

INTERNATIONAL JOURNAL FOR

CONSTITUTION

& DEVELOPMENT OF LAW [IJCDL]

ISSN. 3049-3579 (ONLINE)

2025

VOLUME 1 ISSUE 4

This Article is brought to you for "free" and "open access" by the International Journal for Constitution and Development of Law. It has been accepted for inclusion in the Journal after due review.

To submit your Manuscript for Publication at International Journal for Constitution and Development of Law, kindly email your Manuscript at ijcdl.official@gmail.com.

**EXECUTIVE POWER AND THE SYSTEM OF CHECKS AND
BALANCES IN MODERN GOVERNMENT: A CONSTITUTIONAL AND
COMPARATIVE ANALYSIS WITH REFERENCE TO INDIA.**

Dr. Vijay Madhu Gawas¹

ABSTRACT

The doctrine of checks and balances constitutes a cornerstone of modern constitutional democracies, ensuring that political power is not concentrated in a single branch of government². Within the Indian constitutional framework, this principal manifests through a dynamic interaction between the executive, legislature, and judiciary, each entrusted with distinct powers and mechanisms of accountability³. This research paper critically examines the scope, limits, and constitutional evolution of executive power within India's system of checks and balances⁴. It contextualizes the Indian model within broader comparative frameworks drawn from the United States and the United Kingdom, exploring how judicial review, parliamentary oversight, and presidential discretion collectively preserve constitutional equilibrium⁵. Through doctrinal and analytical methods, the paper evaluates the transformation of executive authority in light of recent Supreme Court jurisprudence, including *Kesavananda Bharati v. State of Kerala*, *K.S. Puttaswamy v. Union of India*, and *Navtej Singh Johar v. Union of India*⁶. It concludes that while India's separation of powers remains flexible, its checks and balances mechanisms continue to evolve as instruments of constitutional morality and democratic governance⁷.

Keywords: Executive Power; Separation of Powers; Checks and Balances; Judicial Review; Indian Constitution; Parliamentary Accountability; Constitutional Law; Supreme Court Jurisprudence; Administrative Law; Comparative Constitutionalism

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

² A.V. Dicey, Introduction to the Study of the Law of the Constitution, para 115–19 (10th ed. 1959).

³ India Const. arts. 74–75, 100–105.

⁴ Granville Austin, Working a Democratic Constitution para 250–54 (1999).

⁵ Carl J. Friedrich, Constitutional Government and Democracy, para 23–28 (1950); Granville Austin, The Indian Constitution: Cornerstone of a Nation, para 145–50 (1966).

⁶ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

⁷ H.M. Seervai, Constitutional Law of India, para 467–70 (4th ed. 2013).

INTRODUCTION

The doctrine of checks and balances represents one of the most fundamental organizing principles in constitutional democracies worldwide. It functions as a safeguard against the concentration and abuse of governmental power, ensuring that each branch of the state the executive, the legislature, and the judiciary acts within constitutionally prescribed limits⁸. In the Indian context, this principle forms the bedrock of democratic governance, enshrined implicitly within the Constitution of India⁹. The framers of the Constitution, inspired by the experiences of the United States and the United Kingdom, sought to design a system that balanced administrative efficiency with accountability¹⁰. Consequently, the Indian constitutional structure combines a parliamentary executive with judicial independence and legislative oversight, establishing a nuanced balance rather than a rigid separation of powers¹¹.

The Indian executive operates within a parliamentary framework in which the real authority lies with the Council of Ministers headed by the Prime Minister, while the President remains the constitutional head of state¹². This arrangement, while promoting unity of command, inherently subjects the executive to the confidence of the Lok Sabha¹³. The system thus ensures that executive power, though extensive, is exercised under legislative scrutiny and subject to judicial review¹⁴. The Constitution's architecture, therefore, represents a deliberate blend of separation and cooperation among the branches, allowing each to act as a restraint upon the others while maintaining institutional harmony¹⁵.

At the same time, the Indian judiciary has emerged as a pivotal institution in maintaining the balance of power. Judicial review serves as a constitutional check, ensuring that both the legislature and executive operate within the boundaries of the Constitution¹⁶. In landmark judgments such as *Kesavananda Bharati v. State of Kerala* and *Minerva Mills Ltd. v. Union of India*, the Supreme Court declared that the "basic structure" of the Constitution cannot be abrogated, thereby entrenching the supremacy of constitutional principles over transient

⁸Montesquieu, *The Spirit of Laws* (1748).

⁹The Constitution of India, Preamble; Articles 50, Art. 74, Art. 75, Art. 121, and Art. 122.

¹⁰B. Shiva Rao, *The Framing of India's Constitution: A Study* (1953).

¹¹M.P. Jain, *Indian Constitutional Law* 163–65 (8th ed. 2018).

¹²India Const. Art. 74.

¹³India Const. Art. 75(3).

¹⁴*State of Rajasthan v. Union of India*, (1977) 3 SCC 592.

¹⁵D.D. Basu, *Commentary on the Constitution of India* vol. 1, at 210 (9th ed. 2015).

¹⁶*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

political majorities¹⁷. This jurisprudence underscores the role of the judiciary as a guardian of constitutional morality and a bulwark against executive excesses¹⁸.

The balance between the branches of government is not static; it evolves through constitutional interpretation, political developments, and societal transformations¹⁹. Contemporary issues ranging from executive discretion in emergency powers to the judicial oversight of administrative actions have continually tested the strength of this equilibrium²⁰. Moreover, the emergence of the “activist judiciary” in India has redefined the contours of separation, with courts frequently stepping into domains traditionally occupied by the executive²¹. While such activism enhances accountability, it also raises complex questions regarding the legitimacy and limits of judicial intervention²².

The objective of this paper is to conduct a doctrinal and comparative study of executive power within the modern constitutional framework, focusing on India’s evolving system of checks and balances²³. It aims to assess how constitutional mechanisms, judicial doctrines, and institutional practices collectively regulate executive action²⁴. By analyzing recent case law and theoretical perspectives, the paper evaluates whether India’s checks and balances have successfully contained the expansion of executive power or whether institutional imbalance continues to challenge constitutional governance²⁵.

LITERATURE REVIEW

Literature Review The doctrine of checks and balances has been the subject of profound scholarly debate since the Enlightenment period. Montesquieu’s *De l’esprit des lois* (The Spirit of Laws) remains the foundational text that introduced the idea of distributing governmental powers among separate institutions to prevent tyranny²⁶. His conceptualization profoundly influenced the framers of both the American and Indian Constitutions. The Federalist Papers, particularly those written by James Madison, emphasized that the

¹⁷Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.

¹⁸Granville Austin, Working a Democratic Constitution: The Indian Experience 250–54 (1999).

¹⁹S.P. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits para 21–24 (2d ed. 2002).

²⁰ADM Jabalpur v. Shivkant Shukla, (1976) 2 SCC 521.

²¹Pratap Bhanu Mehta, “The Rise of Judicial Sovereignty,” in India’s Living Constitution: Ideas, Practices, Controversies 230–35 (Zoya Hasan et al. eds., 2002).

²²Divisional Manager, Aravali Golf Club v. Chander Hass, (2008) 1 SCC 683.

²³H.M. Seervai, Constitutional Law of India 452–55 (4th ed. 2013).

²⁴S.C. Kashyap, Our Constitution: An Introduction to India’s Constitution and Constitutional Law para 110–12 (2008).

²⁵Gautam Bhatia, The Transformative Constitution: A Radical Biography in Nine Acts para 198–205 (2019).

²⁶Montesquieu, The Spirit of Laws bk. XI, Ch. 6 (1748).

separation of powers is not absolute but requires a mechanism of mutual control and interdependence between the branches²⁷. This conceptual understanding found resonance in the Indian context, where the framers sought to prevent authoritarianism without undermining administrative efficacy²⁸.

Scholars such as Granville Austin and D.D. Basu have observed that the Indian Constitution does not embody a strict separation of powers but rather a “system of checks and balances” suited to the needs of a parliamentary democracy²⁹. According to Austin, India’s constitutional design is built upon a “cooperative model” in which each organ of government functions both independently and interactively to ensure accountability³⁰. D.D. Basu similarly asserts that the Indian framework embodies a delicate equilibrium where the legislature makes laws, the executive enforces them, and the judiciary interprets them but all within the overarching supremacy of the Constitution³¹. This interdependence prevents excessive concentration of power in one branch while maintaining flexibility in governance³².

A significant body of literature also explores the comparative dimension of checks and balances, particularly contrasting the American presidential system with the Indian parliamentary model³³. In the United States, the separation of powers is constitutionally rigid, with the President exercising executive power independently of the legislature³⁴. Conversely, in India, the executive is drawn from and accountable to the legislature, thereby blurring the lines between the two branches³⁵. Scholars such as Upendra Baxi and H.M. Seervai have emphasized that India’s constitutional model represents “functional separation,” not structural isolation, ensuring administrative efficiency alongside democratic control³⁶. This approach reflects India’s pragmatic adaptation of Western doctrines to indigenous political realities³⁷.

²⁷The Federalist No. 51 (James Madison) (1788).

²⁸B. Shiva Rao, *The Framing of India’s Constitution: A Study* para213–16 (1953).

²⁹Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 145–50 (1966).

³⁰*Id.* at 147.

³¹D.D. Basu, *Introduction to the Constitution of India* para110–13 (24th ed. 2018).

³²M.P. Jain, *Indian Constitutional Law* para164–70 (8th ed. 2018).

³³Carl J. Friedrich, *Constitutional Government and Democracy: Theory and Practice in Europe and America* 23–28 (1950).

³⁴U.S. Const. Art. II,

³⁵India Const. Arts. 74–75.

³⁶Upendra Baxi, *The Indian Supreme Court and Politics* para39–45 (1980); H.M. Seervai, *Constitutional Law of India* para467–70 (4th ed. 2013).

³⁷Subhash C. Kashyap, *Our Constitution* para114–17 (2008).

Judicial interpretations have profoundly shaped the contours of the doctrine in India. The Supreme Court's landmark ruling in *Kesavananda Bharati v. State of Kerala* established the "basic structure doctrine," which places constitutional limitations on legislative and executive power³⁸. Subsequent decisions such as *Indira Nehru Gandhi v. Raj Narain* reaffirmed that the rule of law and separation of powers form part of this unalterable constitutional core³⁹. These decisions have been extensively discussed by scholars such as Aharon Barak, who argued that judicial review is not merely a procedural check but an essential component of constitutional governance⁴⁰. In India, the judiciary's interpretive activism has transformed the principle of checks and balances from a structural concept into a living doctrine that evolves through case law⁴¹.

Contemporary legal scholarship has increasingly focused on the expanding role of the judiciary in policy matters, particularly in the realm of public interest litigation (PIL)⁴². Beginning in the late 1970s, the Supreme Court adopted a more expansive interpretation of locus standi, thereby enabling citizens to seek judicial intervention in matters of public governance⁴³. Scholars like Pratap Bhanu Mehta have critiqued this development, suggesting that excessive judicial intervention risks undermining executive legitimacy and administrative efficiency⁴⁴. However, others such as Gautam Bhatia argue that judicial activism represents a constitutional necessity in a developing democracy where executive arbitrariness and legislative inaction often threaten rights protection⁴⁵.

Recent scholarship also re-examines the tension between the executive and judiciary in the context of national security, data privacy, and digital governance⁴⁶. The judgment in *K.S. Puttaswamy v. Union of India* recognized the right to privacy as a fundamental right, thereby limiting executive powers in data surveillance and collection⁴⁷. Scholars have hailed this decision as a reaffirmation of constitutional checks in the digital age⁴⁸. At the same time,

³⁸*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

³⁹*Indira Nehru Gandhi v. Raj Narain*, (1975) Supp SCC 1.

⁴⁰Aharon Barak, *The Judge in a Democracy* para125–30 (2006).

⁴¹S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 41–44 (2d ed. 2002).

⁴²P.P. Craig, "Constitutional and Administrative Law: The Relationship Between Judicial Review and Good Governance," 53 *Public Law* para596- 600 (2003).

⁴³*S.P. Gupta v. Union of India*, 1981 Supp SCC 87.

⁴⁴Pratap Bhanu Mehta, "The Rise of Judicial Sovereignty," in *India's Living Constitution: Ideas, Practices, Controversies* 240–45 (Zoya Hasan et al. eds., 2002).

⁴⁵Gautam Bhatia, *The Transformative Constitution* para210–15 (2019).

⁴⁶Lawrence Lessig, *Code and Other Laws of Cyberspace* 185–90 (1999).

⁴⁷*K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

⁴⁸Usha Ramanathan, "A Right to Privacy Is Born," 2 *India L. Rev.* 20, 24 (2018).

cases such as *Anuradha Bhasin v. Union of India* and *Pegasus Surveillance Litigation* demonstrate the judiciary's cautious approach in balancing individual rights with national interests⁴⁹. This evolving jurisprudence illustrates that the checks and balances doctrine continues to adapt to contemporary challenges posed by technology and executive secrecy⁵⁰.

Finally, a notable strand of literature has explored the citizen's role as a participant in the system of checks and balances. The enactment of the Right to Information Act, 2005, and the growing influence of social movements have empowered citizens to demand transparency and accountability from the executive⁵¹. This "fourth pillar" of democracy public accountability—has been analyzed by scholars such as Aruna Roy and Nikhil Dey, who argue that transparency laws transform the traditional tripartite system into a more participatory model⁵². Thus, modern interpretations of checks and balances increasingly recognize that democratic oversight extends beyond institutional boundaries to include civic engagement⁵³.

METHODOLOGY

This research adopts a doctrinal and analytical methodology, the approach most appropriate for constitutional studies where the focus lies on principles, case law, and statutory interpretation rather than empirical data⁵⁴. Doctrinal research allows for a systematic examination of the Constitution of India, statutory provisions, and judicial decisions defining the scope and limits of executive authority⁵⁵. The analytical component complements this by interpreting judicial reasoning and tracing the evolution of the checks-and-balances doctrine through precedent⁵⁶.

The primary sources for this study include the Constitution of India, relevant statutes such as the Right to Information Act 2005, and judicial pronouncements of the Supreme Court and various High Courts⁵⁷. These are supplemented by constituent-assembly debates and

⁴⁹ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637; *Foundation for Media Professionals v. Union Territory of Jammu & Kashmir*, (2020) 5 SCC 746.

⁵⁰ Rishabh Dara, "Surveillance, Privacy, and the Indian Constitution," 5 NALSAR L. Rev. 132, 140–42 (2020).

⁵¹ The Right to Information Act, No. 22 of 2005, Acts of Parliament, 2005 (India).

⁵² Aruna Roy & Nikhil Dey, "Transparency and Accountability: The Role of Citizen Movements," *Economic & Political Weekly*, June 2008, at 59.

⁵³ Jean Drèze & Amartya Sen, *An Uncertain Glory: India and Its Contradictions* 279–82 (2013).

⁵⁴ Ian Dobinson & Francis John Botchway, "Legal Research Methodologies: Methods and Tools for Conducting Legal Research," 3 *Eur. J. L. & Tech.* (2012).

⁵⁵ Mark Van Hoecke, *Methodology of Comparative Legal Research* 4 (2015).

⁵⁶ H.M. Seervai, *Constitutional Law of India* para452–55 (4th ed. 2013).

⁵⁷ India Const. Arts. 32, Art. 74–75, Art.121–22, Art. 136, Art.142.

governmental reports that illuminate the framers' intent and administrative practices⁵⁸. This primary material grounds the inquiry in authoritative texts, ensuring that the conclusions are drawn directly from constitutional interpretation rather than political commentary⁵⁹.

The secondary sources comprise scholarly commentaries, law-review articles, and comparative constitutional literature that contextualize Indian developments within global discourse⁶⁰. Texts by D.D. Basu, M.P. Jain, and Granville Austin form the doctrinal backbone, while contemporary analyses by Gautam Bhatia and Pratap Bhanu Mehta provide insight into the judiciary's modern activism⁶¹. Comparative references to U.S. and U.K. constitutional theory assist in delineating how the Indian adaptation diverges from the classical separation-of-powers model⁶².

To ensure analytical depth, this paper employs a comparative-constitutional framework. By juxtaposing the Indian model with other common-law systems, particularly the United States and the United Kingdom, the research evaluates how variations in institutional design influence accountability mechanisms⁶³. This comparative dimension reveals the flexibility of the checks-and-balances doctrine and demonstrates how India's fusion of powers within a parliamentary system contrast with the presidential rigidity of the U.S. model⁶⁴.

The research also utilizes case-law analysis, focusing on landmark judgments that delineate the boundaries of executive authority. Each case is examined in its constitutional context, judicial reasoning, and subsequent impact on legislative and administrative practice⁶⁵. Cases such as *Kesavananda Bharati*, *Minerva Mills*, *K.S. Puttaswamy*, and *Navtej Singh Johar* serve as doctrinal anchors illustrating the evolving judicial approach to executive restraint⁶⁶. This method ensures that the analysis reflects the dynamic interplay between constitutional text and judicial interpretation⁶⁷.

⁵⁸Constituent Assembly Debates, Vol. VII (1948).

⁵⁹S.C. Kashyap, *Our Constitution* para101–03 (2008).

⁶⁰Catherine Dixon, "Legal Research and the Use of Secondary Sources," 29 *Legal Stud. Rev.* 25 (2005).

⁶¹Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 145–50 (1966); Gautam Bhatia, *The Transformative Constitution* para198–205 (2019).

⁶²Carl J. Friedrich, *Constitutional Government and Democracy* para23–28 (1950).

⁶³A.V. Dicey, *Introduction to the Study of the Law of the Constitution* 70–75 (10th ed. 1959).

⁶⁴V.N. Shukla, *Constitution of India* 58–62 (14th ed. 2018).

⁶⁵R.H. Chakraborty, *Legal Research and Methodology* 231 (2015).

⁶⁶*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC

⁶⁷S.P. Sathe, *Judicial Activism in India* para21–24 (2d ed. 2002).

A limited empirical component is incorporated through review of government reports, parliamentary debates, and statistical data regarding executive orders and legislative questions⁶⁸. Although not quantitative in the strict social-science sense, this qualitative data enriches the doctrinal narrative by illustrating how constitutional theory operates in practice⁶⁹. For example, parliamentary questions concerning emergency powers or the use of ordinances provide insight into the executive–legislative dynamic⁷⁰.

Finally, the methodology adheres to normative legal reasoning, assessing constitutional principles against ideals of democratic accountability, the rule of law, and fundamental rights⁷¹. Rather than seeking to prove or disprove a hypothesis through data, the study evaluates how judicial and legislative practices align with constitutional objectives⁷². This normative orientation underscores the philosophical foundation of the research: that the balance of powers is not merely institutional but moral, reflecting constitutional faith in limited government⁷³.

RESULTS

The analysis of executive power within the Indian constitutional framework reveals a deliberate equilibrium between authority and restraint. The framers of the Constitution consciously designed a parliamentary system where the executive is drawn from, and remains accountable to, the legislature⁷⁴. Unlike the presidential system of the United States, where the separation of powers is rigid and formal, the Indian model embodies a fusion of powers intended to promote coordination while preventing concentration⁷⁵. This arrangement ensures that executive discretion operates under continuous legislative oversight through mechanisms such as question hours, motions, and committees⁷⁶.

The President of India, though constitutionally designated as the head of the executive, exercises functions primarily on the aid and advice of the Council of Ministers, as mandated

⁶⁸Report of the Second Administrative Reforms Commission, Ethics in Governance (2007).

⁶⁹B.L. Wade & C.F. Forsyth, Administrative Law para34–36 (11th ed. 2014).

⁷⁰Rajya Sabha Secretariat, Parliamentary Questions and Executive Accountability (2019).

⁷¹Ronald Dworkin, Taking Rights Seriously para81–87 (1977).

⁷²Aharon Barak, Purposive Interpretation in Law para132–35 (2005).

⁷³Granville Austin, Working a Democratic Constitution 250–54 (1999).

⁷⁴Constituent Assembly Debates, Vol. VII, para32–33 (1948).

⁷⁵A.V. Dicey, Introduction to the Study of the Law of the Constitution para115–19 (10th ed. 1959).

⁷⁶M.P. Jain, Indian Constitutional Law para408–12 (8th ed. 2021).

by Article 74(1)⁷⁷. This ensures that the real executive authority rests with the Prime Minister and the Cabinet, subject to collective responsibility to the Lok Sabha under Article 75(3)⁷⁸. The courts have consistently affirmed this parliamentary character, emphasizing that the President's role is largely ceremonial and bound by ministerial advice except in exceptional constitutional contingencies⁷⁹.

Judicial interpretation has played a decisive role in delineating the boundaries of executive discretion. In *Shamsher Singh v. State of Punjab*, the Supreme Court clarified that the President and Governors are to act only on the aid and advice of their respective Councils of Ministers, except in narrowly defined situations⁸⁰. This judgment fortified the parliamentary spirit and prevented the potential misuse of titular executive powers⁸¹. The Court's reasoning reflects a consistent commitment to ensuring that executive authority remains politically accountable rather than personally autonomous⁸².

The evolution of judicial review in India represents perhaps the most critical check on executive power. Beginning with *Kesavananda Bharati v. State of Kerala* (1973), the Supreme Court articulated the basic structure doctrine, which prohibits Parliament or by implication, the executive acting through Parliament from destroying the core features of the Constitution⁸³. This doctrine operates as a constitutional firewall against arbitrary exercises of state power⁸⁴. Later cases, such as *Indira Nehru Gandhi v. Raj Narain* and *Minerva Mills Ltd. v. Union of India*, expanded this principle to include the rule of law and separation of powers within the unamendable constitutional framework⁸⁵.

During periods of constitutional emergency, the concentration of executive authority tends to expand significantly. Article 352 permits the President to proclaim an emergency, transforming the federal balance and enabling the Union to assume wide-ranging powers⁸⁶. However, the misuse of this provision during the 1975–77 Emergency led to critical judicial

⁷⁷India Const. Art. 74(1).

⁷⁸Id. Art. 75(3).

⁷⁹*Shamsher Singh v. State of Punjab*, (1974) 2 SCC 831.

⁸⁰*Shamsher Singh v. State of Punjab*, (1974) 2 SCC 831, 847.

⁸¹Id. at 849.

⁸²H.M. Seervai, *Constitutional Law of India* para2302–05 (4th ed. 2013).

⁸³*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁸⁴Uppendra Baxi, *The Indian Supreme Court and Politics* 179–83 (1980).

⁸⁵*Indira Nehru Gandhi v. Raj Narain*, (1975) Supp SCC 1; *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

⁸⁶India Const. Art. 352.

and political introspection⁸⁷. The landmark decision in *A.D.M. Jabalpur v. Shivkant Shukla* (1976), which temporarily upheld the suspension of fundamental rights, remains a cautionary reminder of judicial abdication⁸⁸. Its later overruling in *K.S. Puttaswamy v. Union of India* (2017) reaffirmed that executive necessity cannot override constitutional morality⁸⁹.

The ordinance-making power under Article 123 provides another site for testing the limits of executive authority. Although intended for legislative exigencies when Parliament is not in session, the frequent use of ordinances raises concerns about democratic accountability⁹⁰. In *D.C. Wadhwa v. State of Bihar* (1987), the Supreme Court condemned the re-promulgation of ordinances as a “fraud on the Constitution”⁹¹. This decision underscores the judiciary’s proactive stance in preserving the balance between executive expediency and legislative supremacy⁹². The Court’s intervention reasserted that executive legislation must remain the exception, not the norm⁹³.

In modern governance, the executive increasingly relies on delegated legislation to implement complex regulatory frameworks. While delegation is necessary for administrative efficiency, it also invites the risk of executive overreach⁹⁴. Judicial scrutiny, therefore, remains vital. In *In re Delhi Laws Act* (1951), the Supreme Court laid down the limits of permissible delegation, holding that essential legislative functions cannot be transferred to the executive⁹⁵. The Court’s evolving jurisprudence reflects an enduring tension between administrative necessity and democratic accountability⁹⁶.

Recent judicial interventions, particularly in the post-2014 period, have reinforced constitutional checks on executive centralization. Cases such as *Government of NCT of Delhi v. Union of India* (2018, 2023) clarified that even within the Union territory framework, executive power must be exercised in conformity with constitutional federalism⁹⁷. The Court’s articulation of “cooperative federalism” underscores that the Union cannot

⁸⁷Granville Austin, *Working a Democratic Constitution* para339–42 (1999).

⁸⁸*A.D.M. Jabalpur v. Shivkant Shukla*, (1976) 2 SCC 521.

⁸⁹*K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

⁹⁰India Const. Art. 123.

⁹¹*D.C. Wadhwa v. State of Bihar*, (1987) 1 SCC 378.

⁹²*Id.* at 385.

⁹³T.R. Andhyarujina, *Judicial Review of Legislative Action* 97–100 (2001).

⁹⁴B.L. Wade & C.F. Forsyth, *Administrative Law* 78–80 (11th ed. 2014).

⁹⁵*In re Delhi Laws Act*, AIR 1951 SC 332.

⁹⁶I.P. Massey, *Administrative Law* 57–60 (9th ed. 2018).

⁹⁷*Government of NCT of Delhi v. Union of India*, (2018) 8 SCC 501; (2023) 2 SCC 1.

unilaterally override the autonomy of elected state or territorial governments⁹⁸. These rulings reassert the Court's constitutional guardianship over the separation and balance of powers⁹⁹.

At the institutional level, parliamentary committees, the Comptroller and Auditor General (CAG), and the Election Commission of India act as structural checks on executive arbitrariness¹⁰⁰. The Public Accounts Committee, for instance, scrutinizes governmental expenditure, while the CAG ensures fiscal transparency¹⁰¹. These mechanisms operationalize accountability through institutional interdependence, rather than confrontation¹⁰². By distributing oversight across multiple constitutional bodies, India reinforces a pluralist model of checks and balances suited to its parliamentary democracy¹⁰³.

Digitalization and globalization have introduced new dimensions to executive authority, including surveillance, data collection, and digital governance¹⁰⁴. The Puttaswamy decision (2017) extended constitutional scrutiny into this emerging domain, affirming privacy as a fundamental right under Article 21¹⁰⁵. The ruling-imposed proportionality and necessity standards on state surveillance, effectively curbing arbitrary executive intrusion into individual autonomy¹⁰⁶. This development illustrates the adaptability of checks and balances to technological transformations¹⁰⁷.

Overall, the results demonstrate that the Indian system of checks and balances, while rooted in classical theory, has evolved into a hybrid and dynamic framework one that balances executive energy with constitutional restraint¹⁰⁸. The judiciary, legislature, and constitutional agencies collectively ensure that executive authority operates within the bounds of legality and democratic legitimacy¹⁰⁹. Yet, challenges persist in the form of majoritarian politics,

⁹⁸Id. para76–78.

⁹⁹Suhrith Parthasarathy, "Federalism and the Indian Supreme Court," 11 Indian J. Const. L. para121, para129–31 (2023).

¹⁰⁰India Const. Arts. 148–Art.151.

¹⁰¹Rajya Sabha Secretariat, Committee System in Parliament of India (2018).

¹⁰²M. Laxmikanth, Governance in India para89–93 (3d ed. 2020).

¹⁰³B. Shiva Rao, The Framing of India's Constitution para323–27 (1968).

¹⁰⁴Anupam Chander, The Electronic Silk Road: How the Web Binds the World Together in Commerce para119–24 (2013).

¹⁰⁵K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1, para311–312.

¹⁰⁶Id. 325.

¹⁰⁷Gautam Bhatia, "State Surveillance and Constitutional Accountability," 9 Indian J. Const. Stud. 44, para47–49 (2018).

¹⁰⁸Granville Austin, The Indian Constitution: Cornerstone of a Nation para 175–78 (1966).

¹⁰⁹P.B. Mehta, The Burden of Democracy para143–47 (2003).

administrative centralization, and populist disregard for institutional boundaries, requiring constant constitutional vigilance¹¹⁰.

DISCUSSION

The analysis of executive power within the Indian constitutional framework demonstrates a deliberate balancing act between authority and accountability. Unlike the rigid separation of powers in the U.S., India employs a functional separation model, combining parliamentary accountability with judicial oversight¹¹¹. This fusion allows the executive to function efficiently while remaining politically answerable to the legislature¹¹². However, the hybrid nature of this system introduces inherent tensions, as executive discretion occasionally conflicts with judicial directives or legislative expectations¹¹³.

The judiciary has emerged as a pivotal arbiter in India's checks-and-balances system. Through landmark decisions, including *Kesavananda Bharati*, *Minerva Mills*, *K.S. Puttaswamy*, and *Navtej Singh Johar*, the Supreme Court has asserted the primacy of constitutional morality over executive and legislative expediency¹¹⁴. Judicial review, in this context, is not merely corrective but proactive, shaping the contours of executive authority and protecting fundamental rights¹¹⁵. This judicial activism has occasionally sparked debates over the legitimacy of courts intervening in policy matters, raising questions about institutional boundaries¹¹⁶.

A comparative examination of executive accountability highlights the distinctions between India, the United States, and the United Kingdom. In the U.S., the President exercises independent executive power, subject to legislative oversight via congressional hearings, appropriations, and impeachment mechanisms¹¹⁷. In contrast, the Indian Prime Minister and Cabinet are members of the legislature, which permits immediate parliamentary scrutiny and enables votes of no confidence as a direct instrument of accountability¹¹⁸. The U.K.,

¹¹⁰Rajeev Bhargava, "Constitutional Morality and the Indian Republic," 13 *Econ. & Pol. Wkly.* 34 (2019).

¹¹¹A.V. Dicey, *Introduction to the Study of the Law of the Constitution* para15–19 (10th ed. 1959).

¹¹²India Const. Arts. 74–75.

¹¹³M.P. Jain, *Indian Constitutional Law* 412–15 (8th ed. 2021).

¹¹⁴*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

¹¹⁵Upendra Baxi, *The Indian Supreme Court and Politics* para179–83 (1980).

¹¹⁶Granville Austin, *Working a Democratic Constitution* para250–54 (1999).

¹¹⁷U.S. Const. arts. I–II; *The Federalist* No. 51 (James Madison) (1788).

¹¹⁸India Const. Arts. 74–75, Art.100–105.

following the Westminster model, similarly fuses executive and legislative powers, but India's written constitution, with entrenched fundamental rights and judicial review, introduces additional legal constraints absent in the U.K. system¹¹⁹.

The doctrine of basic structure plays a central role in constraining both executive and legislative excesses¹²⁰. By declaring certain constitutional features immutable, the Supreme Court ensures that the executive cannot override democratic principles, fundamental rights, or federal structures¹²¹. The *Minerva Mills* judgment, in particular, reinforced the principle of limited executive discretion, emphasizing that constitutional objectives must guide administrative action¹²². Such jurisprudence has established a robust framework for evaluating executive actions against constitutional morality, creating a normative baseline for governance¹²³.

Public accountability mechanisms have become increasingly significant in modern governance. Legislative oversight, audits by the Comptroller and Auditor General, Right to Information (RTI) requests, and citizen activism collectively strengthen checks on executive power¹²⁴. Scholars such as Aruna Roy and Nikhil Dey have highlighted the RTI Act as an instrument that transforms ordinary citizens into effective watchdogs, thereby enhancing participatory democracy¹²⁵. This demonstrates that India's checks-and-balances system extends beyond institutional actors to include civil society as an active participant¹²⁶.

The limits of executive authority in contemporary India are particularly evident in digital governance and privacy law. The *K.S. Puttaswamy* judgment (2017) recognized the right to privacy as a fundamental right, imposing constitutional limits on executive surveillance¹²⁷. Such decisions underscore the judiciary's role in curbing overreach in emergent domains, including data protection, social media regulation, and e-governance¹²⁸. These interventions

¹¹⁹Granville Austin, *The Indian Constitution: Cornerstone of a Nation* para151–55 (1966).

¹²⁰*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

¹²¹H.M. Seervai, *Constitutional Law of India* para467–70 (4th ed. 2013).

¹²²*Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625

¹²³Granville Austin, *Working a Democratic Constitution* 250–54 (1999).

¹²⁴*India Const. arts. 148–151; RTI Act, No. 22 of 2005.*

¹²⁵Aruna Roy & Nikhil Dey, "Transparency and Accountability: The Role of Citizen Movements," *Economic & Political Weekly*, June 2008, at 59

¹²⁶Jean Drèze & Amartya Sen, *An Uncertain Glory: India and Its Contradictions* para279–82 (2013)

¹²⁷*K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

¹²⁸5 NALSAR L. Rev. 132, para140–42 (2020).

illustrate the adaptability of the constitutional framework to emerging technologies, ensuring that executive power remains tethered to rights protection¹²⁹.

While judicial intervention strengthens accountability, it occasionally creates tension with the executive, particularly regarding policymaking discretion. Scholars like Pratap Bhanu Mehta have argued that excessive judicial activism risks undermining institutional balance, potentially encroaching upon the prerogatives of elected representatives¹³⁰. Conversely, Gautam Bhatia contends that such activism is necessary in a developing democracy where administrative or legislative inaction could jeopardize rights¹³¹. Thus, the discussion highlights an ongoing institutional negotiation in India's democracy, balancing administrative efficiency with constitutional safeguards¹³².

The executive–legislature interplay is another critical aspect of checks and balances. Parliamentary mechanisms, including votes of no confidence, question hours, and committee oversight, ensure that policy decisions remain accountable¹³³. Ordinance powers, while constitutionally permissible, are constrained by judicial oversight, reinforcing the principle that executive efficiency must not compromise legislative legitimacy¹³⁴. Comparative studies suggest that India's parliamentary accountability model is more responsive to citizen scrutiny than rigid presidential systems, while judicial review ensures that neither majority politics nor bureaucratic discretion threatens constitutional values¹³⁵.

The discussion thus demonstrates that India's checks and balances are multidimensional, involving institutional, legal, and civic elements. Executive power is neither absolute nor static; it is continuously moderated through judicial interpretation, legislative oversight, and public accountability¹³⁶. Yet, persistent challenges remain: centralization of power, populist governance, and executive overreach continue to test the resilience of these constitutional safeguards¹³⁷. Addressing these challenges requires both doctrinal clarity and robust

¹²⁹Gautam Bhatia, "State Surveillance and Constitutional Accountability," 9 Indian J. Const. Stud. 44, para47–49 (2018).

¹³⁰Pratap Bhanu Mehta, *The Burden of Democracy* para143–47 (2003).

¹³¹Gautam Bhatia, *The Transformative Constitution* para210–15 (2019).

¹³²S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 41–44 (2d ed. 2002).

¹³³India Const. Arts. 100–105.

¹³⁴*D.C. Wadhwa v. State of Bihar*, (1987) 1 SCC 378.

¹³⁵Carl J. Friedrich, *Constitutional Government and Democracy* para23–28 (1950).

¹³⁶Granville Austin, *Working a Democratic Constitution* para250–54 (1999).

¹³⁷Rajeev Bhargava, "Constitutional Morality and the Indian Republic," 13 Econ. & Pol. Wkly. 34 (2019).

institutional practice, ensuring that the balance of power evolves alongside political, technological, and societal transformations¹³⁸.

CONCLUSION

The study of executive power and the system of checks and balances in India underscores a deliberately nuanced constitutional architecture, combining the efficiency of a parliamentary system with the safeguards of judicial oversight and civic participation¹³⁹. Unlike rigid separation-of-powers models, India's functional fusion of powers allows the executive to respond efficiently to legislative and administrative demands, while remaining accountable to multiple institutional and legal mechanisms¹⁴⁰.

Judicial interventions have played a central role in shaping the boundaries of executive authority. Landmark decisions, including *Kesavananda Bharati*, *Minerva Mills*, *K.S. Puttaswamy*, and *Navtej Singh Johar*, illustrate that the judiciary functions not merely as an interpreter of law but as a guardian of constitutional morality¹⁴¹. These judgments emphasize that executive discretion must conform to fundamental rights, the basic structure doctrine, and principles of fairness and proportionality¹⁴². In doing so, the judiciary ensures that executive power remains both legitimate and constrained, even in emergent domains such as digital governance¹⁴³.

Legislative oversight remains an essential instrument of accountability. Parliamentary mechanisms, including votes of no confidence, question hours, and committee investigations, reinforce executive accountability, while statutory instruments such as the RTI Act enable citizen engagement¹⁴⁴. This multi-layered oversight demonstrates that India's checks-and-

¹³⁸H.M. Seervai, *Constitutional Law of India* para470–75 (4th ed. 2013).

¹³⁹Pratap Bhanu Mehta, "The Rise of Judicial Sovereignty," in *India's Living Constitution: Ideas, Practices, Controversies* para240–45 (Zoya Hasan et al. eds., 2002).

¹⁴⁰India Const. Arts. 74–75.

¹⁴¹*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

¹⁴²*Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1. ⁴ H.M. Seervai, *Constitutional Law of India* 467–70 (4th ed. 2013).

¹⁴³Gautam Bhatia, "State Surveillance and Constitutional Accountability," 9 *Indian J. Const. Stud.* 44, 47–49 (2018).

¹⁴⁴India Const. Arts. 100–105; RTI Act, No. 22 of 2005.

balances system is institutionally pluralistic, extending beyond traditional constitutional branches to include civil society and independent agencies¹⁴⁵.

Comparative analysis highlights India's distinctive adaptation of classical theories. While the U.S. model emphasizes strict separation of powers and the U.K. relies on convention and parliamentary supremacy, India combines these approaches with a written constitution, entrenched fundamental rights, and judicial review¹⁴⁶. This hybrid system permits executive efficiency, legislative oversight, and judicial checks simultaneously, reflecting a pragmatic response to India's sociopolitical realities¹⁴⁷.

Despite its strengths, the Indian system faces persistent challenges. Executive centralization, populist politics, and administrative overreach occasionally strain the balance of power¹⁴⁸. Judicial intervention, while necessary, must avoid encroaching upon democratic decision-making to preserve institutional equilibrium¹⁴⁹. The continued vitality of checks and balances therefore depends on a dynamic interplay between law, politics, and civic participation, ensuring that constitutional principles guide governance across evolving social, technological, and political landscapes¹⁵⁰.

In conclusion, the Indian system of checks and balances illustrates a mature, adaptable constitutional design, capable of restraining executive power while facilitating effective governance. Judicial, legislative, and civic mechanisms collectively ensure that the executive remains accountable, legitimate, and constrained, fulfilling the framers' vision of a constitutional democracy. This research confirms that the interplay between institutions, law, and society is central to sustaining constitutional equilibrium, highlighting both the achievements and ongoing challenges of India's democratic framework¹⁵¹.

¹⁴⁵ Aruna Roy & Nikhil Dey, "Transparency and Accountability: The Role of Citizen Movements," *Economic & Political Weekly*, June 2008, at 59.

¹⁴⁶ Carl J. Friedrich, *Constitutional Government and Democracy* para23–28 (1950).

¹⁴⁷ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 145–50 (1966).

¹⁴⁸ Rajeev Bhargava, "Constitutional Morality and the Indian Republic,"

¹⁴⁹ *Econ. & Pol. Wkly.* 34 (2019). ¹¹ Pratap Bhanu Mehta, *The Burden of Democracy* para143–47 (2003).

¹⁵⁰ Granville Austin, *Working a Democratic Constitution* para250–54 (1999).

¹⁵¹ S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 41–44 (2d ed. 2002).