedure of amendment in the constitution is described in Part XX (Article 368) of the Constitution of India. The concept of Judicial Review has been invented to test the constitutionality of the laws made by the legislature (which also includes constitutional amendments) and the orders issued by the executive to hold the supremacy of the constitution of India. The founding fathers of the Indian constitution who granted more rights to the people without balancing them with their duties, perhaps did not foresee the emergence of present political environment, wherein the political players of various segments in the country are more interested in fulfilling their individual aspirations than the aspirations of the people.[iv] The basic question raised has been whether the Part III of constitution can be amended so as to dilute or take away any fundamental right? Parliament's authority to amend the Constitution, particularly the chapter on the fundamental rights of citizens, was challenged as early as in 1951 in the case of Sankari Prasad vs. UOI.[v] In this case, it was decided that parliament is competent to amend any part of the constitution and this judgement was kept same in the case of Sajjan Singh vs. State of Rajasthan.[vi] But through the process of Judicial Review court found it wrong and in the case of Golak Nath vs. State of Punjab, that parliament doesn't have any power to amend the Part III of the constitution i.e. Fundamental rights.[vii] Later in the case of Keshvanand Bharti vs. State of Kerala, the concept of 'Basic Structure' was conceptualized through the process of Judicial Review, under which some basic features of the constitution cannot be amended.[viii] In Minerva Mills Ltd. vs. Union of India, it was held that parliament has only limited power to amend to constitution.[ix]

II. CONCEPTUAL FOUNDATIONS OF JUDICIAL REVIEW

After becoming independent from the 200 years of rule of British colonial power, India adopted the British way of Parliamentary Democracy. But the concept of freedom of Judiciary was taken or borrowed from the US constitution. The USA did impart considerable power to the judiciary and made the judiciary free of the biased influence of the executive and the legislature. That is the reason; The US has set an example in front of the whole world, when it comes to the independence of Judiciary. The USA is one of the countries to have adopted the 'principle of separation of powers. There is a clear and distinct line that separates the three major organs- the executive, the legislature and the judiciary. India also follows the same pattern of separation of power. The Constitution lays down the structure and defines the limits and demarcates the role and functions of every organ of the state, including the judiciary, and establishes the norms for their inter-relationship, checks and balances. Independence of the judiciary is essential for upholding the rule of law.[x] So, checks and balances with separation of powers is one of the most characteristic features of our Constitution and the power such defined, should be balanced. No organ should have more power than the other; otherwise, there will be tussles among all the three organs.[xi]

The concept of Judicial Review started from the case of Marbury v. Madison in 1800 in the USA. In this case, Justice John Marshall held that judiciary has inherent power to review actions by legislature even if no explicit provision is given in the constitution.[xii] By adopting a written constitution and an independent judiciary, India has provided the rule of law instead of rule on men to the citizens. However, the rule of law will be rendered useless if the legislature is able to make laws that violate the fundamental rights of the citizen. Thus, the constitution in Art 13 has provided the judiciary with the power to review laws made by the legislature. This is called Judicial Review. In the case of L. Chandra Kumar v. Union of India held that the power vested in SC by art 32 and High Court by art 226 over legislative action is a basic feature.[xiii]

III. INDEPENDENCE OF JUDICIARY AND SEPARATION OF POWERS

As rightly pointed out by the Father of our Constitution, Dr. B. R. Ambedkar-

"There can be no difference of opinion in the House that our judiciary must be both independent of the executive and must also be competent in itself. And the question is how these two objects can be secured ".

After so many years of the construction of the constitution, the meaning of the independence of judiciary is still not clear. Our constitution by the way of the provisions just talks of the independence of the judiciary but it is nowhere defined what actually the independence of the judiciary is. The answer to the question 'why were the framers of our constitution so concerned about the independence of judiciary' lies in the very basic understanding that so as to secure the stability and prosperity of the society, the framers at that time understood that such a society could be created only by guaranteeing the fundamental rights and the independence of the judiciary to guard and enforce those fundamental rights.[xiv] The independence of the judiciary is the basic requisite for ensuring a free and fair society under the rule of law, which is responsible for good governance of the country. It can also be said that an independent judiciary supports the base of doctrine of separation of powers to a large extent. The task given to the judiciary to supervise the doctrine of separation of powers cannot be carried on in true spirit if the judiciary is not independent in itself.[xv]

Shimon Setreet, an Israeli scholar, in his work tries to explain the words "Independence" and "Judiciary" separately, and says that the judiciary is "the organ of the government not forming a part of the executive or the legislative, which is not subject to personal, substantive and collective control, and which performs the primary function of adjudication". The independence of the judiciary as an institution and the independence of the individual judges both have to go hand in hand as the independence of the judiciary as an institution is not possible without the independence of the individual judges and is the institution of the judiciary is not independent; there is no question of the independence of the individual judges.[xvi]

The provisions like Article 50, 211 etc. strengthen this concept. Article 50 contains one of the Directive Principles of State Policy and lays down that the state shall take steps to separate the judiciary from the executive in the public services of the state. The object behind the Directive Principle is to secure the independence of the judiciary from the executive. Article 50 says that there shall be a separate judicial service free from executive control. Article 211 provides that there shall be no discussion in the legislature of the state with respect to the conduct of any judge of Supreme Court or of a High Court in the discharge of his duties. A similar provision is made in Article 121 which lays down that no discussion shall take place in Parliament with respect to the conduct of the judge of Supreme Court or High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the judge.

The salaries and allowances of the judges is also a factor which makes the judges independent as their salaries and allowances are fixed and are not subject to a vote of the legislature. They are charged on the Consolidated Fund of India in case of Supreme Court judges and the Consolidated Fund of state in the case of High Court judges. Their emoluments cannot be altered to their disadvantage (Art. 125(2)) except in the event of grave financial emergency.

Parliament can only add to the powers and jurisdiction of the Supreme Court but cannot curtail them. In the civil cases, Parliament may change the pecuniary limit for the appeals to the Supreme Court. Parliament may enhance the appellate jurisdiction of the Supreme Court. It may confer the supplementary powers on the Supreme Court to enable it work more effectively.[xvii]

IV. CONSTITUTIONAL AMENDMENTS UNDER ARTICLE 368

The society in which we live is on a continuous change and accordingly the laws should be changed or alter so as to meet the changing needs of the society. Therefore, a constitution enacted once may prove to be inadequate at a later stage. Thus, to make it suitable, the method of amendments was introduced in every constitution by which a provision is modified by way of addition, deletion or correction so as to suit the needs of the present.

Oxford's Dictionary of Law says Amendment means changes made to legislation, for the purpose of adding to, correcting or modifying the operation of the legislation. Black's Law Dictionary defines "Amendment" as a formal revision or addition proposed or made to a statute, Constitution, pleading, order, or other instrument and In Parliamentary law, it means a „motion that changes another motion's wording by striking out text, inserting or adding text, or substituting text.

A rigid constitution is a must in a federal system of governance. In case of Indian constitution, it has been argued that it is not rigid enough. That there have been 93 amendments in last 50 years proves this fact. As a comparison, there have been only 27 amendments in the constitution of USA in the past 200 years. This has

been done deliberately to ensure that the constitution can be changed as per the needs of the times. However, to prevent excessive changes on the whims of the ruling party, sufficient safeguards have been put.

The procedure of amending the constitution is given in Article 368. It says that the parliament can amend the constitution under its constituent power. A bill must be presented in either house of the parliament and must be approved by a majority of each house and not less than 2/3 majority of each house present and voting. After such approval the bill is presented to the president for his assent, upon whose assent the constitution shall stand amended as per the provisions of this article.[xviii]

V. JUDICIAL EVOLUTION: FROM PARLIAMENTARY SUPREMACY TO BASIC STRUCTURE

The Framers of the Indian Constitution were aware of the fact that if the Constitution were too rigid then there is a possible threat to democracy and if proves to be too flexible it would work according to the whims and caprices of the ruling parties. Thus, a mixed approach was adopted, proving it to be neither too rigid nor too flexible. Applying the principles of ex visceribus actus (Statute must be constructed as a whole) to the interpretation of the Constitution, Sikri CJ assumed that the meaning of amendment in the constitution is relative to the provision in which it is used.[xix]

Sikri S.M. was of the view that the expression means any addition or change in any of the provisions within the broad contours of the Preamble and the Constitution to carry out the objectives in the Preamble and the directive principles.

The inherent limitations as per the constitution and Parliament's power to amendments can be discussed in following phases: -

Phase I- In the case of Sankari Prasad v. Union of India[xx], the Supreme Court held that the power to amend the constitution including the Fundamental Rights is contained in Article 368, and that the word "Law" in article 13 of the constitution includes only an ordinary law and does not include 'Constitutional Amendment' which is made in exercise of constituent power. The court thus distinguished between the ordinary legislative power and constituent power. In Sajjan Singh v. State of Rajasthan, the Supreme Court held that the words 'Amendment of Constitution' means amendment of all the provisions of constitution.[xxi]

Phase II- In the case of I.C. Golak Nath v. State of Punjab[xxii], the Supreme Court by a majority of 6 to 5 overruled the earlier decisions in Sankari Prasad and Sajjan Singh and held that Parliament cannot amend the Fundamental Rights, as these rights are assigned transcendental position under our constitution. The Chief Justice rejected the argument that the power to amend the constitution was a sovereign power and that it did not permit any implied limitations, and observed that amendment is a legislative process and Article 368 lays down merely the procedure for amendment of the constitution. An Amendment is a law within the meaning of Article 13(2) and therefore, if it violates any of the Fundamental Rights it may be declared void. In answer to the question as to whether there would be any way to change the structure of the Indian Constitution or abridge the Fundamental Rights, J. Hidayatullah referring to the amending process under the French and Japanese Constitutions, explained that Parliament could amend the Article 368 to convoke another or new Constituent assembly. That Assembly might be able to abridge or take away the fundamental rights, if desired. Interestingly, the court however upheld the validity of 1st amendment, 1951, 4th Amendment, 1955, and the 17th Amendment, 1964 though they were found abridging the scope of Fundamental rights. The decision in this case, thus, would not invalidate the amendments made so far as to the fundamental Rights (a large body of legislation had been enacted bringing about agrarian reform in the country, pursuant to these amendments), but in future, Parliament would, the court laid down, have no power to abridge any of the Fundamental Rights.

Phase III- In order to remove difficulties created by the decisions in Golak Nath's case, parliament enacted the 24th Amendment Act, 1971. It not only restored the amending power of parliament but extended its scope by adding the words in article 368, "to amend by way of the addition or variation or repeal any provision of the constitution in accordance with the procedure laid down in this article". A new clause added to Article 13 which provided that "Nothing in this article shall apply to any amendment of this Constitution made under article 368".[xxiii] Thus, the validity of a constitution amendment act shall not be open to question on the ground that it takes away or affects a Fundamental Right. The 24th Amendment act has been held to be valid in Keshvananda's case (though subject to some qualifications).

Phase IV- In the case of Kesavananda Bharati v. State of Kerala, also known as "Fundamental Rights case", the question involved was as to what was the extent of the amending power conferred by article 368. In this case a special bench of 13 judges was constituted to hear the case for 5 months and court gave the longest judgement running into 595 pages. In a judgement of 7 to 6 majority, Sikri, CJ said that the word "amendment" must derive its colour from article 368 and rest of the constitutional provisions. Reading the preamble, the fundamental importance of freedom of individual, the importance of Directive Principles, and various other provisions, a conclusion emerges that it was not the intention of the constitution makers to use the word "Amendment" in the widest sense. The expression "Amendment of the Constitution" in Article 368 means any addition or change in any of the provisions of the Constitution within the broad contours of the Preamble and the Constitution to carry out the objectives in the Preamble and the Directive Principles. Thus, it would mean that, while fundamental rights cannot be abrogated reasonable abridgements of fundamental rights can be affected in the public interest.

Khanna J., said that the word "amendment" postulates that the old Constitution must survive without loss of its identity and must be retained though in an amended form and, thus, the power does not include the power to abrogate the basic structure. According to Sikri, CJ., the 'basic structure' was built on the basic foundation i.e. the freedom and dignity of the individual, the basic structure of the constitution consists of the following features-

- Supremacy of the Constitution;
- Republican and Democratic form of Government.
- Secular character of the Constitution;
- Separation of powers between the Legislature, the executive and the judiciary;
- Federal character of the Constitution.

The minority view in the case held that there are no limitations, express or implied, on the amending power. The word "amendment" did not include the power of completely abrogating the Constitution at one stroke. It, however, seems wide enough to erode the Constitution completely step by step so as to replace it by another constitution. Thus, in their view Fundamental Rights can be abrogated.[xxiv]

Phase V- The case of Indira Gandhi v. Raj Narain[xxv] , popularly known as Election case, an amendment (39th Amendment, 1975) was passed by Parliament for validating with retrospective effect the election of Prime Minister, Mrs. Gandhi; which was declared invalid by the Allahabad HC on the ground of having committed corrupt practice in the new article 329A provided that the election of a person who hold the position of a prime minister, can be challenged only before such a body or forum as may be established by parliament by law, and not in a court. The Supreme Court invalidated the said article on the ground that it was beyond the amending power of parliament as it destroyed the 'basic structure' of the constitution. It violated the free and fair elections which was an essential postulate of the democracy which in turn was a part of basic structure of constitution (Khanna J.).

Chandrachud J. said the Article was outright negation of right of equality conferred by article 14, a right which is a basic postulate of the constitution. He held that these provisions were arbitrary and were calculated to destroy the rule of law. The supreme court added the following features as 'basic features' to the list of basic features as laid down in the case of Kesavananda Bharati:

- Rule of law,
- Judicial review,
- Democracy, which implies free and fair elections,
- Jurisdiction of Supreme Court under Article 32.

The rule of law means Judicial Review, principles which are predictable or recognized, exclusion of arbitrations in official action and equality under Article 14. Ray, CJ, held that since the validation of PM's election was not by applying any law, therefore it offends the rule of law.

Phase VI- In the case of Minerva Mills Ltd. V. Union of India, the constitutional validity of section 4 and section 55 of 42nd Amendment Act, 1976, which effects changes in the Article 31C and Article 368 respectively, was challenged by the petitioner Minerva Mills Ltd.[xxvi]

Section 55 of 42nd amendment act added two new clauses, clause (4) and (5) to article 368: clause (4) says No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article [whether before or after the commencement of section 55 of the Constitution (Forty

second Amendment) Act, 1976] shall be called in question in any court on any ground. And clause (5) says that for the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article. Thus, it would mean that even the "basic structure" of the constitution can be amended. The above amendment was supported by union on the ground that it put an end to any controversy as to which is supreme, Parliament or Supreme Court.

Clause (4) asserted the supremacy of the parliament. It was urged that parliament represents the will of the people and if people desire to amend constitution through Parliament, there can be no limitations whatsoever on the exercise of this power. The theory of 'basic structure' as invented by the Supreme Court is vague and will create difficulties. The amendment was intended to refit this situation. It was argued that the amending body under article 368 has the full constituent power. In other words, the Parliament acts in the same capacity as the constituent Assembly when exercising the power of amendment under Article 368.

The supreme court by 4 to 1 majority struck down clauses (4) and (5) of Article 368 on the ground that these clauses destroyed the essential feature of basic structure of the constitution.

Hence the list of the features of basic structure can be summarized as:

- Rule of law,
- Judicial Review,
- Democracy, which implies free and fair elections,
- Jurisdiction of Supreme Court under Article 32,
- Limited power of parliament to amend the Constitution,
- Harmony and balance between Fundamental Rights and Directive Principles,
- Fundamental Rights in certain cases,
- Power of Judicial Review in certain cases.

VI. CONTEMPORARY CONSTITUTIONAL TENSIONS

In retrospect, the judiciary (particularly the Supreme Court) has been the most effective opposition to the central government. This can already be stated for the Nehru era. Nehru was in favour of radical land reform. But the Supreme Court insisted on full financial compensation of former landlords, reducing the Indian Republic's redistribution options. Nehru repeatedly criticized specific rulings, but, being a trained lawyer himself, he never put the judicial processes or institutions in doubt.

Indira Gandhi did not follow his example. She intended to nationalize the Indian banking sector and abolish the privy purses and other privileges of the nobility that had formally ruled the Indian princely states in colonial days. The Supreme Court overruled her decrees as not being in line with the constitution. This led to a full-blown attack by the prime minister on the Supreme Court.

Recently, the Apex Court of this country gave a very important verdict relating to our election laws. For a layman, this judgment would basically keep the criminals out of our Parliament and the State Legislatures. This case, famously known as Lily Thomas v. Union of India[xxvii], was concerned with the constitutional validity of Section 8 (4) of the Representation of the People Act, 1951. The Court declared the said provision as ultra vires the Constitution of India. However, the sitting MLAs and MPs would not be affected by this decision as it would be against the principles of natural justice to permit the subjects of a State to be punished or penalized by laws of which they had no knowledge and of which they could not even with exercise of due diligence have acquired any knowledge.[xxviii]

"The only question is about the vires of section 8(4) of the Representation of the People Act (RPA) and we hold that it is ultra vires and that the disqualification takes place from the date of conviction," a bench of justices A K Patnaik and S J Mukhopadhaya said. In effect, what the Supreme Court order says is that the disqualification of an MP or MLA will come into effect immediately after the representative is convicted by any court. The SC order also says that the representative cannot contest elections again and a representative cannot cast his vote from jail, under any circumstances. the court said this order will not have a retrospective effect so that those who have filed appeals in cases pending against them will not be affected.

And now Government is planning to counter the ruling by amending the act again to save their "innocent MP/MLAs".

VII. CONCLUSION

A law may be constitutional even though it relates to a single individual if on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by itself. There is always presumption in favour of the constitutionality of a statute and the burden is upon him who attacks it to show that there has been a clear transgression of constitutional principles. In order to sustain the presumption of constitutionality the court may take into consideration maters of common knowledge, matters of report, the history of the times and may assume every state of facts which can be conceived existing at the time of the legislation. Thus, the legislation is free to recognize degrees of harm and may confine its restriction to those cases where the need is deemed to be the clearest. While good faith and knowledge of the existing conditions on the part of a legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may reasonable be regarded as based, the presumption of constitutionality cannot be carried to extent always that there must be some undisclosed and unknown reason for subjecting certain individuals or corporation to be hostile or discriminating legislation.

On a brief overview of the constitutional provisions and judicial decisions, it can be safely concluded that the Indian Constitution enshrines the rule of law as a fundamental governance principle, though the term is not mentioned expressly in the text of the Constitution. Having said this, there are several challenges that pose threat to building a society based on robust rule of law framework. Judicial interpretation suggests that when classified groups don't qualify to be the same, or similarly situated, they don't qualify to be equal either, even if their differences are an outcome of historic or systemic discrimination.

But it is not with a view to infractions of the Constitution only, that the independence of the judges may be an essential safeguard against the effects of occasional ill humors in the society. These sometimes extend no farther than to the injury of the private rights of particular classes of citizens, by unjust and partial laws. Here also the firmness of the judicial magistracy is of vast importance in mitigating the severity and confining the operation of such laws. It not only serves to moderate the immediate mischiefs of those which may have been passed, but it operates as a check upon the legislative body in passing them; who, perceiving that obstacles to the success of iniquitous intention are to be expected from the scruples of the courts, are in a manner compelled, by the very motives of the injustice they meditate, to qualify their attempts. This is a circumstance calculated to have more influence upon the character of our governments, then but few may be aware of.

---

[i] A. Hamid, *Constitutional Law: A Profile of Justice M. Hidayatullah*. Jaipur, India: Printwell Publications, 1992.

[ii] E. S. Corwin, *The Constitution and What It Means Today*. Princeton, NJ, USA: Princeton University Press, 1966, p. 141.

[iii] K. G. Balakrishnan, "Judicial Activism under the Indian Constitution," Address at Trinity College Dublin, Dublin, Ireland, Oct. 14, 2009.

[iv] "Judicial Activism under the Indian Constitution," *Legal Services India*. [Online]. Available: http://www.legalservicesindia.com/articles/pol.htm.

[v] *Sankari Prasad v. Union of India and State of Bihar*, AIR 1951 SC 458.

[vi] *Sajjan Singh v. State of Rajasthan*, AIR 1965 SC 845.

[vii] *I.C. Golaknath and Ors. v. State of Punjab and Anrs.*, AIR 1967 SC 1643.

[viii] *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

[ix] *Minerva Mills Ltd. and Ors. v. Union of India (UOI) and Ors.*, AIR 1980 SC 1789.

[x] K. G. Balakrishnan, "Executive to Blame for Delayed Justice," *The Tribune*, Apr. 10, 2007, p. 10.

[xi] M. P. Raju, "Conflict Within," *Frontline*, Chennai, Apr. 20, 2007, p. 24.

[xii] *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).

[xiii] *L. Chandra Kumar v. Union of India*, AIR 1997 SC 1125.

[xiv] *Supreme Court Advocates-on-Record Association v. Union of India*, AIR 1994 SC 268.

[xv] G. Austin, *The Indian Constitution: Cornerstone of a Nation*. New Delhi, India: Oxford University Press, 2007, p. 50.

[xvi] S. Shetreet, "Judicial Independence: New Conceptual Dimensions and Contemporary Challenges," in *Judicial Independence: The Contemporary Debate*, S. Shetreet and J. Deschênes, Eds. Dordrecht, Netherlands: Martinus Nijhoff Publishers, 1985, pp. 598-599.

[xvii] S. K. Bhatia, *Jurisprudence of Amending Process under Indian Constitution*. New Delhi, India: Deep & Deep Publications, 1989.

[xviii] *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

[xix] D. D. Basu, *Shorter Constitution of India*, 2nd ed. New Delhi, India: Prentice Hall of India, 1989, pp. 144-145.

[xx] *Sankari Prasad v. Union of India*, [1952] SCR 89.

[xxi] *Sajjan Singh v. State of Rajasthan*, [1965] 1 SCR 933.

[xxii] *I.C. Golak Nath v. State of Punjab*, [1967] 2 SCR 762.

[xxiii] The Constitution (Twenty-fourth Amendment) Act, 1971, s. 2.

[xxiv] *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

[xxv] *Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299.

[xxvi] *Minerva Mills Ltd. and Ors. v. Union of India (UOI) and Ors.*, AIR 1980 SC 1789.

[xxvii] *Lily Thomas v. Union of India*, Writ Petition (Civil) No. 490 of 2005, Supreme Court of India, judgment dated July 10, 2013.

[xxviii] *Harla v. State of Rajasthan*, AIR 1951 SC 467