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CONSTITUTIONAL SUPREMACY IN INDIA AND UK WITH CURRENT ISSUES

AUTHORED BY - POOJA GAUR

Abstract

This study explores the changing very thing of constitutional supremacy in India and the UK through examination of six cases - three from each the US and the UK jurisprudence. The paper first determines on the facts of India triplets: (i) the text and controversies of gubernatorial delays or so-called pocket vetoes in granting assent to state bills, (ii) the genesis, political contention and key issues of the proposed 130th Constitutional Amendment (2025), and (iii) the nature, scope, and the mode of change of principle through the impact of recent judicial pronouncements and leadership remarks in constitutional evolution. The UK-related matter focusses on (i) the nature of the scrutiny by Parliament and the Lords Constitution Committee, (ii) the debates surrounding the European Convention on Human Rights (ECHR) and the relationship between court and legislature, and (iii) recent parliamentary enactments after judicial review, the Rwanda asylum and deportation legislation being the example. This research, as a comparative study, looks into the different constitutional issues that both the dualist and parliamentary sovereignty models have challenged and identifies the modulating nature of the institutional checks and balances under the influence of political pressures. The main idea of the work is that these changes are not that big on the surface, like delays, legislative overrides and judicial decision circumvention, yet they can affect the constitutional primacy more deeply than overt constitutional crises. The argument is limited by the extent to which it is dependent on case law and political contexts that are uncertain.

Keywords: Constitutional Supremacy, Gubernatorial Delay, Pocket Veto, Constitutional Amendment, Judicial Review, Parliamentary Sovereignty, ECHR, Rwanda Legislation.

1. Introduction

1.1 Background and Rationale

One of the fundamental tenets of modern constitutionalism is the concept of constitutional supremacy, which holds that the constitution is above regular laws or decisions made by the executive branch. But, really, the ranking of constitutional supremacy is still dependent on the

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political power that comprises the institutional inertia, the major party influences, the executive tactics, and the judicial restraint. The theme of constitutional supremacy being challenged amid daily constitutional conflicts is very much alive in the cases of India and the United Kingdom.[1] India, with its clearly defined constitution, and a strong judicial authority for the review of power, is facing a conflict with the residual political powers. These political powers also include the governors' discretionary role in giving assent to bills and bold attempts, for instance, by the 130th Amendment, to change the basic principles of the constitution. Whereas the U.K. does not have a single, entirely entrenched, written constitution and is under considerable pressure to strike a proper balance between parliamentary sovereignty and human rights commitments, and also struggling to find a way to have courts and legislatures work together on the implementation of sensitive policies, e.g. deportation to Rwanda. Both types of systems are a source of lessons on the vulnerability of constitutional safeguard devices during political stress.[2]

This paper is concerned with the following research objectives and questions, then it reviews related literature, outlines the hypotheses, and proceeds with detailed analysis of the two jurisdictions before summarizing the comparative insights and recommendations.

1.2 Research Objectives

(a) To analyze how constitutional supremacy can be eroded through institutional practices such as delay, veto, or override in India and the U.K.
(b) To assess the legal and political contestation surrounding the 130th Constitutional Amendment proposal in India as a test of constitutional limits.
(c) To examine how U.K. legislative responses to judicial rulings (notably the Rwanda legislation) reflect tensions in constitutional ordering.
(d) To compare how India’s strong judicial review model and the U.K.’s parliamentary sovereignty model respectively cope with pressures on constitutional supremacy.

1.3 Research Questions

1. How does the legal and court practice view on gubernatorial delay ("pocket veto") in India, and through which recent cases have the courts clarified its limits?

[1] A.V. Dicey, Introduction to the Study of the Law of the Constitution 1 (Macmillan 8th ed. 1915).
[2] M.P. Jain, Indian Constitutional Law 1, 456–67 (Lexis Nexis 9th ed. 2025)

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2. What are the constitutional and political issues associated with the 130th Amendment proposal in India, concerning the alterations in the power that the different branches of government have, the changes in the relationship between the center and the states, and the possibility of neutralizing the accused by the presumption of innocence principle?
3. What kind of message do legislatively enacted reactions to court rulings, like the Rwanda deportation law send and whether they conform or contradict the principle of constitutional supremacy in the U.K.?

1.4 Literature Review

1.4.1 Granville Austin – The Indian Constitution: Cornerstone of a Nation (1999)[3]

Granville Austin's landmark work is regarded as the best historical overview of the Constitution of India. He describes the constitution as a "social contract," which is supposed to bring about both political stability and social revolution. Austin narrates in great detail how due to the constant interaction of judiciary, legislature, and executive the concept of Indian constitutional supremacy is being changed. He specifically discusses the court's role in protecting the limits set against the intrusion of the administration, especially at times of crisis (like the Emergency or amendment debates). Austin's discussion of federalism, adaptability, and judicial review is still the main base for later researches on how the various constitutional mechanisms, such as assent procedures and review doctrines, stop the abuse of power and indifference.

Key Insight: Demonstrates that India's written Constitution is not just a legal document but a dynamic framework that demands the presence of multiple and overlapping guardians who are always alert.

1.4.2 Sudhir Krishnaswamy – Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine (2009)[4]

Krishnaswamy outlines a very influential commentary and explication of the basic structure doctrine, the restriction on Parliament's amendment power fashioned by the judiciary. He goes through the main cases and decisions, explaining that the dominance of constitutional supremacy is best maintained when, institutions are far from being passive, but rather, they act

[3] Granville Austin, The Indian Constitution: Cornerstone of a Nation 1 (Oxford Univ. Press 1999).
[4] Sudhir Krishnaswamy, Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine 1 (Oxford Univ. Press 2009).

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and intervene especially in such borderline cases as gubernatorial' discretion or technical delays. Krishnaswamy places the discussion on consent disputes and stalemate in a broader talk about "constitutional morality," outlining how delay and the use of power thieve not only the democratic principle but also the institutional legality.

Key Insight: Links judicial creativity as an important, yet difficult factor in the preservation of the highest law, and sees the current disputes as philosophical rather than only procedural.

1.4.3 H.M. Seervai – Constitutional Law of India (3rd Edition, 1983)

Seervai's Constitutional Law of India is regarded as the primary doctrinal work, which extensively explains the Indian constitutional law. His attention to the supreme technical and the practical aspects of constitutional supremacy, especially the governor's role, is unbelievable. Seervai expounds on how "pocket veto" operations, indefinite delays, and the use of discretionary powers have been going on without any change since colonial times and terms them as very anti-federal and at the very least, undemocratic. He asks the legislature and the constitution for reforms like time-bound assent and judicial control that would be more trustworthy.

Key Insight: Seervai's work can be described as very detailed and marked by his strong principles. His uncompromising clarity and appeal for constitutional strictness by judges and scholars as the main reasons for relying on it are the features that this work gets recognized for.

1.4.4 A.V. Dicey – Introduction to the Study of the Law of the Constitution (1885)[5]

Dicey's masterpiece is the core of not only the British but also the comparative constitutional theory. His idea of Parliament's sovereignty that "Parliament can not only make, but also unmake any law of any kind" has for long been the primary source of interpretation of the law. The method of Dicey dealing with conventions and usages reveals the possibilities of both the power and the weakness of the unwritten constitutional norms. At present, delay, convention, and legislative override (like the Rwanda legislation) discussions refer to Dicey's work to establish whether legal rules or abstract principles, in fact, secure constitutional integrity in practice.

[5] Supra at 1.

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Key Insight: Depicts supremacy as contingent upon the coexistence of an absolute legislative power, fully recognized conventions, and unresolved issues in both the UK and Indian systems.

1.4.5 Mark Elliott - The constitutional grounds for judicial review (2001)[6]

The work of Elliott forms the basis for current debates about the extent to which parliamentary sovereignty is still valid in the UK after the passing of the Human Rights Act, the devolution, and Brexit. He traces the process of judicial review as it has changed from a strictly administrative tool into a broad constitutional safeguard, which in some instances, even openly defeats the provisions of parliamentary acts or the decision of the executive branch. Now through analyzing ECHR/Strasbourg discord and escape law (e.g., Rwanda), Elliott unpacks the idea of supremacy as a space of the British constitution where the will of parliament is no longer free from possible legal checks.

Key Insight: Courts show how the exercise of judicial power and the safeguarding of rights have altered the meaning of the supreme from traditional ones where legislators were considered all-powerful.

1.4.6 Rosalind Dixon and Tom Ginsburg – Comparative Constitutional Law (2011)[7]

One of the most prominent features of the work of Dixon and Ginsburg is their comparative work, which helps greatly to know that the biggest danger for constitutions is gradual subversion, etc., not only by very shocking events. Through the comparison of diverse cases all over the globe, they reveal the ways in which delays, technical overrides, and subversive amendments can "hollow out" the limitations of constitutions without visualizing that they are "hollow out." These scholars see "constitutional resilience" as the complex interlace of culture, procedure, and institutional design that is required to resist a gradual erosion. Their disclosure of how small changes, for instance, a few days for assent or an override statute, can have such a significant impact on constitutional supremacy is very different.

Key Insight: Gives prominence to the requirement of constant watchfulness for small procedural erosions of supremacy that mark without erasing their global significance the difficulties India and the UK have today.

[6] Mark Elliott, The Constitutional Foundations of Judicial Review 1 (Hart Publ'g 2001).
[7] Rosalind Dixon & Tom Ginsburg, Comparative Constitutional Law 1 (Edward Elgar Publ'g 2011).

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1.5 Hypotheses

a) The parliamentary and legislative tactics that were employed as a reaction to the court rulings, especially in the Rwanda case, signify an intentional step to pronounce the parliament as the supreme organ over the judiciary and the jeopardy of human rights and judicial independence.

b) Despite the fact that both systems are facing the challenge of constitutional supremacy, the Indian judicial review mechanism is more powerful and thus provides a more efficient way to avoid the executive overreach than the U.K.'s system which mainly depends on political checks and constitutional culture.

1.6 Methodology

The study is a thorough doctrinal legal analysis that delves into various constitutional texts, reviews landmark judicial decisions, amendment proposals, and more importantly, the very core of parliamentary debates together with the main secondary literature to depict the evolution of doctrines of constitutional supremacy. It adopts a case study method arguing that it charts the focus of the research on those occurrences being the most significant events that gave rise to the issues, such as the Tamil Nadu gubernatorial delay, the 130th Amendment proposal in India, and the Rwanda Bill in the UK, therefore, these events are used to depict the general nature of the problem with the help of concrete exemplars. The author employs a comparative setting to highlight the differences in the structures of the written, supreme constitution of India and the unwritten tradition of the parliament of the UK and how these differences affect the analysis of each one under stress.

The research is further expanded by assessing the qualitative aspect that relies on the legislative records, committee reports, media analysis, and scholarly commentary to investigate the political scenario, leadership statements, and institutional reactions that coalesce to define the current constitutional challenges in the two jurisdictions.

1.7 Limitations

The 130th Constitutional Amendment is still just a proposal for amendment, and its definitive content, legality, and political acceptance are still in the process of being determined which means any examination of it involves guessing. In the same way, the legal and political changes in the UK concerning the Rwanda plan are not yet settled, and there are going to be court interventions and possible further legislative actions that will affect the final outcomes. This

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article intentionally only compares India and the UK and does not take into account the differences between the two countries or any other international comparisons. Moreover, certain very important aspects of the way the constitution works - such as the role of conventions, unwritten norms, and political culture influence are by their nature difficult to empirically gauge or quantify and may have an impact on the extent of the evaluation.

2. India — Testing the Limits of Constitutional Supremacy

2.1 Assent, Gubernatorial Delay, and the Pocket Veto: Constitutional Background[8]

Article 200 of the Indian Constitution gives the powers to the governors of the states to pick one of three options in correspondence with the bills passed by the state legislature: they may grant their assent, return the bill with recommendations to reconsider, or in certain cases, send the bill to the President for his opinion. Article 201 in the constitution provides a similar model for presidential assent to the central legislation. The language in the constitution, which contains phrases like "as soon as possible," does not explicitly set deadlines for these actions. The practice, however, has changed to the extent that, in particular, in states ruled by opposition parties, governors delay their decisions on bills for an indefinite period or after the repeated passage of bills, they resort to reserving them for the President. Such a conduct, which is in effect a "pocket veto," has been generally regarded by the courts as falling within the scope of the governor's discretionary powers, and, therefore, they're not directly subject to the review. As a result, this issue leads to very basic questions of whether, on the one hand, prolonged inaction and, on the other hand, refusal to act are an abuse of the constitutional process that, to a certain extent, defeats the democratic principles and the legislative body's autonomy.

2.2 State of Tamil Nadu v. Governor of Tamil Nadu (2025)[9]: Strengthening the Supremacy of the Constitution

In the month of April 2025, the Supreme Court of India came up with a landmark decision that clearly defines the issue of gubernatorial inaction in the best way possible, dealing particularly with the usage of a "pocket veto" for an indefinite delay in giving assent to the bills passed by the state legislature. The Court emphatically pointed out that Governors do not enjoy any

[8] Supreme Court Observer, Pendency of Bills before Tamil Nadu Governor: Judgement Summary (Apr. 22, 2025), https://www.scobserver.in/reports/pendency-of-bills-before-tamil-nadu-governor-judgement-summary/ (summarizing the Supreme Court's clarification that indefinite delays by Governors on state bills violate constitutional mandates and timelines for gubernatorial action).

[9] State of Tamil Nadu v. Governor of Tamil Nadu, 2025 INSC 481 (India), https://api.sci.gov.in/supremecourt/2023/45314/45314_2023_11_1501_60770_Judgement_08-Apr-2025.pdf (last visited Oct. 2, 2025).

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constitutional right in this regard. They cannot go on forever holding back the legislation through such a stall and not in any way do they have the power to do so. The Court further explained that the performance of such acts by the verdict is a violation of constitutional norms and structures that the framers of the Constitution had envisioned. What the Court made it very clear was that the time frames within which the Governors should select one of the three constitutionally authorized courses of action—giving assent, returning the bill with recommendations, or reserving for Presidential decision—were to be reckoned as reasonable ones, and that, going by the Court, such time frames were no place for indecisiveness or prolonged silence.

The Court did so by construing the "as soon as possible" provision of Article 200 to require that a decision be taken at the earliest possible time and with due care. The Court left no room for the conception of constitutional discretion as a ground for an indefinite postponement of the decision. It laid down that if the Governor were to act based on the advice of the Council of Ministers, such action should be taken within one month, whereas in situations of withholding assent or reserving the bill against advice, the decision by the Governor must be arrived at within three months; and the reply in cases where the Legislature had re-passed a bill shall be issued within one month. The Court went even further to state that this would be followed by the possibility of judicial intervention in case there were unjustified delays beyond the set time, and it exercised its powers under Article 142 to grant "deemed assent" to some of those bills for which it received them, so as to secure complete justice considering those pending bills.

The Court, in a very clear way, pointed out in the verdict that the decision is to go to the Governor who must act in conformity with the advice of the Council of Ministers. A reservation made on one's own or a withholding of assent after a bill has been re-passed are not authorized. Such a change is the one that solves the question of the existence of gubernatorial discretion which is still unclear in an affirmative way and, in addition, the Court sees the support of the legislative supremacy as one of the elements that may lead to the strengthening of constitutional morality by not permitting the blockage of the executive that is not elected, and, at times, is unaccountable.

The impact of this decision is extensive: the process of law-making as per the democratic system is not interrupted as usually happens due to procedural stagnation or politically

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motivated delay, which is very likely in the case of appointed Governors. The Court issues very firmer political and bureaucratic stalling an ultimatum by allowing elected legislatures to have access to the people's will through the setting of deadlines. Whereas this decision marks a breakthrough for the institution of representative governance and the federal balance, especially in the case of states ruled by opposition parties, it has nonetheless been criticized for being overly intrusive by the judiciary in the matter as the setting of time for executive action is traditionally not under the judiciary's control. Despite being a decision for the Governors only as per Article 200, the issue about similar restrictions on the President's powers under Articles 111 and 201, however, arising in the future, still stands. Essentially, the decision is a reflection of the judiciary's proactive stance in the promotion of constitutional supremacy, its limitation on the powers of the executive and its upholding of the principles that are basic to a representative and accountable system of governance.

2.3 The 130th Amendment Proposal and Political Contestation[10]

2.3.1 Key Provisions and Legislative Intent

The 130th Constitutional Amendment Bill was tabled in the Lok Sabha on 20th August 2025. It substantially aims to modify Articles 75, 164 and 239AA of the Constitution. According to the Bill, if the Prime Minister or any Union Minister is arrested and kept in a charge-carrying jail for 30 consecutive days with the potential sentence being not less than five years and they failed to get bail, then the President must eliminate that minister from office who is false, a minister, so if they do not resign voluntarily. The withdrawal mechanism is, in the same way, applicable to State Chief Ministers and State Ministers, where the Governor is empowered to take action on the advice of the Chief Minister if a minister is detained in the same way.

Such similar provisions have been made in the Constitution for the National Capital Territory of Delhi regarding its special status under the Constitution.

Of note, the Bill does not seek approval by state legislatures as it purports to only change the executive provisions and not the federal framework or the process of constitutional amendment. Proponents of the measure argue that it intends to maintain constitutional morality and public accountability by such a ban on individuals who are facing serious criminal charges and are held in jail to be allowed to execute office.

[10] 130th Amendment Bill: Constitutional Morality on Trial, The India Forum (Sept. 2, 2025), https://www.theindiaforum.in/law/constitutional-morality-trial.

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2.3.2 Political Opposition and Doctrinal Controversies

A significant constitutional debate and vehement opposition have been provoked by the proposal. The Bill is described as being authoritarian by the critics, who are a part of the constitutional debate. One of the things they mentioned was that it was the Bill that violated the presumption of innocence principle by demanding that removal happened only based on arrest and pre-trial detention. Besides, they say that this is a reversal of the already set constitutional principles, which can be seen in the Representation of People Act, where usually disqualifications happen after a conviction rather than the times when the person is arrested. The opponents were also pointing out that the change might actually serve the political side in the sense that the government or its agencies would be able to do things like incite the unrest of a state government that is directed by your party by detaining the leader of the state for a more extended period. At the same time, they said that such a scenario would result in the gradual disappearance of the federal balance and state autonomy that are the two main things the India's constitutional structure is based on.

On the other hand, the constitutional law point of view also brings the table more possible problems. One of those features is the fact that such an act is in itself a violation of fundamental human rights enshrined in the Constitution, namely Article 21 (the right to life and personal liberty) and Article 14 (equality before the law). Whether parallel with that, the question of allocation powers for a sole executive or restricting authority by only some prosecutorial but not judicial verdicts rights to remove officials from the office arises is raised. Some experts of the constitutional law say that the mentioned provisions are in conflict with the core structure of the Indian constitution, which is a concept that rules the law, democratic representation, and federalism be the strongest among those legislations that might violate these principles. The Bill's passing, most probably, will be instantly sued in court, and then it is the Supreme Court which will make the final decision whether the Bill's provisions correspond to the constitutional fundamentals and thus, if they can be held back or not.[11]

2.3.3 Potential Impacts and Future Scenarios

If the 130th Amendment in its current form passes, the entire atmosphere relating to the checks on the executive and political risk in India would have changed significantly. In fact, it is such a step that could reconfigure not only ruling but also opposition parties' incentive systems. A

[11] 130th Amendment Bill: Constitutional Morality on Trial, The India Forum (Sept. 2, 2025), https://www.theindiaforum.in/law/constitutional-morality-trial.

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Supreme Court lawsuit will almost be certain to happen, basing on the guarantees of due process, federal principles, and separation of powers. There might be a huge political reaction which could influence the changes made to the measure by increasing the threshold for detention, providing exemptions, and more procedural safeguards or restricting its application. Though, the dispute, which is very intense, has overreached its boundaries and has become a broader debate about constitutional morals, political criminalisation, and the capacity of India's ruling institutions to endure a tough change of the constitution.[12]

2.4 Judicial Clarifications and Leadership Statements

Supreme Court in India has excessively been the loudest clear voice in reflecting and reinforcing constitutional rights through judicial leadership-interpretations. In fact, the recent Supreme Court judgment has been an excellent example in practically eliminating the dormancy of the Governor in Tamil Nadu, through the judiciary, has traced accountability under the constitution with respect to executive delay besides more such occurrences. These court decisions not only showcase the appeal of law but also reflect an extensive institutional view, which is the mode of assimilation of the constitutional balance. The acknowledged decisions further break the law system barriers and, simultaneously, they are the foundation for Constitution-based public discourse.

One such definite example could be, Justice Rohinton Fali Nariman impact speeches mainly made while addressing the court insights on its functioning. Among several things, those speeches reflected criticism of obstruction of constitutional authorities which he terms “throttling the entire legislative exercise” as what could be the consequence of such delays (The Times of India). They, in any way, do not pretend to be strictly extrajudicial; hitherto, they are still consistent with constitutional norms and reassert constitutional values. These statements are significant in the sense that they provide the wider societal discourse about the constitutionality and the role of the constitutional institutions with regard to the issue under discussion.

Furthermore, as per the Indian courts, we could conclude that the Supreme Gubernatorial scenario, was saved by the Supreme Court as a probable source of conflict with constitutional supremacy, by the way the courts had decided, reporting several clarificatory doctrinal

[12] Ibid.

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decisions, is the basis of the restriction on the power to amend the Constitution of India in the case of Kesavananda Bharati v. State of Kerala[13] is the basic structure doctrine. In Maneka Gandhi v. Union of India[14] and its succeeding cases, the Supreme Court has significantly broadened the notion of due process while it has simultaneously raised the concept of constitutional morality thereby confining the executive and legislative actions strictly within a human rights framework. There have been instances, when the judiciary, by way of intervention in emergency powers issues, tenure protection for certain institutions, and independence of essential bodies such as the judiciary and the Central Bureau of Investigation (CBI), has supported the constitutional framework.

The serious and restrictive stance of the judiciary was nevertheless only met with ongoing opposition and criticism. The executive, while being confronted by the judiciary's power, has used tactics such as presidential referrals, curative petitions, and, at times, the deliberate non-compliance of judicial directives, to counter the influence of the judiciary. Some members of the political elite have expressed that if the judiciary is not careful with the degree to which it asserts the separation of powers principle, then it may step too far into territories that have traditionally been the concern of the executive or legislature. The 130th Constitutional Amendment has been portrayed through public debates and political statements as either a mechanism to overcome judicial overreach or to tackle the backlog of cases, thereby underscoring the wider dynamics of the contest for institutional boundaries and constitutional interpretation.

3. United Kingdom — Parliamentary Supremacy and Constitutional Strain

3.1 The Role of the Lords Constitution Committee[15]

The House of Lords Constitution Committee acts as the core unit dealing with and overseeing the UK constitutional issues in the framework of the parliamentary system. Its remits include the scrutiny of all public bills which have constitutional significance, the production of detailed reports, and the initiation of conversations on newly appeared issues such as devolution, human rights legislation, and judicial reform. As an example, in the year 2025, the Committee organized an in-depth investigation into the rule of law in the UK, which signified the Parliament's epochal recognition of constitutional crises, and urged public submissions to

[13] Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225 (India).
[14] Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248 (India).
[15] House of Lords Constitution Committee, *Rule of Law Inquiry Launched*, 11 Mar. 2025 (UK Parliament).

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promote the debate. However, the Committee's position is to give pre-legislative oversight on very sensitive bills, practice government accountability through critiques and be a sort of a constitutional norms and institutional memory archive, despite not having direct enforcement power. Frequently, the power of the House of Commons and the House of Lords, as shaped by these reports, determines not only the debates of the Parliament but the wider constitutional questions raised by the developments in the members and thus indirectly the public's understanding of the matters.

3.2 Parliamentary Checks and the Operation of Constitutional Norms

Constitutionally, the British system heavily relies on political checks as opposed to the courts for the protection of constitutional virtues. The role of debates in each of the houses is indispensable to that very procedure; bills raising prominent constitutional questions such as sovereignty, human rights or devolution issues usually require that they are deeply scrutinized or amended. Selected members of the parliamentary and joint committees such as the Joint Committee on Human Rights not only invite, hear, and examine expert witnesses but also, after that, they draw up, change laws, and the like, based on the reports they make. Even though it is the monarch who grants Royal Assent, by virtue of constitutional conventions, it is more of an automatic approval rather than Royal Assent being an active check on legislation. In the UK's 'uncodified' system, political and informal conventions, such as ministerial accountability and the principle against retrospective legislation, are the main barriers to the state's power. However, while these instruments may direct or influence government power, their absence of legal, binding status means they lack the coercive power to the extent that judicial review has in countries with strictly entrenched constitutional texts.[16]

3.3 ECHR Debate and Judicial–Political Tension

The ties of the United Kingdom to the European Court of Human Rights (ECHR) remain the core issue of the wide judicial vs. political sovereignty debate that has been vehemently divided. The UK is bound by the Convention, but the Human Rights Act 1998 has played the role of the country's domestic law to put into effect the rights established in the Convention. Domestic courts, in this scheme, are empowered to issue "Declarations of Incompatibility" where they find that national legislation cannot be read in such a way as to be compliant with Convention rights. Anyway, it is important to emphasize here that courts do not have the power

[16] House of Lords Constitution Committee, *The Legislative Process: The Passage of Bills through Parliament*, HL Paper 27, at 7–10 (2017) (UK Parliament).

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to revoke Parliament's Acts. Then parliament is responsible for deciding whether to change the law or not. As it looks like, the conception behind these institutions tend to maintain the concept of parliamentary sovereignty while at the same time giving the judiciary a role in the protection of human rights.

In reality, this arrangement has usually generated clashes. Courts have been on the receiving end of pressure from politicians and members who, among other reasons, do so when the human rights decisions of courts are interpreted as restrictions of the executive in areas such as immigration or national security. These rights have progressively been depicted in the main political narrative as an impediment to excellent leadership thus more attempts are made to weaken the domestic impact of Strasbourg judgments and to reduce judicial discretion.

One of the present conflicts is very illustrative in the way the controversies about the government's deportation plan to Rwanda have been dealt with. The executive is attempting here to make a law that would provide a straightforward assessment of Rwanda as a "safe" place for those being deported in consequence, the judicial review will be avoided or annulled based on Article 3 of the ECHR which prohibits torture or any other form of inhuman or degrading treatment. The scenario is one of the fundamental dilemmas of the constitution - the extent to which a government may be allowed, or should, separate policy decisions from legal standards deriving from international human rights obligations. As a result, the Rwanda legislation has become one of the principal aspects in the struggle to define the boundaries of judicial power and political authority within the UK's constitutional system.[17]

4. Legislative Responses and Judicial Rulings: The Rwanda Case[18]

4.1 Background and Judicial Challenges

The policy of the United Kingdom to remove asylum seekers to Rwanda was challenged in court to a great extent. Through a number of lawsuits, culminating in the Supreme Court ruling, the judiciary declared the policy illegal. The Court considered that there was a genuine risk that people deported to Rwanda would be maltreated or returned to their countries of origin where they could be repressed, thus the non-refoulement principle would be violated. These rulings confirmed the role of the courts in safeguarding the rights of the people and in oversight of the executive actions that may be connected to the human rights commitments.

[17] Human Rights Act 1998, c. 42, § 2 (UK) (requiring courts to "take into account" Strasbourg jurisprudence).
[18] See *Safety of Rwanda (Asylum and Immigration) Act* 2024, c. 8 (UK).

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Following this judicial examination, the government enacted the Safety of Rwanda (Asylum and Immigration) Act 2024. The purpose of this law was to deliberately negate the judges' factual and legal findings, and to carry on the government's immigration program without the interference of the judiciary.

4.2 Legislative Provisions and Government Intent

The Act has features that have sparked debate. One of its provisions is to label Rwanda as 'safe country' for the deportation purposes, regardless of the court's decision. In addition, the law goes further and attempts to limit the available legal options that migrants can access by the disapplication or restriction of rights of appeal and access to injunctive relief - mainly in cases that invoke the European Convention on Human Rights (ECHR). Moreover, the Act diminishes the courts' power to authorize emergency intervention that may halt the expulsions.

The subtext is very much exposed i.e. to stop judiciary decisions from impeding government policy and to reaffirm parliamentary control over the range of immigration enforcement.[19]

4.3 Parliamentary Resistance and Legal Criticism

The Act has been met with a lot of opposition in the House of Lords, which has tried several times to add amendments to it to ensure that the rights are protected and it is in line with international obligations. Some lawyers have voiced a number of issues in the same way. Lord Sumption - ex-Supreme Court justice, described the Act as "constitutionally extraordinary," and said it interrupted the judiciary by going against their findings. In the same way, ex-Chancellor Ken Clarke advised that permitting Parliament to reverse the Supreme Court's decisions on facts would be like giving a dangerous beacon for constitutional governance.[20]

4.4 Parliamentary Sovereignty and Judicial Oversight

One of the main features of this law is the concept of the supreme power of the parliament. The statute acknowledges the historically recognized principle that the parliament may make a law on any matter, even if it is in contradiction with court interpretations and human rights requirements. Nevertheless, it heavily limits the functions of the judiciary in granting feasible

[19] See Research Briefing, *UK Parliament, The Rwanda Asylum Plan: Supreme Court Decision & the Safety of Rwanda Bill*, UKPB 9568, at 3-4 (2023–24).
[20] See House of Lords Hansard, vol. 837 col. 1462–1475 (12 Mar. 2024) (U.K.) (debate on proposed amendments to the Rwanda bill).

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solutions, thus lessening the extent of the judicial review.[21]

4.5 Legitimacy and Rule of Law

Even though Parliament can, by law, enact such a law, the issue remains whether it is in line with the Constitution. The Rwanda Act examines the relationship between the authority given by law and the appropriateness of the Constitution. The Act has the potential to violate the rule of law, decrease the independence of the judiciary, and lower the level of public confidence in constitutional governance due to such factors as the gradual erosion of the latter.

4.6 Precedent and Future Implications

The Act is possibly going to be an example for laws that will be passed later, which would be designed especially to protect disputed policies from the court's lookout - for instance, those signed in the areas of national security or immigration. The implication here is the potential for such a development to suggest wider and more frequent legislative intrusions into the role of the judiciary in safeguarding rights and exercising checks on the executive branch.[22]

4.7 Informal Constraints and Political Accountability

Despite the fact that legal measures in a traditional sense may be limited, this legislation has raised a reaction to a large extent from the political and social spheres. As part of the informal monitoring of excessive executive power, the media presence, the activism of the non-governmental organizations, and the changes made in parliament are some of the ways through which this can be done. Nevertheless, these entities do not possess forceful power and depend on political responsibility and popular support which are of a variable and uncertain nature.[23]

5. Comparative Reflections on Constitutional Design and Resilience

5.1 Institutional Strengths and Weaknesses

5.1.1 India: Judicially-Entrenched Constitutionalism

The constitutional setup of India is based on a documented and compiled Constitution, which is the judiciary's interpretation and protection. The fundamental structure concept and

[21] Joint Committee on Human Rights, *Legislative Scrutiny: Safety of Rwanda (Asylum and Immigration) Bill*, HL 102/HC 745, at 3–5 (2024) (UK Parliament), https://committees.parliament.uk/publications/43432/documents/214823/default/

[22] Joint Committee on Human Rights, *Legislative Scrutiny: Safety of Rwanda Bill*, HL 102/HC 745 (2024), at 6–9, https://committees.parliament.uk/publications/43432/documents/214823/default/

[23] See Liberty, *Government's Rights Removal Bill Threatens Protections for Everyone*, 22 June 2022, https://www.libertyhumanrights.org.uk

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constitutional morality are examples of such ideals that have given the courts the power not only to re-assess but also to quash those alterations in the constitution that endanger the democratic system at the core. Consequently, the judicial examination of the executive interference is generally very thorough thereby, even when supported by vast political majorities, such interventions are confronted by the courts.[24]

5.1.2 United Kingdom: Parliamentary Flexibility and Political Constraints

The United Kingdom, in another manner, still does not have a codified constitution but mainly depends on the principle of parliamentary sovereignty, traditions, and political accountability as the key characteristics of its constitutional order. Judicial review is present, but the power is quite restricted in the case of a clear legislative act. Providing a hand in the situation where the political desire to go beyond the judicial or human rights limitations is there, the institutional resistance is not so strong.[25]

Contrariwise, this model also has its advantages. The adaptability of the U.K. system allows for the slow change of the constitution and the rapid response to a political or social crisis, without undergoing the usual amendment procedures of written constitutions. This flexibility is both a strength and a weakness, as when strong majorities transgress constitutional principles.[26]

5.2 Erosion by Accretion vs. Constitutional Crisis[27]

In both instances, the biggest enemies to the rule of constitutional supremacy are those that are not due to a sudden constitutional failure or quick institutional disputes. Nevertheless, these issues reach the summit by creeping in - delays, bypassing the constitution in a statutory way that defeats the checks and balances gradually.

The case of the governor of Tamil Nadu in India, who deliberately postponed the assent to legislation to bypass the constitutional process by procedural inertia (sometimes called a "pocket veto"), is an example of such a situation. The judicial activism in this incident was a

[24] See Constitution of India, art. 13, 32; see also Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225 (India) (establishing basic structure doctrine).
[25] A.V. Dicey, *Introduction to the Study of the Law of the Constitution* 149–75 (10th ed. 1959) (U.K.); see also M. Elliott & R. Thomas, *Public Law* 30–45 (5th ed. 2020) (U.K.).
[26] R (Jackson) v. Attorney General, [2005] UKHL 56, [2006] 1 A.C. 262 (U.K.) (affirming parliamentary sovereignty and limited judicial review of primary legislation).
[27] Mark Tushnet, *Weak Courts, Strong Rights* 24–26 (2008) (discussing incremental constitutional erosion).

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very strong return of constitutional norms. Similarly, the 130th Amendment, if it becomes a law, can be a source of a very different distribution of institutional powers and supervision, thus, it is not only a structural change.

The Rwanda law is a more subtle yet no less significant deviation from the U.K. constitution, however, it is a clear example of how parliamentary majorities can gradually eliminate judicial restrictions without doing away with them by simply passing laws that circumvent them.

5.3 The Role of Non-Judicial Constitutional Guardians

5.3.1 India: Judiciary as the Central Guardian

The judiciary in the Indian system is still the mainstay when it comes to upholding the constitution and ensuring that values and organization balance are maintained. The courts, in fact, have always been very central in keeping both the legislature and the executive within the limits of their powers.[28]

5.3.2 United Kingdom: Distributed Guardianship and Soft Constraints

In the United Kingdom, the protection of the constitution is less centralized and is of a more informal nature. Parliamentary committees, independent watchdogs, media, and public opinion are the key players in the government accountability system. The House of Lords Constitution Committee does provide vital monitoring, yet its authority is of the advisory rather than the executive type.

A less-mandated constitutional oversight regime still significantly relies on political values, public disclosure, and conventions, which could have been lessened over time due to the decay of the respect for them by those in power.[29]

5.4 The Importance of Constitutional Culture

The major influence constitutional culture, beyond legal doctrine and institutional design, still has a lot of impact. No matter how strong the constitutional framework is, it is still not enough if those in power do not follow the spirit of the rules. Public expectations, norms of restraint and a shared commitment to the values laid down in the constitution are absolutely indispensable to provide the constitution with its supremacy.

[28] S.P. Gupta v. Union of India, A.I.R. 1982 S.C. 149.
[29] House of Lords Constitution Committee, *Report on Constitutional Issues*, HL Paper 102 (2024).

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The survival of constitutional democracy in the case of India and the U.K. depends not only on the strength of the formal institutions, but also on the attitude of political elites to practice self-restraint, show institutional respect, and act in accordance with democratic principles even if they have the legal authority to do otherwise.

6. Recommendations

6.1 In India: Safeguarding Constitutional Vigilance

Definitely, the Supreme Court of India must strengthen its position and be more vigilant in supervising executive delays that especially those which perform inaction with the sole purpose of frustrating constitutional processes. It would be logical for the judiciary to consider if it is necessary to exercise the same level of control when faced with indirections on the part of the president, especially in those situations where such procrastination may lead to a loss of democratic accountability or even a disturbance in the balance of power between the central and state governments. All these could be achieved by taking the Tamil Nadu governor's case as a starting point whereby continuance of the situation was considered to be causing constitutional problems.

In the event that constitutional amendments such as the 130th Amendment are undertaken, there is a need for very strong security measures against the misuse of the executive and the weakening of institutions. Among other things, these must enumerate the conditions for the occasion, supply by way of guidance judicial oversight criteria, and insert modifications that restrict ambiguous interpretations which could lessen the guarantees of the constitution. Amendments of that type and scale should be constructed in such a way as to promote the internal distribution of power and the respect of rights of the directly affected ones.

At the same time, the necessity to boost the openness of organizations is just as urgent, mainly in the sectors that the executive could possibly override, for example, preventive detention, arrests, and administrative actions. The reforms should be intended to provide people with the following capabilities: they should get the reasons for the detention without any delay; the charges should be made public soon enough; the people involved should be given complete procedural information about the incident. These are the key steps in protecting the individual's freedom and in keeping the state from engaging in arbitrariness.

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6.2 In the United Kingdom: Preserving Judicial Space and Soft Constraints

In the United Kingdom, the careful examination of legislation before debating is a constitutional feature that is greatly valued due to the sovereign authority of the Parliament. Along with this, there is considerable discretion in legislation. It then becomes necessary to raise the level of this check. The House of Lords Constitution Committee and other similar bodies should not only have such powers to intervene in the preparation of this legislation but also have enough resources to study issues like human rights, the existing legal frameworks and the judiciary of the current period. The time when their reports and recommendations to both Houses at the debates, were given serious consideration is a thing of the past.

In a non-codified constitution system, the part of non-judicial guardians is significant. Rights commissions, parliamentary watchdogs, and even the media, which is the fourth estate, should also receive funding and resources to make the task of close government monitoring easier. Civil society is not only meant to be the executive's main accountability vehicle but also the vehicle for rights awareness and democratic vigilance to be implanted in the culture. Although they may be informal, they are still important and necessary for the balance of the U.K. constitutional order.

6.3 Comparative Norm-Building and Shared Constitutional Values

The creation of a culture of a constitution is a necessity in both the jurisdictions. The constitutional literacy promotion through different spheres of the society such as education systems, public discourse, and judicial engagement can be the main pillar that supports the society's commitment towards the democratic principles.

One more advantage of learning from different jurisdictions might be the value of such learning. For example, judicial institutions, academic communities, and legal reform bodies in the different countries such as India and the U.K. can have exchanges that can be a great way to achieve a common understanding of constitutional respect. Experiencing the simultaneous comparison of different countries' experiences may help to inform the practice of institutional reforms and also to find the consensus on the common democratic norms.

Provided that all the three branches of government will benefit from the identification of the introduction of constitutional impact assessments as a method of legislation or constitutional amendments that have significant implications for the separation of power or human rights. In

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the same way as fiscal or environmental impact reviews in their operation, these assessments will allow a systematic evaluation of the possible constitutional risks as well as the outlining of the mitigation strategies before these measures become law. In this respect, they will open up a space of transparency, create trust among people, and attract more responsible constitutional governance.

7. Conclusion:

Recent events in both India and the United Kingdom reflect continuous conflict to maintain the balance between executive power and institutional investigation and balance. The Code of India of India and the active judiciary prepared a clear outline to oppose the expansion of the powers, while the UK on conferences and parliamentary sovereignty. This dependence forms a variety of obstacles when prominence bypasses judicial boundaries. Nevertheless, either the dangers for the system are not highly constitutional crises but gradually coming out of changes that reduce inspection and accountability.

Protecting constitutional democracy depends not only on laws and the institutions but also on a general political culture that accepts the separation of power. While Both countries are able to strengthen their constitutional grounds against the background of changing challenges with vigilance and commitment to fundamental principles.

8. Bibliography

- Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1999).
- Sudhir Krishnaswamy, *Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine* (Oxford University Press 2009).
- H.M. Seervai, *Constitutional Law of India* (3rd ed., Universal Law Publishing 1983).
- A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (Macmillan 1885).
- Mark Elliott, *The Constitutional Foundations of Judicial Review* (Hart Publishing 2001).
- Rosalind Dixon & Tom Ginsburg, *Comparative Constitutional Law* (Edward Elgar Publishing 2011).

ISSN: 2582-6433

Case Law

- Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225 (India).
- State of Tamil Nadu v. Governor of Tamil Nadu, 2025 INSC 481 (India).

Legislation and Reports

- The Constitution of India, Articles 75, 111, 164, 200, 201, 239AA.
- Representation of the People Act, 1951.
- Safety of Rwanda (Asylum and Immigration) Act, 2024 (UK).
- Human Rights Act, 1998 (UK).
- House of Lords Constitution Committee Reports, United Kingdom Parliament.

Additional Articles/Commentaries

- "130th Amendment Bill: Constitutional Morality on Trial," The India Forum (2025).
- "As the 130th Amendment Bill Centralises Power, the Deeper Casualty is Indian Federalism," ADR India (2025).
- "SC Verdict on Governor's Role in Bill Assent," Insights on India (2025).
- "The Legal Implications Of State Of Tamil Nadu v. Governor Of Tamil Nadu," Lawful Legal (2025).
- Lord Sumption, Ken Clarke, Commentaries on Rwanda Legislation and Judicial Powers (Various publications, 2024-2025).