

Parliamentary Sovereignty in India

Parliamentary sovereignty in India refers to the supremacy of the Parliament in the legislative process and its ability to make or repeal laws without interference from other branches of government.

The concept of parliamentary sovereignty is not explicitly mentioned in the Indian Constitution, but it is a fundamental feature derived from the overall structure and provisions of the Constitution.

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Is there Parliamentary Sovereignty in India?

The concept of parliamentary sovereignty in India is not absolute and is subject to certain constitutional limitations. Unlike in some other countries, where parliamentary sovereignty is a fundamental principle, the Indian Constitution has established a system that recognises a balance of powers among different branches of the government.

Key Aspects of Limitation of Parliamentary Sovereignty in India.

Nature of the Indian Constitution

The [Indian Constitution](#) is a written document, serving as the supreme law of the land. It establishes fundamental principles, rules and restrictions that Parliament must adhere to when enacting laws. These provisions are not merely symbolic but hold legal weight, being enforceable by the judiciary. Moreover, they cannot be altered through the ordinary legislative process. Hence, the constitution limits parliamentary sovereignty in India.

Federal System of Government

India operates under a federal system with a division of powers between the central government and the states. The parliamentary sovereignty in India is limited to the subjects listed in the Union List. It is explicitly prohibited from legislating on matters in the State List.

However, under certain circumstances, such as during emergencies, Parliament gains the authority to legislate on subjects within the State List. The Supreme Court, in the **S.R. Bommai vs Union of India case**, underscored the federal nature of the government and emphasised that Parliament's powers are constrained by the principles of federalism.

Judicial Review

The [Indian Parliament](#), being the architect of the Constitution, doesn't enjoy unchecked authority. For a law to be considered valid, it must undergo judicial review. This means that the judiciary assesses the constitutionality of legislative enactments, limiting parliamentary sovereignty in India.

If a law is found to be inconsistent with the constitutional provisions, the court has the authority to declare it void. A notable example is the Supreme Court's declaration that the 99th Constitutional Amendment Act and the National Judicial Appointments Commission (NJAC) were ultra vires the Constitution.

Fundamental Rights

Part III of the Indian Constitution guarantees fundamental rights, which are justiciable, meaning they can be enforced through legal proceedings. Parliament is expressly restricted from enacting laws that violate these fundamental rights. These rights, crucial for safeguarding individual liberties, cannot be suspended or curtailed by legislative action.

Presidential Veto Limits

The process of converting a bill into law is not complete without the President's assent. The President holds various veto powers, providing a crucial check on Parliament's sovereignty.

The President can withhold assent, send the bill for reconsideration, or, in certain cases, exercise a pocket veto. These powers act as limitations, ensuring that parliamentary decisions align with the broader constitutional framework and national interest.

Constitutional Provisions Affecting Parliamentary Sovereignty in India

The following constitutional provisions collectively shape and limit parliamentary sovereignty in India, emphasising the supremacy of the Constitution, protecting fundamental rights and providing avenues for judicial review to maintain a balance of power.

Article 13 – Judicial Review of Laws

Article 13 of the Indian Constitution stipulates that any law inconsistent with the fundamental rights is deemed void. This provision empowers the judiciary to conduct a judicial review of constitutional laws, ensuring that legislative actions align with the guaranteed fundamental rights.

Article 14 – Equality Before the Law

[Article 14](#) establishes the principle of equality before the law, emphasising that everyone is equal in the eyes of the law and no one is above it. This constitutional provision acts as a check on parliamentary actions, preventing discriminatory legislation.

Article 368 – Power to Amend the Constitution

Article 368 grants Parliament the power to amend the Constitution by adding, varying or repealing provisions, following a specified procedure. While this grants flexibility, it also imposes a procedural constraint on parliamentary sovereignty in India, ensuring a deliberative process for constitutional changes.

Article 49(1) – Supremacy of the Constitution

Article 49(1) declares the Indian Constitution as the supreme law of the land. This provision limits parliamentary sovereignty in India by emphasising the overarching supremacy of the Constitution, restricting Parliament from passing laws that contravene its principles.

Article 124(1) – Establishment of the Supreme Court

Article 124(1) provides for the establishment of the [Supreme Court in India](#). The Supreme Court serves as the judicial authority tasked with protecting and safeguarding constitutional principles. This includes testing laws for their constitutionality, acting as a further check on parliamentary actions.

Judicial Role in Testing Constitutionality

The judiciary, particularly the Supreme Court, is mandated to test laws for their constitutionality. It is not enough for a statute to be deemed unjust; there must be a

demonstration that the Constitution explicitly prohibits such injustice or guarantees protection of certain rights. This role reinforces the idea that parliamentary actions must align with constitutional norms.

Limits on Delegated Legislative Power

Parliament is granted the authority to delegate legislative power up to a certain point. However, beyond that limit, such delegation is deemed invalid. This places a boundary on parliamentary sovereignty in India, ensuring that essential legislative functions are retained within the constitutional framework.

Case Analysis on Parliamentary Sovereignty in India

Minerva Mills Case (Minerva Mills v. Union of India, 1980)

In [Minerva Mills Case](#), the Supreme Court emphasised that all three organs of the state — the executive, judiciary and the legislature — are bound by the constitution. The court asserted that none of these organs is above or beyond the Constitution. This reaffirmed the foundational principle of constitutional supremacy, highlighting that every action of the state must adhere to constitutional norms.

Golaknath Case (Golaknath v. State of Punjab, 1967)

The [Golaknath case](#) addressed the scope of parliamentary power to amend fundamental rights. The court ruled that Parliament does not possess the authority to amend fundamental rights. This decision marked a crucial moment in Indian constitutional history, asserting the inviolability of certain core rights against legislative modification.

Keshavananda Bharati Case (Keshavananda Bharati v. State of Kerala, 1973)

The [Keshavananda Bharati case](#) is perhaps the most significant in shaping the constitutional landscape of India. The court introduced the concept of the “basic structure” of the Constitution, holding that laws, rules and regulations that violate this basic structure would be considered null and void.

This decision struck a balance between Parliament’s right to amend laws and the protection of citizens’ fundamental rights. It set a precedent for the judiciary to review constitutional amendments and ensure they do not alter the essential character of the Constitution.

Conclusion

The Parliament is important for making laws, but it’s not all-powerful. The Constitution is the top law and Parliament must follow it. Court decisions, like those saying certain laws can’t change fundamental rights, also limit parliamentary sovereignty in India.

The Constitution is clear that everyone, even Parliament, must follow the rules. So, while Parliament is vital, it can't do whatever it wants and hence parliamentary sovereignty in India is not absolute. There are rules and limits to make sure everyone's rights are protected. This setup shows that in India, Parliament's power isn't absolute; it has to work within the rules set by the Constitution.