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## **CONSTITUTIONAL AMENDMENTS AND THEIR IMPACT ON SOCIETY: THE CONSTITUTION OF INDIA**

Dr. Vijay Madhu Gawas<sup>1</sup>

### **ABSTRACT**

The Constitution of India was envisioned by its framers as a living, adaptable document capable of responding to the evolving moral, political, and economic needs of society. Since its commencement in 1950, it has undergone over one hundred amendments, each reflecting the dynamic nature of Indian democracy and governance<sup>2</sup>. Through a doctrinal-historical and socio-legal lens, this article examines how constitutional amendments have influenced social equity, federal balance, and democratic accountability<sup>3</sup>. It also evaluates the role of the judiciary in mediating between legislative will and constitutional limitation, focusing on major judgments such as *Kesavananda Bharati v. State of Kerala*, *Minerva Mills Ltd. v. Union of India*, and *I.R. Coelho v. State of Tamil Nadu*<sup>4</sup>. The study concludes that while amendments have been pivotal in promoting inclusion, decentralization, and reform, their legitimacy depends on adherence to the “basic structure” doctrine and the broader principles of constitutional morality<sup>5</sup>.

**Keywords:** Constitutional amendment, Basic Structure doctrine, Indian society, Fundamental Rights, decentralization, social justice, judicial review, constitutional change

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<sup>1</sup> The author is Assistant Professor in Law, at Manohar Parrikar School of Law, Governance and Public Policy, Goa University, Taleigao Plateau, Goa.

<sup>2</sup> *Granville Austin, The Indian Constitution: Cornerstone of a Nation* (Oxford Univ. Press 1966).

<sup>3</sup> *Upendra Baxi, The Indian Supreme Court and Politics 35–42* (Eastern Book Co. 1980).

<sup>4</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625; *I.R. Coelho v. State of Tamil Nadu*, (2007) 2 SCC 1.

<sup>5</sup> *M.P. Jain, Indian Constitutional Law 159–164* (8th ed. LexisNexis 2023).

## **INTRODUCTION**

A constitution is not merely a legal document, but it embodies the moral and institutional philosophy of a nation<sup>6</sup>. It defines the framework of government, distributes power among state organs, and safeguards the rights and liberties of citizens<sup>7</sup>. Yet, as society evolves, constitutions must also evolve to remain relevant and responsive<sup>8</sup>. The framers of the Indian Constitution recognized this necessity and incorporated Article 368 to enable formal amendment<sup>9</sup>. Since independence, the amending process has served as both a tool for democratic reform and a site of contestation between the legislature, judiciary, and people<sup>10</sup>.

Although the Indian Constitution has been amended over a hundred times, most academic work continues to treat these amendments as discrete legal or technical events, rather than as instruments shaping social transformation<sup>11</sup>. Scholars often emphasize procedural aspects, such as the method of amendment under Article 368, but rarely investigate how these constitutional changes reverberate across society, influencing equality, representation, and public trust<sup>12</sup>. The power to amend has itself become a site of constitutional tension: while Parliament claims sovereign authority to adapt the Constitution, the judiciary asserts its role as guardian of the “basic structure”<sup>13</sup>. This unresolved dialogue generates uncertainty about the boundaries of legitimate constitutional change<sup>14</sup>. Accordingly, the central research problem lies in understanding how constitutional amendments in India affect social outcomes and how judicial doctrines mediate that impact<sup>15</sup>.

## **LITERATURE REVIEW AND RESEARCH GAPS**

The study of constitutional amendments in India spans legal doctrine, political theory, and comparative constitutionalism. Early constitutional scholars such as Granville Austin highlighted the Indian Constitution as both a social and legal revolution, tracing how

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<sup>6</sup>S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 12–13 (2d ed., Oxford Univ. Press 2002).

<sup>7</sup>Constituent Assembly Debates, Vol. VII, 30 Nov. 1948 (B.R. Ambedkar’s Speech on Draft Article 368).

<sup>8</sup>Sudhir Krishnaswamy, *Democracy and Constitutionalism in India* 44–45 (Oxford Univ. Press 2009).

<sup>9</sup>India Const. art. 368.

<sup>10</sup>S.R. Bommai v. Union of India, (1994) 3 SCC 1.

<sup>11</sup>M.P. Singh, V.N. Shukla’s *Constitution of India* 107–110 (14th ed., EBC 2023).

<sup>12</sup>Madhav Khosla, *India’s Founding Moment: The Constitution of a Most Surprising Democracy 198–200* (Harvard Univ. Press 2020).

<sup>13</sup>Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.

<sup>14</sup>Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.

<sup>15</sup>Upendra Baxi, *Courage, Craft, and Contention: The Indian Supreme Court in the Eighties* 47 (N.M. Tripathi 1985).

amendments reflected the nation's struggle for justice and equality<sup>16</sup>. Subsequent legal analyses, notably by H.M. Seervai and M.P. Jain, concentrated on the interpretive scope of Article 368 and the judicial control of Parliament's amending power<sup>17</sup>. Political scientists, including Rajeev Bhargava and Madhav Khosla, have explored the philosophical foundations of constitutional change, linking them to questions of identity, democracy, and representation<sup>18</sup>. Despite these contributions, existing literature often isolates legal change from its societal context, producing a fragmented understanding of constitutional evolution<sup>19</sup>. What remains underexplored is how amendments such as those expanding education, reservation, or local governance translate into lived social realities and whether they fulfil the normative goals of the Constitution<sup>20</sup>. This study addresses that gap by offering an integrated socio-legal analysis combining doctrinal, judicial, and societal perspectives<sup>21</sup>.

The primary objective of this research is to examine the multifaceted impact of constitutional amendments on India's social, political, and institutional fabric<sup>22</sup>. It aims to evaluate how amendments to the Constitution have redefined the relationship between the State and the citizen, particularly in areas concerning social justice, fundamental rights, and democratic governance<sup>23</sup>. The study also explores whether the constitutional amendment process has strengthened or weakened the principle of separation of powers, federal balance, and constitutional morality<sup>24</sup>.

## **HYPOTHESIS**

The hypothesis guiding this research is that "constitutional amendments in India, though designed to promote social reform and administrative efficiency, often generate tension between democratic majoritarianism and constitutionalism"<sup>25</sup>. The study posits that the legitimacy of amendments depends not only on procedural compliance under Article 368 but

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<sup>16</sup>Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 25–27 (Oxford Univ. Press 1966).

<sup>17</sup>H.M. Seervai, *Constitutional Law of India* 302–308 (4th ed., Universal Law Publishing 2013).

<sup>18</sup>Rajeev Bhargava, *Politics and Ethics of the Indian Constitution* 87–90 (Oxford Univ. Press 2008).

<sup>19</sup>Gautam Bhatia, "The Transformative Constitution: A Radical Biography in Nine Acts," *11 Indian J. Const. L.* 1, 7 (2017).

<sup>20</sup>Niraja Gopal Jayal, "Representation, Accountability, and Constitutional Change," *52 Econ. & Pol. Wkly.* 34, 37 (2017).

<sup>21</sup>Sudhir Krishnaswamy, *Democracy and Constitutionalism in India* 42–46 (Oxford Univ. Press 2009).

<sup>22</sup>M.P. Jain, *Indian Constitutional Law* 170–172 (8th ed., LexisNexis 2023).

<sup>23</sup>*State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310.

<sup>24</sup>P.B. Mehta, *The Burden of Democracy* 98–100 (Penguin 2003).

<sup>25</sup>Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.

also on their substantive compatibility with the Constitution's "basic structure"<sup>26</sup>. Through case-law analysis and doctrinal interpretation, this hypothesis seeks to demonstrate that constitutional evolution must align with both democratic will and enduring constitutional principles<sup>27</sup>.

## **RESEARCH METHODOLOGY**

This study adopts a doctrinal and socio-legal research methodology<sup>28</sup>. The doctrinal method involves critical analysis of constitutional provisions, parliamentary debates, and landmark Supreme Court judgments to trace the evolution of the amending power under Article 368<sup>29</sup>.

The socio-legal dimension examines how amendments influence society particularly in terms of equality, decentralization, and access to justice through empirical findings and secondary data<sup>30</sup>. By combining these approaches, the research bridges the gap between legal formalism and social reality, revealing how constitutional law operates as a living instrument<sup>31</sup>.

Data for this study have been collected primarily from secondary sources, including constitutional commentaries, law journals, judicial decisions, parliamentary proceedings, and scholarly monographs<sup>32</sup>.

Qualitative analysis is used to interpret judicial reasoning, legislative intent, and academic critiques, while maintaining a normative focus on justice and constitutional morality<sup>33</sup>. The methodology thus aligns with the interpretive tradition of Indian constitutional scholarship, emphasizing the dynamic relationship between law and society<sup>34</sup>.

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<sup>26</sup>*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

<sup>27</sup>Sudhir Krishnaswamy, \*Democracy and Constitutionalism.

<sup>28</sup>J.N. Pandey, *Constitutional Law of India* 93–94 (52d ed., Central Law Agency 2024).

<sup>29</sup>*India Const. art. 368; Shankari Prasad v. Union of India*, AIR 1951 SC 458.

<sup>30</sup>B. Shiva Rao, *The Framing of India's Constitution: A Study* 310–312 (Indian Institute of Public Administration 1968).

<sup>31</sup>Upendra Baxi, *The Indian Supreme Court and Politics* 41–45 (Eastern Book Co. 1980).

<sup>32</sup>*Lok Sabha Debates*, Vol. 27, col. 4894–4901 (1951).

<sup>33</sup>Rajeev Bhargava, *Politics and Ethics of the Indian Constitution* 74–77 (Oxford Univ. Press 2008).

<sup>34</sup>Granville Austin, *Working a Democratic Constitution: The Indian Experience* 512–515 (Oxford Univ. Press 1999).

## **SCOPE AND LIMITATIONS**

The scope of this research encompasses a detailed study of selected constitutional amendments that have significantly influenced India's socio-political structure, such as the First, Forty-Second, Forty-Fourth, Seventy-Third, Seventy-Fourth, Eighty-Sixth, and One Hundred and Third Amendments<sup>35</sup>. These amendments collectively illustrate the tension between power centralization and democratic decentralization, as well as the ongoing redefinition of fundamental rights and directive principles<sup>36</sup>.

The analysis also includes judicial interpretation of these amendments, particularly how the Supreme Court has mediated conflicts between constitutional change and constitutional identity<sup>37</sup>. The scope extends to the study of constitutional morality, judicial review, and public participation as foundational criteria for legitimate amendment<sup>38</sup>. However, the research is limited by the absence of primary field data; it relies on secondary literature, judicial records, and official reports<sup>39</sup>. Another limitation is the dynamic nature of constitutional interpretation—new judgments or legislative actions may alter current understandings<sup>40</sup>. Despite these constraints, the study aims to provide a balanced and holistic view of how amendments influence Indian democracy both institutionally and socially<sup>41</sup>.

## **DOCTRINAL ANALYSIS OF CONSTITUTIONAL AMENDMENTS**

The doctrine of constitutional amendment under Article 368 represents the dynamic balance between rigidity and flexibility<sup>42</sup>. Unlike the U.S. Constitution, which requires ratification by three-fourths of the states, the Indian Constitution under Article 368 allows for both flexibility and adaptability through a special majority of Parliament, and in some cases, state ratification<sup>43</sup>. This design ensures that the Constitution remains a living document, capable of responding to changing socio-political realities<sup>44</sup>. However, the broad wording of Article 368 also created ambiguity regarding the limits of the amending power, prompting several

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<sup>35</sup> M.P. Jain, *Indian Constitutional Law 175–177* (8th ed., LexisNexis 2023).

<sup>36</sup> *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1.

<sup>37</sup> *I.R. Coelho v. State of Tamil Nadu*, (2007) 2 SCC 1.

<sup>38</sup> B.R. Ambedkar, *Speeches in the Constituent Assembly*, Vol. XI, 15 Nov. 1948.

<sup>39</sup> Niraja Gopal Jayal, "Democracy and the Constitution," 53 Econ. & Pol. Wkly. 12, 16 (2018).

<sup>40</sup> Gautam Bhatia, *The Transformative Constitution 189–191* (HarperCollins 2019).

<sup>41</sup> Sudhir Krishnaswamy, *Democracy and Constitutionalism in India 49–52* (Oxford Univ. Press 2009).

<sup>42</sup> H.M. Seervai, *Constitutional Law of India 303–305* (4th ed., Universal Law Publ'g 2013).

<sup>43</sup> *India Const. art. 368*.

<sup>44</sup> B. Shiva Rao, *The Framing of India's Constitution: A Study 312–314* (Indian Institute of Public Administration 1968).

landmark judicial interpretations<sup>45</sup>. The Supreme Court in *Shankari Prasad v. Union of India* (1951) initially upheld Parliament's power to amend fundamental rights, holding that the term "law" under Article 13 did not include constitutional amendments<sup>46</sup>. This position was reaffirmed in *Sajjan Singh v. State of Rajasthan* (1965)<sup>47</sup>. However, in *Golaknath v. State of Punjab* (1967), the Court reversed its earlier stance, ruling that Parliament could not abridge or take away fundamental rights<sup>48</sup>. This judicial oscillation culminated in the historic *Kesavananda Bharati* decision (1973), where the Supreme Court reconciled parliamentary sovereignty with constitutional supremacy by articulating the "basic structure doctrine"<sup>49</sup>. This doctrine remains the cornerstone of Indian constitutionalism, asserting that while Parliament can amend, it cannot destroy the essential features of the Constitution<sup>50</sup>.

### **MAJOR CONSTITUTIONAL AMENDMENTS AND THEIR IMPACT**

The First Amendment, 1951 The First Amendment marked the beginning of India's constitutional evolution by curbing judicial review over land reform and restricting the scope of fundamental rights under Articles 19(1)(a) and 19(1)(g)<sup>51</sup>. It inserted Articles 31A and 31B and created the Ninth Schedule to protect agrarian legislation from judicial invalidation and thereby sought to reconcile the ideals of socio-economic reform with property rights<sup>52</sup>. While this amendment strengthened the government's capacity to implement land redistribution and eliminate feudal inequities, it also triggered a foundational debate over the limits of state power and individual liberty<sup>53</sup>. The judiciary, through subsequent rulings such as *State of Bihar v. Kameshwar Singh*, recognized the constitutional legitimacy of redistributive justice while emphasizing the need for judicial oversight<sup>54</sup>. Thus, the First Amendment established a pattern where social transformation and constitutional rights remained in constant negotiation<sup>55</sup>.

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<sup>45</sup> H.M. Seervai, *Constitutional Law of India* 305–308 (4th ed., Universal Law Publishing 2013).

<sup>46</sup> *Shankari Prasad v. Union of India*, AIR 1951 SC 458.

<sup>47</sup> *Sajjan Singh v. State of Rajasthan*, AIR 1965 SC 845.

<sup>48</sup> *I.C. Golaknath v. State of Punjab*, AIR 1967 SC 1643.

<sup>49</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

<sup>50</sup> Upendra Baxi, *The Indian Supreme Court and Politics* 83–85 (Eastern Book Co. 1980).

<sup>51</sup> *India Const. (First Amendment) Act, 1951*.

<sup>52</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 132–134 (Oxford Univ. Press 1966).

<sup>53</sup> B. Shiva Rao, *The Framing of India's Constitution: A Study* 389–391 (Indian Institute of Public Administration 1968).

<sup>54</sup> *State of Bihar v. Kameshwar Singh*, AIR 1952 SC 252.

<sup>55</sup> M.P. Jain, *Indian Constitutional*.

### **(i) The Forty-Second Amendment, 1976**

Often termed the “Mini-Constitution,” the Forty-Second Amendment represented the most sweeping constitutional alteration in India’s history<sup>56</sup>. Enacted during the Emergency (1975–77), it sought to consolidate executive dominance by expanding Parliament’s power, curtailing judicial review, and emphasizing Directive Principles over Fundamental Rights<sup>57</sup>. It also introduced the words “socialist” and “secular” into the Preamble, reflecting a more interventionist vision of the state<sup>58</sup>. However, the Amendment’s expansive reach particularly its attempt to insulate constitutional amendments from judicial scrutiny under Article 368(4) and (5) provoked sharp criticism for undermining the balance of power<sup>59</sup>. In *Minerva Mills Ltd. v. Union of India*, the Supreme Court struck down these provisions, reaffirming that limited amending power is itself a part of the basic structure<sup>60</sup>. The judgment restored judicial review and reaffirmed that harmony between Fundamental Rights and Directive Principles is a cornerstone of the constitutional order<sup>61</sup>.

### **(ii) The Forty-Fourth Amendment, 1978**

The Forty-Fourth Amendment, passed in the aftermath of the Emergency, was intended to restore democratic equilibrium and prevent future authoritarian misuse of power<sup>62</sup>. It repealed several provisions of the Forty-Second Amendment, reinstating the centrality of Fundamental Rights and limiting the grounds for emergency proclamation<sup>63</sup>. The amendment ensured that Articles 20 and 21 the rights to life and personal liberty could not be suspended even during a national emergency<sup>64</sup>. It also restored judicial oversight over constitutional amendments and executive actions, reaffirming the supremacy of the Constitution over transient political

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<sup>56</sup>*India Const. (Forty-Second Amendment) Act, 1976.*

<sup>57</sup>*Indira Nehru Gandhi v. Raj Narain, 1975 Supp SCC 1.*

<sup>58</sup>*B.L. Hansaria, Does the Forty-Second Amendment Weaken Our Constitution? 18 J. Indian L. Inst. 307, 312 (1976).*

<sup>59</sup>*H.M. Seervai, Constitutional Law of India 1215–1219 (4th ed., Universal Law Publishing 2013).*

<sup>60</sup>*Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.*

<sup>61</sup>*Upendra Baxi, Courage, Craft and Contention: The Indian Supreme Court in the Eighties 57–60 (N.M. Tripathi 1985).*

<sup>62</sup>*India Const. (Forty-Fourth Amendment) Act, 1978.*

<sup>63</sup>*M.P. Singh, V.N. Shukla’s Constitution of India 413–416 (14th ed., Eastern Book Co. 2023).*

<sup>64</sup>*ADM Jabalpur v. Shivkant Shukla, (1976) 2 SCC 521 (overruled by implication).*

majorities<sup>65</sup>.<sup>4</sup> This amendment symbolized the reassertion of constitutional morality, marking a decisive shift toward liberal democracy after a period of constitutional distortion<sup>66</sup>.

### **(iii)The Seventy-Third and Seventy-Fourth Amendments, 1992: Deepening Democratic Decentralization**

The Seventy-Third and Seventy-Fourth Amendments, enacted in 1992, mark a watershed moment in India's democratic evolution by institutionalizing local self-government through Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs)<sup>67</sup>. These amendments inserted Parts IX and IX-A and the Eleventh and Twelfth Schedules into the Constitution, thereby granting constitutional status to local governance<sup>68</sup>. Their objectives were to promote participatory democracy, empower marginalized sections through political reservation, and enhance administrative efficiency by bringing governance closer to the people<sup>69</sup>. The Seventy-Third Amendment (Part IX) mandated the establishment of a three-tier system of Panchayats village, intermediate, and district levels with regular elections every five years<sup>70</sup>. Article 243D provided for the reservation of one-third of the seats for women and proportional representation for Scheduled Castes (SCs) and Scheduled Tribes (STs)<sup>71</sup>. Simultaneously, the Seventy-Fourth Amendment (Part IX-A) sought to strengthen urban governance through municipal institutions with functional and fiscal autonomy<sup>72</sup>. Together, these amendments aimed to realize Mahatma Gandhi's vision of Gram Swaraj self-rule at the grassroots<sup>73</sup>. Despite their transformative potential, the implementation of these amendments has been uneven<sup>74</sup>. Variations in devolution of power, resource allocation, and administrative capacity across states have limited the realization of genuine autonomy<sup>75</sup>. Judicial interventions, such as in *K. Krishnamurthy v. Union of India*, have reinforced the constitutional importance of fair representation and periodic elections, emphasizing that local

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<sup>65</sup> *Waman Rao v. Union of India*, (1981) 2 SCC 362.

<sup>66</sup> *Granville Austin, Working a Democratic Constitution: The Indian Experience* 293–297 (Oxford Univ. Press 1999).

<sup>67</sup> *India Const. (Seventy-Third Amendment) Act, 1992; India Const. (Seventy-Fourth Amendment) Act, 1992*.

<sup>68</sup> *M.P. Jain, Indian Constitutional Law* 1367–1372 (8th ed., LexisNexis 2023).

<sup>69</sup> *George Mathew, Status of Panchayati Raj in the States and Union Territories of India* 21–25 (Concept Publ'g Co. 2000).

<sup>70</sup> *India Const. art. 243B–C*.

<sup>71</sup> *India Const. art. 243D*.

<sup>72</sup> *India Const. art. 243P–ZG*.

<sup>73</sup> *Granville Austin, Working a Democratic Constitution: The Indian Experience* 614–617 (Oxford Univ. Press 1999).

<sup>74</sup> *T.R. Raghunandan, Decentralization and Local Governments: The Indian Experience* 73–75 (Routledge 2012).

<sup>75</sup> *Rajiv Gandhi Institute for Contemporary Studies, Twenty Years of the 73rd and 74th Amendments: The Road Ahead* 13–18 (RGICS Working Paper 2013).

bodies are integral to democratic functioning<sup>76</sup>. Nonetheless, empirical studies reveal that these amendments have substantially increased the participation of women and marginalized communities in governance, albeit within structural constraints<sup>77</sup>.

#### **(iv) The Eighty-Sixth Amendment, 2002: The Right to Education**

The Eighty-Sixth Amendment, enacted in 2002, represents a major step toward realizing the constitutional promise of social and economic justice<sup>78</sup>. It inserted Article 21-A, guaranteeing free and compulsory education for all children between the ages of six and fourteen years, thereby transforming what was previously a Directive Principle under Article 45 into a justiciable Fundamental Right<sup>79</sup>. The amendment was supplemented by the Right of Children to Free and Compulsory Education Act, 2009, which operationalized this mandate<sup>80</sup>. The jurisprudence of the Supreme Court in *Unni Krishnan, J.P. v. State of Andhra Pradesh* laid the groundwork by recognizing education as implicit in the right to life under Article 21<sup>81</sup>. The constitutionalization of this right through the Eighty-Sixth Amendment elevated education to the status of a fundamental entitlement essential for human dignity and national development<sup>82</sup>. Nevertheless, persistent inequalities in infrastructure, teacher quality, and learning outcomes demonstrate the gap between constitutional aspiration and ground reality<sup>83</sup>.

#### **(v) The Ninety-Third Amendment, 2005: Reservation in Educational Institutions**

The Ninety-Third Amendment added clause (5) to Article 15, empowering the State to make special provisions for the advancement of socially and educationally backward classes in admissions to educational institutions, including private unaided ones<sup>84</sup>. It sought to uphold substantive equality by extending affirmative action beyond state-run institutions<sup>85</sup>. The amendment emerged in response to judicial decisions that had limited the scope of

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<sup>76</sup>*K. Krishnamurthy v. Union of India*, (2010) 7 SCC 202.

<sup>77</sup>*Niraja Gopal Jayal, Democracy and the State: Welfare, Secularism and Development in Contemporary India* 94–97 (Oxford Univ. Press 1999).

<sup>78</sup>*India Const. (Eighty-Sixth Amendment) Act, 2002*.

<sup>79</sup>*India Const. art. 21-A*.

<sup>80</sup>*The Right of Children to Free and Compulsory Education Act, No. 35 of 2009, § 3 (India)*.

<sup>81</sup>*Unni Krishnan, J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645.

<sup>82</sup>*Amartya Sen, Development as Freedom* 143–147 (Oxford Univ. Press 1999).

<sup>83</sup>*Geeta Kingdon, The Progress of School Education in India* 41 (Oxford Rev. Econ. Pol'y 2007).

<sup>84</sup>*India Const. (Ninety-Third Amendment) Act, 2005*.

<sup>85</sup>*Marc Galanter, Competing Equalities: Law and the Backward Classes in India* 337–340 (Oxford Univ. Press 1984).

reservations in private educational settings, notably *T.M.A. Pai Foundation v. State of Karnataka* and *P.A. Inamdar v. State of Maharashtra*<sup>86</sup>. The Supreme Court in *Ashoka Kumar Thakur v. Union of India* upheld the amendment's constitutionality while emphasizing that the policy must avoid excessive reservation and periodic review to ensure fairness<sup>87</sup>. The amendment has broadened access to higher education for disadvantaged groups, yet it continues to provoke debate over the balance between merit and social justice<sup>88</sup>.

**(vi) The One Hundred and Sixth Amendment, 2019: Extension of SC/ST Representation**

The One Hundred and Sixth Amendment, passed in 2019, extended the constitutional reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and state legislatures for another ten years<sup>89</sup>. This periodic extension underscores India's continued commitment to political empowerment and social inclusion of historically marginalized communities<sup>90</sup>. While the amendment reaffirmed the constitutional promise of equality, scholars note that the persistence of caste-based inequalities necessitates not just legislative representation but also substantive empowerment through education, employment, and social reform<sup>91</sup>.

**(vii) The Women's Reservation Bill, 2023**

The Women's Reservation Bill enacted as the One Hundred and Sixteenth (later renumbered as the One Hundred and Twenty-Eighth) Constitutional Amendment Act, 2023 reserves one-third of the seats in the Lok Sabha and state legislative assemblies for women<sup>92</sup>. This amendment signifies a landmark moment in India's gender justice discourse, promising to reshape political participation and representation<sup>93</sup>. It builds on earlier efforts at the local level through the 73rd and 74th Amendments, which had reserved seats for women in Panchayats and municipalities<sup>94</sup>. The amendment's potential impact extends beyond

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<sup>86</sup> *T.M.A. Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481; *P.A. Inamdar v. State of Maharashtra*, (2005) 6 SCC 537

<sup>87</sup> *Ashoka Kumar Thakur v. Union of India*, (2008) 6 SCC 1.

<sup>88</sup> *Madhav Khosla, The Indian Constitution* 89–92 (Oxford Univ. Press 2012).

<sup>89</sup> *India Const. (One Hundred and Sixth Amendment) Act, 2019*.

<sup>90</sup> *B.L. Hansaria, Reservation in Politics and Public Employment* 211–214 (Eastern Book Co. 2020).

<sup>91</sup> *Christophe Jaffrelot, India's Silent Revolution: The Rise of the Lower Castes in North India* 395–398 (Hurst & Co. 2003).

<sup>92</sup> *The Constitution (One Hundred and Twenty-Eighth Amendment) Act, 2023 (India)*.

<sup>93</sup> *Bina Agarwal, Gender and Governance: The Political Economy of Women's Empowerment* 17–20 (UNDP Working Paper 2019).

<sup>94</sup> *Nivedita Menon, Seeing Like a Feminist* 122–126 (Zubaan Books 2012).

numerical representation: studies predict a positive correlation between women's political presence and policy outcomes in education, health, and social welfare<sup>95</sup>. However, the delay in its implementation pending delimitation and census reforms highlights the enduring institutional inertia in translating equality commitments into practice<sup>96</sup>.

### **(viii) Abrogation of Article 370: Integration of Jammu and Kashmir**

The abrogation of Article 370 in 2019 through Presidential Order C.O. 272 and the Jammu and Kashmir Reorganisation Act marked a profound constitutional and political transformation<sup>97</sup>. The measure revoked the region's special status and bifurcated the former state into two Union Territories - Jammu and Kashmir, and Ladakh<sup>98</sup>. Supporters argue that this moves furthered national integration and uniform application of constitutional rights, while critics contend that it eroded the federal principle and democratic consent<sup>99</sup>. The issue remains under judicial scrutiny before the Supreme Court, raising pivotal questions about constitutional federalism, autonomy, and the nature of Indian unionism<sup>100</sup>.

## **DISCUSSION**

The constitutional amendment process in India illustrates a dynamic tension between parliamentary sovereignty and constitutional supremacy<sup>101</sup>. The judiciary's invention of the basic-structure doctrine in *Kesavananda Bharati* transformed the Constitution from a flexible document into a guarded charter of core principles, balancing democratic responsiveness with legal continuity<sup>102</sup>. Amendments such as the 73rd, 74th, and 86th have advanced social justice and participatory governance, while others like the 42<sup>nd</sup> serve as cautionary tales of executive overreach<sup>103</sup>. The evolving dialogue between Parliament and the judiciary represents a form

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<sup>95</sup> *Raghabendra Chattopadhyay & Esther Duflo, Women as Policy Makers: Evidence from a Randomized Policy Experiment in India*, 72 *Econometrica* 1409, 1410 (2004).

<sup>96</sup> *Niraja Gopal Jayal, Politics of Representation in Contemporary India* 54–57 (Cambridge Univ. Press 2021).

<sup>97</sup> *Presidential Order C.O. 272 (2019); Jammu and Kashmir Reorganisation Act, No. 34 of 2019 (India)*.

<sup>98</sup> *A.G. Noorani, Article 370: A Constitutional History of Jammu and Kashmir* 289–292 (Oxford Univ. Press 2011).

<sup>99</sup> *Suhas Palshikar, India after Article 370: The Challenges of Federalism* 55 *Econ. & Pol. Wkly.* 11, 12 (2019).

<sup>100</sup> *Supreme Court of India, In re Abrogation of Article 370, W.P. (Civil) No. 1099 of 2019 (pending)*.

<sup>101</sup> *S.P. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits* 71–73 (Oxford Univ. Press 2003).

<sup>102</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

<sup>103</sup> *Granville Austin, Working a Democratic Constitution: The Indian Experience* 296–298 (Oxford Univ. Press 1999).

of “negotiated constitutionalism,” ensuring that neither institution monopolizes the authority of constitutional interpretation<sup>104</sup>.

To make the amendment process more democratic and transparent, India could adopt mechanisms such as pre-legislative public consultation, impact assessment of amendments, and greater state participation in constitutionally sensitive reforms<sup>105</sup>. The judiciary should also refine the scope of the basic-structure doctrine by articulating clearer principles of application, thereby minimizing interpretive uncertainty<sup>106</sup>. Moreover, embedding a Constitutional Impact Assessment (CIA) mechanism similar to human-rights or environmental impact assessments could evaluate potential social effects before any amendment is enacted<sup>107</sup>. Comparative experiences from South Africa and Germany suggest that participatory constitutionalism enhances both legitimacy and stability<sup>108</sup>.

## **CONCLUSION**

Constitutional amendments in India demonstrate that the Constitution is indeed a living document, capable of adapting to shifting social, political, and economic conditions<sup>109</sup>. Through the dialectic of legislation and judicial review, India has forged a unique model of constitutionalism that reconciles change with continuity<sup>110</sup>. While many amendments have advanced the ideals of equality, decentralization, and empowerment, the risks of politicization and institutional imbalance persist<sup>111</sup>. To safeguard constitutional integrity, future reforms must emphasize deliberation, inclusivity, and adherence to the basic structure<sup>112</sup>. A transparent, participatory, and socially grounded amendment process will ensure that constitutional change continues to promote justice, liberty, equality, and fraternity the timeless ideals enshrined in the Preamble<sup>113</sup>.

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<sup>104</sup>Rosalind Dixon & Tom Ginsburg, *The Forms and Limits of Constitutional Amendment*, 82 *Int'l J. Const. L.* 123, 129 (2019).

<sup>105</sup>Rajeev Bhargava, *Politics and Ethics of the Indian Constitution* 287–290 (Oxford Univ. Press 2008).

<sup>106</sup>Madhav Khosla, *India's Founding Moment: The Constitution of a Most Surprising Democracy* 198–200 (Harvard Univ. Press 2020).

<sup>107</sup>Sujit Choudhry, *Constitutional Design for Divided Societies* 262–265 (Oxford Univ. Press 2008).

<sup>108</sup>Vicki Jackson, *Comparative Constitutionalism and the Design of Constitutional Amendment Procedures* 49 *Harv. Int'l L.J.* 1, 3 (2008).

<sup>109</sup>Granville Austin, *The Indian Constitution: Cornerstone of a Nation* xi (Oxford Univ. Press 1966).

<sup>110</sup>Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.

<sup>111</sup>S.P. Sathe, *Judicial Activism in India* 85–87 (Oxford Univ. Press 2003).

<sup>112</sup>I.R. Coelho v. State of Tamil Nadu, (2007) 2 SCC 1.

<sup>113</sup>Preamble, *Constitution of India*.