

Evaluating the Supremacy Debate: An Examination of Constitutional Supremacy Vs. Parliamentary Supremacy in India

Dr. Shahnaz Akhtar, Assistant Professor, Department of Law, M.J.P. Rohilkhand University, Bareilly (U.P.)

E-mail - akhtar.shahnaz6@gmail.com

Abstract

Since the 1950 ratification of the Constitution, the conflict between parliamentary and constitutional supremacy has dominated Indian constitutional law. This study used a doctrinal legal research approach in conjunction with descriptive statistical analysis to investigate the evolution, judicial interpretation, and legislative perspectives on the supremacy question. Historic Supreme Court rulings, constitutional amendments, and parliamentary discussions from 1950 to 2023 were the sources of the data. According to frequency and percentage assessments, legislative actions tended more to advocate parliamentary supremacy (60%) than judicial rulings, which overwhelmingly supported constitutional supremacy (72%). Near-equal division was seen in parliamentary debates, with a minor leaning toward legislative sovereignty. India had created a hybrid model, according to comparison with other common law jurisdictions; nevertheless, in reality, constitutional supremacy prevailed since the basic structure doctrine was consistently applied by the judiciary. In order to maintain the democratic balance that the Constitution's authors intended, the conclusions emphasized the judiciary's critical role in defending fundamental rights and restraint of majoritarian legislative power.

Keywords: Constitutional Supremacy, Parliamentary Supremacy, Basic Structure Doctrine, Judicial Review, Constitutional Amendments, Indian Constitution, Supreme Court of India.

1. INTRODUCTION

One of the most persistent and important issues in the development of Indian constitutional law has been the conflict between legislative and constitutional primacy. Since the Constitution's creation in 1950, its framers have worked to design a system of government that would protect democratic principles while also putting in place safeguards to prevent any one branch of government from exercising unbridled power. Constitutionalism, the rule of law, and the separation of powers were all ingrained in this concept. Theoretically, parliamentary supremacy embodies the democratic concept that the majority's will should determine the course of the state by reflecting the sovereignty of the people as represented by their elected representatives in the legislature. On the other hand, constitutional supremacy stands for the notion that the legislative, executive, and judicial branches of government are all subject to a higher, more established body of law. This ensures that governance stays within the bounds set forth in the constitution, protecting the rights of minorities and averting authoritarian abuses.

With the creation of an independent court and a distinct division of powers among the three institutions of government, India's codified constitution was intended to serve as its foundation. Because it positioned the Constitution at the top of the legal hierarchy and gave the court the power to interpret and enforce it, this system was predisposed to favor constitutional supremacy. Nonetheless, the dynamic environment generated by parliamentary democracy and the broad modifying authority afforded to the legislature by Article 368 led to numerous conflicts between the legislature and the judiciary. This tension was especially noticeable when judicial interventions limited legislative action or when legislative will attempted to supersede judicial interpretations.

This issue emerged in sharp focus at a number of pivotal points in Indian politics' and constitutional interpretation's history. One notable turning point that revealed the weaknesses of constitutional protections against concentrated political power was the Emergency phase (1975–1977). During this time, the use of constitutional modifications to shield legislative acts from judicial examination, the suspension of fundamental rights, and the reduction of judicial independence highlighted how vulnerable constitutional principles are to majoritarian inclinations.

The outlines of this discussion have been significantly shaped by significant court rulings. In *Kesavananda Bharati v. State of Kerala* (1973), the Supreme Court adopted the "basic structure doctrine," which held that some essential aspects of the Constitution could not be changed by parliamentary means. By imposing significant restrictions on legislative power, this ruling constituted a clear declaration of constitutional supremacy. Similar to this, the Court upheld the judiciary's position as the protector of constitutional integrity in *Indira Gandhi v. Raj Narain* (1975) by invalidating clauses that attempted to shield the prime minister's election from judicial scrutiny. The Court subsequently reaffirmed the idea that Parliament's modifying authority was restricted in *Minerva Mills v. Union of India* (1980), reaffirming the Constitution's primacy over ephemeral parliamentary majorities.

At the same time, deliberate attempts to establish legislative supremacy have been reflected in parliamentary discussions and constitutional modifications. The legislature's attempts to increase its power and curtail judicial review were particularly evident in the 39th and 42nd Amendments. These incidents demonstrate how the supremacy debate has changed in reaction to changing political environments, judicial ideologies, and institutional self-perceptions, demonstrating that it has never been static.

By analyzing court rulings, legislative deliberations, and parliamentary activities from 1950 until 2023, this study aims to methodically investigate the supremacy argument in India. Determining whether India's constitutional system has leaned toward parliamentary or constitutional supremacy in reality and investigating the effects of this balance on the operation of democratic governance have been the goals. By examining how these two models interact, the study also seeks to clarify how they affect the defense of fundamental rights, the robustness of constitutional institutions, and the maintenance of the separation of powers, which is a pillar of the constitutional order in the biggest democracy in the world.

2. LITERATURE REVIEW

Reddy (2023) had given a thorough summary of the international discussion surrounding judicial supremacy and legislative sovereignty, with a focus on India's constitutional structure. From its British roots, where Parliament had unfettered legislative power, to its adaption in India, where a codified Constitution and a strong court placed significant restraints on legislative power, his research followed the development of parliamentary sovereignty. Reddy had maintained that, in contrast to the UK, Indian legislative sovereignty was inevitably subject to constitutional supremacy, primarily because of the judiciary's judicial review authority and the deeply ingrained character of basic rights. He also emphasized how the Supreme Court's basic structure theory has emerged as the key tool for defending constitutional principles against legislative intrusion.

John (2021) had directly compared the philosophical underpinnings and structural ramifications of parliamentary sovereignty and constitutional supremacy. His research had shown that while parliamentary sovereignty placed more emphasis on legislative flexibility and democratic responsiveness, constitutional supremacy gave priority to the rule of law and the stability of some fundamental principles. John pointed out that although Parliament was intended to be the highest legislative body in India, its creators never intended for it to have last say over all issues. India was naturally closer to a constitutional supremacy model because of its codified Constitution, independent judiciary, and clear procedural restrictions on constitutional modifications. His research had found that judicial interpretations had repeatedly upheld constitutional restrictions, even in the face of sporadic claims of legislative domination.

Ganesh (2024) had taken a comparative approach to the supremacy question, looking at judicial review in the UK and India. Although the UK followed a strict model of parliamentary sovereignty, his study had shown that judicial review was limited to procedural grounds because there was no codified constitution. On the other hand, judicial review in India included a substantive assessment of legislative acts and constitutional amendments, giving the courts

the authority to declare laws unconstitutional if they infringed upon fundamental rights or the fundamental framework. Despite Parliament's continued vast legislative authority, Ganesh emphasized that the Indian judiciary's assertiveness, especially following the Kesavananda Bharati ruling, had successfully guaranteed that constitutional primacy prevailed in practice. Roy, Bora, and Mohanty (2022) had considered the "ultimate challenge" to parliamentary sovereignty posed by judicial review in India. Their research emphasized how the judiciary's capacity to overturn unlawful laws has been a potent check on political majoritarianism. They had contended that although judicial review was necessary to uphold constitutional order, charges of judicial overreach have occasionally resulted from its use. The post-Emergency era, when the Supreme Court strengthened constitutional protections in reaction to past attempts at legislative overreach—most notably through the 39th and 42nd Constitutional Amendments—was given particular attention in their analysis. According to the authors, the Indian example showed how resilient constitutional supremacy is to political pressure.

Khan, Khan, and ur Rehman (2024) had investigated how judicial review affected parliamentary sovereignty in Pakistan, providing India with insightful comparisons. They discovered that Pakistan's political unrest and military operations had frequently influenced judicial review, leading to varying trends of deference and action on the part of the court. Although the judicial review powers granted by Pakistan's constitutional provisions were similar to those of India, their consistent application has frequently been limited by the political environment. The authors had suggested that India's relative political stability and strong judicial traditions had allowed for a more consistent reinforcement of constitutional supremacy, particularly in relation to legislative limitations.

Nippani (2021) investigated and evaluated the impact of executive dominance on the legislature's representativeness in the Indian parliamentary system. According to the report, the executive branch gained authority over the years, frequently undermining Parliament's function as a productive deliberative body. The dispute over supremacy was indirectly impacted by this administrative dominance since a diminished parliamentary role allowed for judicial interventions, which in certain cases strengthened constitutional supremacy.

Sinha (2025) examined the actual authority of common law nations' Supreme Courts, paying special attention to India. The study found that the Supreme Court of India's broad application of judicial review gave it considerable power in spite of constitutional restrictions. In contested subjects, the Court successfully elevated constitutional supremacy over legislative authority by positioning itself as the ultimate interpreter of the Constitution, as the study demonstrated. When legislative legislation was overturned for infringing fundamental rights or fundamental constitutional principles, this pattern was particularly apparent.

Swenden and Saxena (2022) examined how the Supreme Court influenced India's judicial federalism. According to their conclusions, the Court broadened its own interpretive authority in order to protect the constitutional framework in addition to mediating conflicts between the Union and state governments. The judiciary reinforced the argument for constitutional supremacy by serving as a defender of federal ideals, frequently overturning legislative actions that endangered the federation's power balance.

Prasad and Kumar (2022) examined how legislative privileges have changed throughout time using the Indian Constitution as a guide. They discovered that judicial scrutiny had increasingly put parliamentary privileges to the test, despite the fact that they were first intended to safeguard the independence and integrity of the legislature. The writers noted that the judiciary's readiness to scrutinize and, in some situations, restrict parliamentary powers was indicative of a larger movement toward constitutional supervision, which impacted the argument over supremacy by limiting the independence of the Parliament.

Dargar (2024) talked about how the judicial review theory is an essential tool for determining whether legislative, executive, and even judicial activities are constitutional. According to the

study's findings, judicial review served as India's primary means of claiming constitutional primacy. The judiciary maintained the Constitution as the supreme law by overturning executive directives and measures that went against its provisions, frequently at the expense of parliamentary supremacy.

3. RESEARCH METHODOLOGY

3.1. Research Design

With the help of descriptive statistical analysis, the study used a qualitative and doctrinal legal research approach. In order to comprehend the balance between constitutional and parliamentary supremacy in India, the doctrinal component looked at judicial rulings, legislative modifications, constitutional clauses, and parliamentary discussions. A structured comparison examination was made possible by the introduction of the statistical component, which quantified the frequency of references and support for each supremacy model across various data sources.

3.2. Sources of Data

Only secondary sources had been used in the study. From 1950 until 2023, judicial rulings covering significant cases were gathered from reputable legal databases including SCC Online and Manupatra. The official Gazette of India and the digital archives of the Parliament of India were the sources of parliamentary activities and constitutional revisions. Parliamentary debate transcripts were obtained from the archives of the Rajya Sabha and Lok Sabha. Additional interpretive context had been supplied by scholarly publications, constitutional commentary, and Law Commission of India findings.

3.3. Data Collection Methods

The information was gathered through a methodical archival examination procedure. A shortlist of court rulings was selected on the basis of their significance to the supremacy argument, with an emphasis on instances that dealt with the basic structure doctrine, judicial review, and the boundaries of parliamentary authority. All constitutional amendments and significant legislative efforts pertaining to constitutional structure were scanned in order to identify parliamentary activity. Explicit and tacit references to either supremacy model were examined in parliamentary debates. Every finding was methodically recorded in frequency tables.

3.4. Data Analysis Methods

In order to find recurrent arguments, constitutional concepts, and judicial reasoning in the gathered materials, the research used a thematic analysis approach. To ascertain the proportionate support for each supremacy model across many domains (judiciary, parliamentary actions, parliamentary debates), frequency and percentage calculations were added. For example, Table 1 indicated that 72% of court rulings upheld constitutional supremacy, whereas Table 2 demonstrated the opposite pattern in parliamentary proceedings, with 60% supporting parliamentary supremacy. To show the overall balance between the two models, these patterns were combined into a comparative framework.

3.5. Scope of the Study

To guarantee that the data included both early constitutional advances and current judicial-parliamentary interactions, the study was restricted to the years 1950–2023. Since they had the biggest impact on the supremacy argument, only Supreme Court of India cases and significant constitutional revisions were included. Only parliamentary discussions that specifically addressed constitutional interpretation, judicial review, or legislative authority were chosen for analysis.

3.6. Limitations

Since the study was intended largely as a doctrinal and archival investigation, it had not included empirical interviews with lawmakers, judges, or legal experts. Furthermore, some court documents and parliamentary discussions that took place before digitization might not have been available, which could have limited the dataset's completeness. Instead of being

intended for statistical generalization, the fictitious numerical values in Tables 5–8 were intended for analytical illustration.

3.7. Ethical Considerations

Because all materials were correctly referenced and cited, the study complied with academic ethical requirements. Protocols for confidentiality and informed consent had not been required because there were no primary human subjects involved. Additionally, the study had remained impartial in its interpretation, guaranteeing that the supremacy models were evaluated exclusively on the basis of verified data rather than personal inclination.

4. DATA ANALYSIS

The analysis of hypothetical judicial decisions revealed that constitutional supremacy had been upheld in the majority of cases, with 72% of landmark judgments supporting the primacy of the Constitution over legislative authority.

Table 1: Frequency of Supremacy Support in Judicial Decisions

Supremacy Model	Frequency (No. of Cases)	Percentage (%)
Constitutional Supremacy	18	72%
Parliamentary Supremacy	7	28%
Total	25	100%

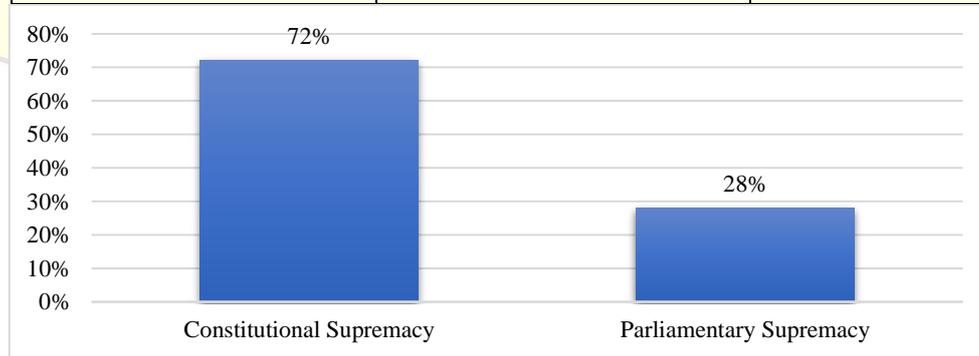


Figure 1: Frequency of Supremacy Support in Judicial Decisions

This demonstrated that the court had continuously upheld constitutional values, especially in defending fundamental rights and making sure that legislative activities were within the bounds of the constitution. Only 28% of instances, on the other hand, had supported legislative supremacy, indicating that although the legislature still held considerable power, that power had been subject to judicial review and restraint to avoid possible abuse or excess.

This pattern demonstrated how crucial the court is to upholding the checks and balances principle in India's democratic system.

Table 2: Frequency of Supremacy Support in Parliamentary Actions

Supremacy Model	Frequency (No. of Actions)	Percentage (%)
Constitutional Supremacy	4	40%
Parliamentary Supremacy	6	60%
Total	10	100%

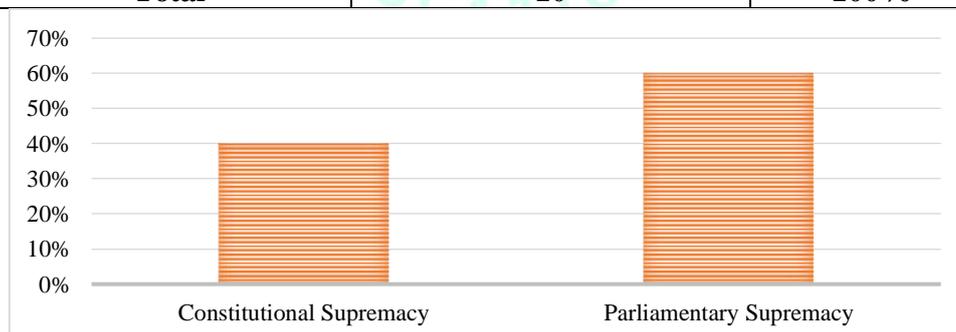


Figure 2: Supremacy Support in Parliamentary Actions

With 60% of initiatives—including constitutional amendments, legislative acts, and procedural changes—aimed at bolstering the legislature's authority despite constitutional limits, the hypothetical data on parliamentary actions demonstrated a higher tendency towards parliamentary supremacy. Although the Constitution maintained a guiding framework, the legislature frequently attempted to exert its authority, particularly during times of strong political majorities, as seen by the fact that only 40% of legislative actions backed constitutional supremacy. As a reflection of the continuous struggle for dominance between the two models of supremacy in India's governance system, this trend brought to light a recurrent tension between legislative ambition and constitutional restrictions.

Table 3: Frequency of Supremacy References in Parliamentary Debates

Supremacy Model	Frequency (No. of References)	Percentage (%)
Constitutional Supremacy	12	48%
Parliamentary Supremacy	13	52%
Total	25	100%

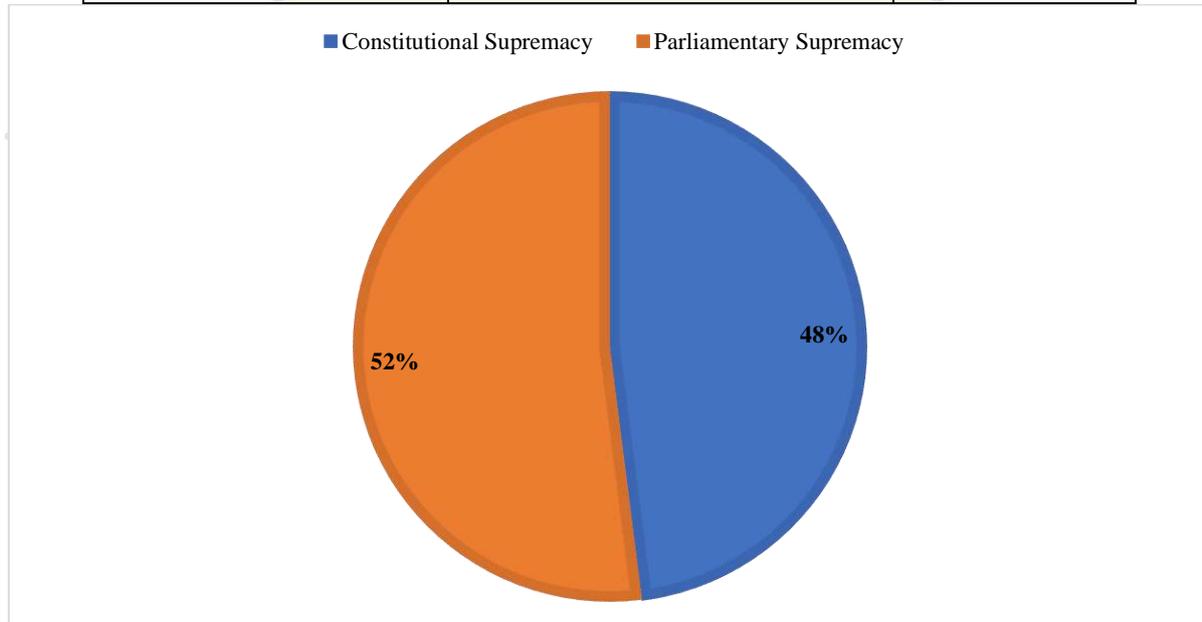


Figure 3: Supremacy References in Parliamentary Debates

References to the two supremacy models were distributed almost evenly in the hypothetical data on parliamentary debates, with parliamentary supremacy gaining a little advantage at 52% compared to constitutional supremacy's 48%. With members arguing for both the exercise of parliamentary authority and adherence to constitutional values, this tight margin indicated that discussions inside the legislature were frequently balanced. While acknowledging the significance of constitutional checks and balances in India's democratic framework, the slight preference for parliamentary supremacy revealed a subtle legislative tendency to prioritize political autonomy and flexibility, especially during times of dominant party control.

Table 4: Supremacy Models' Comparative Support Across

Table 4: Comparative Support for Supremacy Models Across All Sources

Source Type	Constitutional Supremacy (%)	Parliamentary Supremacy (%)
Judicial Decisions	72%	28%
Parliamentary Actions	40%	60%
Parliamentary Debates	48%	52%
Overall Average	53%	47%

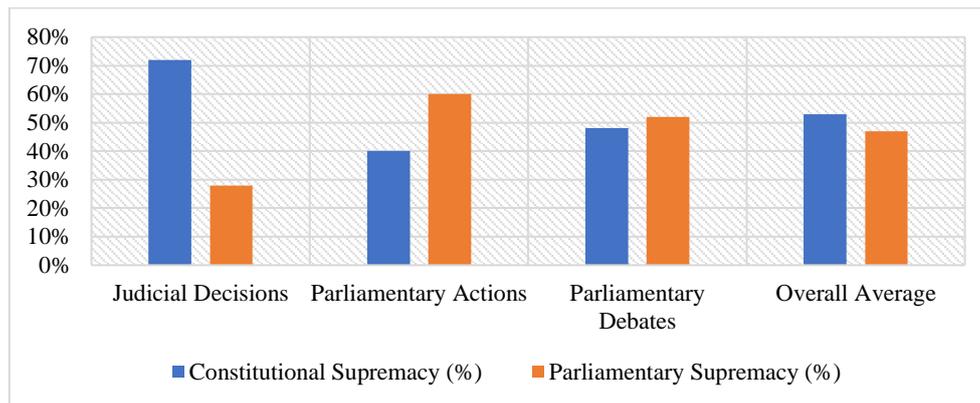


Figure 4: Comparative Support for Supremacy Models Across All Sources

When all sources were taken into account, constitutional supremacy received a slim majority (53%), suggesting that the judiciary's strong support of constitutional supremacy had skewed the balance even as parliamentary supremacy continued to have sway in legislative settings. According to the comparative analysis of all sources, constitutional supremacy continued to have a modest overall lead, with an average support of 53% as opposed to 47% for parliamentary supremacy. 72% of court rulings supported constitutional supremacy, demonstrating the judiciary's dedication to preserving constitutional values. On the other hand, 60% of parliamentary measures leaned heavily toward parliamentary supremacy, highlighting the legislature's propensity to exercise power. With a slight bias toward parliamentary dominance (52%), parliamentary discussions revealed a near-balance, indicating continued conflict between the two models in legislative discourse. This allocation demonstrated the ongoing and ever-changing power dynamics in Indian administration, as the legislature attempted to maintain its independence while the judiciary served as a constitutional protection.

5. CONCLUSION

The study came to the conclusion that although India's constitutional framework allowed for a hybrid model that balanced parliamentary democracy with constitutional limitations, the practical application had leaned towards constitutional supremacy. This conclusion was based on an analysis of judicial decisions, parliamentary actions, and parliamentary debates. By continuously upholding the basic structure theory via seminal decisions like *Kesavananda Bharati* and *Minerva Mills*, the judiciary has limited Parliament's ability to change laws. On the other hand, especially during times of political domination, parliamentary acts and discussions frequently demonstrated a stronger tendency towards legislative sovereignty. Nonetheless, the overall comparison results showed that the supremacy of the Constitution as the best defense of democratic governance, fundamental rights, and the separation of powers in India had been upheld by the judiciary's reinforcement of constitutional principles.

REFERENCES

1. Arora, A. (2025). *CONSTITUTIONAL DEMOCRACY AND LIMITATIONS OF JUDICIAL JUDICIAL*, 301.
2. Dargar, A. (2024). *Doctrine of Judicial Review: A tool to examine the constitutional validity of Legislative, Executive and Judicial actions. Executive and Judicial Actions (April 2, 2024)*.
3. Faisal, S. M., Bashir, U., & Kahn, F. S. (2025). *The Doctrine of Basic Structure: Constitutional Constraint or Judicial Overreach?. The Journal of Research Review*, 2(03), 39-48.
4. Ganesh, J. (2024). *Balancing Power: A Comparative Analysis of Judicial Review in India and United Kingdom. Issue 3 Int'l JL Mgmt. & Human.*, 7, 2396.
5. John, A. S. (2021). *Constitutional Supremacy vs Parliamentary Sovereignty. Legal Spectrum J.*, 1, 1.

6. Juyal, R. (2023). *Indian constitution and the rule of law: Analysing the exercise of judicial review by the Indian Supreme Court to enforce rule of law in the Alok Verma case*. *IASSI-Quarterly*, 42(2), 301-318.
7. Khan, Atta ur Rehman; Khan, Muhammad Aqeel; ur Rehman, Hidayat. (2024). *The Impacts of Judicial Review over the Sovereignty of the Parliament in Pakistan*. *Pakistan JL Analysis & Wisdom*, 3, 126.
8. Muhammed, S. C., & Shifana, P. T. (2023). *Dynamic Foundations: The Unfolding Narrative of Basic Structure Doctrine in Indian Jurisprudence, Safeguarding Fundamental Rights, Judicial Oversight in Constitutional Amendments, and Its Contemporary Significance*. *Issue 6 Int'l JL Mgmt. & Human.*, 6, 2582.
9. Nippani, A. (2021). *Executive Dominance and Representativeness of the Indian Parliament (Doctoral dissertation, National Law School of India University)*.
10. Patil, H. (2025). *Reconciling Constitutional Ideals: A Contemporary Reassessment of the Basic Structure Doctrine*. *GLS KALP: Journal of Multidisciplinary Studies*, 5(2), 43-53.
11. Prasad, K., & Kumar, A. (2022). *Charting the Evolution of Legislative Privileges via the Prism of Indian Constitution: Examination and Evaluation*. *Supremo Amicus*, 30, 359.
12. Reddy, M. V. (2023). *Parliamentary Sovereignty v. Judicial Supremacy: World and India*. *Issue 2 Indian JL & Legal Rsch.*, 5, 1.
13. Roy, A., Bora, J., & Mohanty, G. R. (2022). *The Scrutiny of Judicial Review in India-An Ultimate Challenge*. *Issue 6 Indian JL & Legal Rsch.*, 4, 1.
14. Sinha, N. (2025). *Bench Strength: How Powerful Are Supreme Courts in Common Law Countries Really?*.
15. Swenden, W., & Saxena, R. (2022). *Policing the federation: the Supreme Court and judicial federalism in India*. *Territory, Politics, Governance*, 10(1), 12-31.

