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**DOES THE INDIAN CONSTITUTION REQUIRE TRANSFORMATION?  
AMENDMENTS BUT NOT COMPLETE REPLACEMENT**- Anushka Rohilla<sup>1</sup>**ABSTRACT**

The debate on whether The Constitution of India needs a transformation has been going on for a very long time now. Our Constitution that came into being on 26th January 1950, isn't just a document containing some rights and duties, it is a well-planned and well-thought-out document considered to be the Supreme Law of Land that demarcates fundamental political code, structure, procedures, powers, and duties of government institutions and sets out fundamental rights, directive principles, and the duties of citizens<sup>2</sup>. Every action of the Government is guided by this document and the former cannot override the latter. This paper will primarily try to answer the question asked above through various pieces of evidence and instances and will also go through some of the most important features of the Constitution of India. It will revolve around the theme that "The Constitution has been interpreted as a radical document that seeks to reconstitute society while being mindful that the old hierarchies cannot be wished away. The duty of ensuring that transition is placed on a state that truly imbibes the transformative character and pursues it relentlessly<sup>3</sup>". The main goal of the paper is to highlight what our Constitution contains and represents and whether it should be changed entirely or not. The article will not only provide a detailed analysis of the question addressed but will also consider contrary views and try to rebut them through logical argumentation and proof.

**INTRODUCTION –**

The aim of the constitution was not just to give India a "Law Manual". It aimed to bring about a fundamental alteration in the structure of Indian Society -" Dr. S Radhakrishnan.

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<sup>2</sup> 'Constitution of India', Wikipedia: The Free Encyclopaedia (Dec 18, 2021, 12:16 PM)

[https://en.wikipedia.org/wiki/Constitution\\_of\\_India](https://en.wikipedia.org/wiki/Constitution_of_India)

<sup>3</sup> Indira Jaising, 'For me, it now means personal liberty': Indira Jaising explains Transformative Constitutionalism, Scroll.in (Jul 30, 2019, 06:30 AM) <https://scroll.in/article/931512/for-us-it-now-means-personal-liberty-indira-jaising-explains-transformative-constitutionalism>

Transformative Constitutionalism can be traced back to the South African Constitution where Justice Langa of the South African Supreme Court had said - “This is a magnificent goal for a constitution: to heal the wounds of the past and guide us to a better future. For me, this is the core idea of transformative constitutionalism: that we must change.”<sup>4</sup>

Its key elements are the central role of the State (courts included) in fulfilling the project of emancipation and the constant development of the Constitutional ideals of liberty, equality, and fraternity. It is these principles on which the society must sustain itself and the state must play an active role in constituting a society based on those principles. BR Ambedkar, emphasizing these principles remarked that: “We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of its social democracy. What does social democracy mean? It means a way of life which recognizes liberty, equality, and fraternity as the principles of life.”<sup>5</sup>

The Constitution was taken largely from the Government of India Act, 1935 a colonial act with repressive provisions and administrative procedures was adopted but the vision of its adoption was to transform two things which it did - The Constitution transformed the legal relationship between the individual and the State by changing them from the subjects of a colonial regime into citizens of a republic. It replaced the colonial logic of governing and administering a population with the democratic logic of popular sovereignty, public participation, and limited government. These fundamental rights, alien to the 1935 Government of India Act, represented “a tectonic shift in constitutional philosophy”. It also sought a thoroughgoing “reconstruction of State and society itself”. In its transformative avatar, the Constitution recognized that the Indian society had always been characterized by “layered sovereignty” established and maintained by “self-regulating communities” taking multifarious forms<sup>6</sup>.

An understanding of Transformative Constitutionalism demands that the state actively pursue these goals and remove all barriers to the enjoyment of such ideals<sup>7</sup>.

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<sup>4</sup> Sharanya Ghosh, *Transformative Constitutionalism*, iPleaders (Oct 20, 2020)

<https://blog.ipleaders.in/transformative-constitutionalism/>

<sup>5</sup> Indira Jaising, ‘For me, it now means personal liberty’: Indira Jaising explains Transformative Constitutionalism, Scroll.in (Jul 30, 2019, 06:30 AM) <https://scroll.in/article/931512/for-us-it-now-means-personal-liberty-indira-jaising-explains-transformative-constitutionalism>

<sup>6</sup> Gautam Bhatia, ‘The Constitution of India was not just a founding document. It had a radically transformative vision’, Scroll.in (Mar 04, 2019, 08:30 AM) <https://scroll.in/article/914555/the-constitution-of-india-was-not-just-a-founding-document-it-had-a-radically-transformative-vision%20-%20The%20Transformative%20Constitution:%20A%20Radical%20Biography%20in%20Nine%20Acts,%20Gautam%20Bhatia,%20HarperCollins%20India.>

<sup>7</sup> Indira Jaising, ‘Transformative Constitutionalism – A Post-Colonial Experiment’, The Leaflet: Constitution First (Jul 22, 2019) <https://www.theleaflet.in/transformative-constitutionalism-a-post-colonial-experiment-indira-jaising/>

It is the writings of BR Ambedkar, from his Report to the Southborough Committee to Annihilation of Caste and the story of the Mahad Satyagraha, that allow us to understand how the Constitution was committed to erasing social and economic hierarchies. And it is Gandhi's uncompromising approach to civil rights and his defense of all speech – even “revolutionary speech” – that enable us to understand the transformative potential in the simple words: “all citizens shall have the right to freedom of speech and expression”.<sup>8</sup>

### **DIRECTIVE PRINCIPLES OF STATE POLICIES (DPSPs)**

The Directive Principles of State Policy, described as “Novel Feature” by Dr. BR Ambedkar, find their origin in the Irish Constitution and act as guidelines for State while framing new laws,<sup>9</sup> thus considered to be “positive obligations” on the State.<sup>10</sup>

The concept behind the DPSP was to create a ‘Welfare State’<sup>11</sup> i.e., putting forward a ‘socialist pattern in the society’ and not subscribing to either of the extremes-Individualism or Socialism. The Constituent Assembly members believed that the responsibility of social development of the country lay with the government<sup>12</sup> and thus, came up with the DPSPs’ inclusion in Part IV categorizing its fifteen Articles into three categories of Socialistic, Gandhian, and Liberal<sup>13</sup>.

Article 37 explains the nature of the DPSPs, “The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws”

Thus, they are not enforceable by any Courts<sup>14</sup> i.e., they are non-justiciable but have been

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<sup>8</sup> Gautam Bhatia, ‘The Constitution of India was not just a founding document. It had a radically transformative vision’, Scroll.in (Mar 04, 2019, 08:30 AM) <https://scroll.in/article/914555/the-constitution-of-india-was-not-just-a-founding-document-it-had-a-radically-transformative-vision%20-%20The%20Transformative%20Constitution:%20A%20Radical%20Biography%20in%20Nine%20Acts,%20Gautam%20Bhatia,%20HarperCollins%20India>

<sup>9</sup> Richa Singh, *Directive Principles of State Policy*, iPleaders (Aug 09, 2019) <https://blog.iplayers.in/directive-principles-state-policy/>

<sup>10</sup> *Why are Directive Principles not Enforceable?* Study IQ <https://blog.studyiq.com/directive-principles-not-enforceable-free-pdf/>

<sup>11</sup> Richa Singh, *Directive Principles of State Policy*, iPleaders (Aug 09, 2019) <https://blog.iplayers.in/directive-principles-state-policy/>

<sup>12</sup> Aakanksha Bhola, ‘Scope of Enforcement of DPSPs’, Academike: Articles on Legal Issues (Oct 08, 2017) <https://www.lawctopus.com/academike/scope-of-enforcement-of-dpsps/>

<sup>13</sup> Divij Barolia, ‘Existence and Enactment of DPSPs’, Legal Service India: E-Journal <https://www.legalserviceindia.com/legal/article-3773-existence-and-enactment-of-dpsps.html>

<sup>14</sup> Aakanksha Bhola, ‘Scope of Enforcement of DPSPs’, Academike: Articles on Legal Issues (Oct 08, 2017) <https://www.lawctopus.com/academike/scope-of-enforcement-of-dpsps/>

described as forerunners of the U.N. Convention on Right to Development and an integral part of the Constitution standing elevated to inalienable fundamental rights by the Supreme Court of India in *Air India Statutory Corporation v. United Labour Union*.<sup>15 16</sup>

The applicability of the DPSPs has been widely debated by the framers of our Constitution but the provision to incorporate these found wide support in the Constituent Assembly. B.N. Rau propounded that these rights had an educative value that could occasionally invade individual rights for the greater good<sup>17</sup>. Dr. B.R. Ambedkar and K.T. Shah believed that DPSPs must be justiciable and propagated the idea of a particular time limit within which these must become justiciable.

Despite the initial disagreements over the non-enforceable nature of the DPSPs, the Assembly decided on the Directives in their present form for mainly two reasons- firstly, the changing times could put them out of date, and secondly, India did not possess the adequate resources, and thus, it was left to the future Governments to follow them voluntarily.

There often arises a conflict between the Fundamental Rights embedded in Part III and the DPSPs when a question regarding the priority is raised. The views have differed with every judicial decision. In the 1951 case of *State of Madras v. Champakam*<sup>18</sup>, the Supreme Court the Fundamental Rights should have precedence over DPSPs but this was altered by the Constitution (42nd Amendment) Act, 1971 which widened Article 31C to state that any law made to implement the DPSPs would be immune from unconstitutionality because it violates Articles 14 and 19. The *Keshavanand Bharti* 19 judgment also reiterated a similar view which was foiled in the *Minerva Mills*<sup>20</sup> case which, struck down the widening of Article 31C and observed both these facets were to be delicately balanced and complementary to each other.<sup>21</sup>

Therefore, if both Fundamental Rights and DPSPs have been held to be complementary to each other by the courts and if the framers supported their enforceability to prevent the Government from becoming autocratic<sup>22</sup>, then isn't it reasonable to expect that both be given an equal

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<sup>15</sup> *Air India Statutory Corporation v. United Labour Union* AIR 1997 SC 645

<sup>16</sup> Aakanksha Bhola, 'Scope of Enforcement of DPSPs', *Academike: Articles on Legal Issues* (Oct 08, 2017) <https://www.lawctopus.com/academike/scope-of-enforcement-of-dpsps/>; Narender Kumar, *Constitutional Law of India*, 480 (8<sup>th</sup> ed., 2014)

<sup>17</sup> Durga Das Basu, *Introduction to the Constitution of India*, 163 (22<sup>nd</sup> ed., 2015);

<sup>18</sup> *State of Madras v. Champakam* (1951) SCR 523 (531)

<sup>19</sup> *Keshavanand Bharti v. State of Kerala* AIR 1973 SC 1461

<sup>20</sup> *Minerva Mills v. Union of India* AIR 1980 SC 1789

<sup>21</sup> Aakanksha Bhola, 'Scope of Enforcement of DPSPs', *Academike: Articles on Legal Issues* (Oct 08, 2017) <https://www.lawctopus.com/academike/scope-of-enforcement-of-dpsps/>

<sup>22</sup> Aakanksha Bhola, 'Scope of Enforcement of DPSPs', *Academike: Articles on Legal Issues* (Oct 08, 2017) <https://www.lawctopus.com/academike/scope-of-enforcement-of-dpsps/>

weightage regarding their enforceability? DPSPs include a fulsome engagement with matters of health<sup>23</sup>, education<sup>24</sup>, Social, Economic, and Political Justice<sup>25</sup>, individual and communal safety, Free Legal Aid<sup>26</sup>, equality, Separation of Judiciary from the executive<sup>27</sup>, and prosperity<sup>28</sup>. Article 39 and 41 of the DPSPs<sup>29</sup> contain the very essence of the Welfare State. Also, most of the provisions contained in the DPSPs are promises made by the contesting parties during the time of elections which are seldom kept because the actual agenda of the parties is not related to the Country's growth and development but to look for their benefit. And so, if these DPSPs are justiciable in a court of law, the government becomes answerable to the people.<sup>30</sup> Their actions will also be controlled through these Directives which will, in turn, ensure that India is indeed a welfare state. While contriving constitution drafting committee never knew about the 'not so selfless interests of the parties', they thought that party in power will work for the country keeping constitution in mind and will make laws related to it and thus, felt no need to make the DPSPs enforceable but that didn't happen and nation's growth got hindered.<sup>31</sup> But now the time has come, as India is financially stable, to administer these DPSPs in our Constitution so that they can keep a check on the arbitrary power of the parties forming the Government and make sure they work for the welfare of the State because well, this was the very aim of the Founding Fathers of our Constitution.

## JUDICIARY AS A STATE

Judiciary as an organ performs functions like – executive or legislative or administrative and its scope of Article 12<sup>32</sup> fluctuates a lot concerning the functions it performs. The courts' legislative duty is to develop their regulations for better administration. Supreme Court can set its

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<sup>23</sup> INDIA CONST. art. 44

<sup>24</sup> INDIA CONST. art. 45

<sup>25</sup> INDIA CONST. art. 38

<sup>26</sup> INDIA CONST. art. 39A

<sup>27</sup> INDIA CONST. art. 50

<sup>28</sup> Indira Jaising, 'For me, it now means personal liberty': Indira Jaising explains Transformative Constitutionalism, Scroll.in (Jul 30, 2019, 06:30 AM) <https://scroll.in/article/931512/for-us-it-now-means-personal-liberty-indira-jaising-explains-transformative-constitutionalism>

<sup>29</sup> INDIA CONST. art. 39, 41

<sup>30</sup> Aakanksha Bhola, 'Scope of Enforcement of DPSPs', Academike: Articles on Legal Issues (Oct 08, 2017) <https://www.lawctopus.com/academike/scope-of-enforcement-of-dpsps/>; Divij Barolia, 'Existence and Enactment of DPSPs', Legal Service India: E-Journal <https://www.legalserviceindia.com/legal/article-3773-existence-and-enactment-of-dpsps.html>

<sup>31</sup> Divij Barolia, 'Existence and Enactment of DPSPs', Legal Service India: E-Journal <https://www.legalserviceindia.com/legal/article-3773-existence-and-enactment-of-dpsps.html>

<sup>32</sup> INDIA CONST. art. 12

regulations for the administration of its machinery under Article 145<sup>33</sup> of the Indian Constitution. It cannot enact laws that violate Part III of the constitution because that would render it void, according to Article 13<sup>34</sup>. As a result, it is a state in terms of legislative power. The administrative responsibilities of the courts are well contained within the scope of Article 12, which effectively makes the judiciary a state in its executive role. The most contentious issue has been whether the judiciary should be included in its judicial role under Article 12 so that it may be held accountable for violations of basic rights while deciding cases. There is no precise response to the question of the judiciary as a state in its judicial role<sup>35</sup>.

The word “judiciary or judicial decisions” – finds no mention in Article 736 of the draft constitution or Article 12 of the constitution. Article 8<sup>37</sup> of the draft, later adopted as Article 13, which talks about the invalidity of laws infringing Fundamental Rights, doesn’t define law as intrusive of judicial decisions. This leads us to interpret that there was no intention of framers of the Constitution to bring the judiciary under the ambit of state.

Article 12 says that “State includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India”<sup>38</sup> – thus, the definition prima facie doesn’t include “judiciary”.

Bringing the Judiciary within the scope of Article 12 would mean that it is deemed capable of acting in contravention of Fundamental Rights and Courts argued that this would eventually end their immunity against writ petitions and would open floodgates of frivolous challenges against every judicial decision Ambedkar in Constituent Assembly insisted on term “other authorities” and defined it as - “every authority which has the power to make laws or the power to have discretion vested in it” – this shows that apprehension that those wielding judicial power could violate part III rights, was evident. But over time, in the case of the judiciary, it has been difficult even though it is very much in the position of violating the Fundamental Rights of the individuals.

On the one hand, the Judiciary is the state organ that determines the scope of fundamental

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<sup>33</sup> INDIA CONST. art. 145

<sup>34</sup> INDIA CONST. art. 13

<sup>35</sup> Kalyani Ramnath, *Guarding the Guards: The Judiciary as State within the meaning of Article 12 of the Constitution*, 18 JSTOR, STUDENT BAR REVIEW 75, 76-78 (2006) (discussing the possibilities of bringing Judiciary within the ambit of State)

<sup>36</sup> DRAFT INDIA CONST. art. 7

<sup>37</sup> DRAFT INDIA CONST. art. 8

<sup>38</sup> INDIA CONST. art. 12

rights. If the judicial decision is incorrect, it is usually considered a breach of fundamental rights but if this were permitted, it would lead to pointless litigation as there is always an unsatisfactory party. On the other hand, refusing to enable a decision to be appealed could result in a catastrophic miscarriage of justice that goes unnoticed simply because the judiciary's fallibility is not acknowledged.<sup>39</sup>

In cases like *Budhan Choudhary v. the State of Bihar*<sup>40</sup> and *Prem Chand v. Excise Commissioner*<sup>41</sup>, the court accepted the fact that all the three organs have a responsibility to have the utmost regard for the Fundamental Rights but implicitly suggested that it did not want to be covered within the meaning of State in Article 12 by holding that “intentional and purposeful discrimination has to be proved” for holding judiciary liable for violating Article 14 in the former case<sup>42,43</sup> and that “superior position cannot be provided to Fundamental Rights<sup>44</sup>” in the latter<sup>45</sup>. In further cases like *Naresh Mirajkar v. the State of Maharashtra*<sup>46</sup>, the court held that violation of Fundamental Rights, which was only incidental and indirect, has to be secondary to the effective administration of justice but in this case, the most notable aspect was the dissenting opinion of Justice Hidaytullah who held that “The word "State" in Articles 12 and 13 includes courts because otherwise courts will be enabled to make rules which abridge Fundamental Rights”<sup>47</sup>. In the 2002 case of *Rupa Ashok Hurra v. Ashok Hurra*<sup>48</sup>, the Supreme Court acknowledged that the judiciary can err in imparting decision and violate principles of Natural Justice and *Audi alteram partem* even after a judgment has been passed and reviewed and so to remedy this lacuna, it is ready to reconsider its judgments via an evolved concept. However, it cannot, in any case, let the judicial orders be challenged under Article 32 on

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<sup>39</sup> Kalyani Ramnath, *Guarding the Guards: The Judiciary as State within the meaning of Article 12 of the Constitution*, 18 JSTOR, STUDENT BAR REVIEW 75, 76-78 (2006) (discussing the possibilities of bringing Judiciary within the ambit of State)

<sup>40</sup> *Budhan Choudhary v. the State of Bihar* A.I.R. 1955 S.C. 191.

<sup>41</sup> *Prem Chand v. Excise Commissioner* 9 A.I.R. 1963 S.C. 996.

<sup>42</sup> *Budhan Choudhary v. the State of Bihar* A.I.R. 1955 S.C. 191.

<sup>43</sup> Kalyani Ramnath, *Guarding the Guards: The Judiciary as State within the meaning of Article 12 of the Constitution*, 18 JSTOR, STUDENT BAR REVIEW 75, 80 (2006) (discussing the possibilities of bringing Judiciary within the ambit of State)

<sup>44</sup> Kalyani Ramnath, *Guarding the Guards: The Judiciary as State within the meaning of Article 12 of the Constitution*, 18 JSTOR, STUDENT BAR REVIEW 75, 79 (2006) (discussing the possibilities of bringing Judiciary within the ambit of State)

<sup>45</sup> *Prem Chand v. Excise Commissioner* 9 A.I.R. 1963 S.C. 996

<sup>46</sup> *Naresh Mirajkar v. the State of Maharashtra* A.I.R. 1967 S.C. 1.

<sup>47</sup> Kalyani Ramnath, *Guarding the Guards: The Judiciary as State within the meaning of Article 12 of the Constitution*, 18 JSTOR, STUDENT BAR REVIEW 75, 81 (2006) (discussing the possibilities of bringing Judiciary within the ambit of State)

<sup>48</sup> *Rupa Ashok Hurra v. Ashok Hurra* (2002) 4 S.C.C. 388

account of violation of Fundamental Rights.<sup>49</sup>

Thus, over the years, the majority judgments explicitly or implicitly denied to be covered under the ambit of Article 12 as a state and either disregarded the question completely or gave unsound justifications for it. Thus, it can be said that even today, while the judiciary acknowledges that its position is such that it can violate the Fundamental Rights of the people, it doesn't want to come under article 12 and rather undo the injustice done by it through different maxims. Especially with the evolution of fields like Public Interest Litigations and increased judicial activism, there must be mechanisms to hold the judiciary accountable as the third organ of the State is no longer merely restricted to *lis inters parte*. Thereby, given the ever-expanding role of the judiciary in matters concerning public life and the non-feasibility of the alternative remedies like a curative petition, its exclusion from Article 12 will only promote an authority with no accountability. It is time now for the constitution to transform in a manner to hold the Judiciary accountable for its actions of violating Rights which are very basic and are for everyone,

#### “BASIC STRUCTURE DOCTRINE”

The parliament's power to amend the constitution is not absolute and unrestricted in India. However, this conclusion was not in place from the starting because, in the earlier cases of *Shankari Prasad*<sup>50</sup> and *Sajjan Singh*<sup>51</sup>, the court held that any part of the Constitution, including the Fundamental Rights, can be amended by the Parliament and there was no restriction howsoever.<sup>52</sup> But these decisions were overturned by the *Golaknath Judgement*<sup>53</sup> which clarified that Fundamental Rights were entirely non-amendable as these are “primordial rights for the development of human personality” and did away the distinction between the ‘Constituent power’ of the Parliament which enables it to make amendments according to Article 368 and the legislative power which allows it to frame laws according to Article 246-248, which was maintained by the earlier two decisions.<sup>54</sup> This judgment was then overruled

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<sup>49</sup> Kalyani Ramnath, *Guarding the Guards: The Judiciary as State within the meaning of Article 12 of the Constitution*, 18 JSTOR, STUDENT BAR REVIEW 75, 88-89 (2006) (discussing the possibilities of bringing Judiciary within the ambit of State)

<sup>50</sup> *Shankari Prasad Singh v. Union of India* 1951 AIR 458, 1952 SCR 89

<sup>51</sup> *Sajjan Singh v. State of Rajasthan* 1965 AIR 845, 1965 SCR (1) 933

<sup>52</sup> MP JAIN, *INDIAN CONSTITUTIONAL LAW* 486-489 (Justice Jasti Chelameswar, Justice Dama Seshadri Naidu 8<sup>th</sup> ed. 2018)

<sup>53</sup> *I.C Golaknath & Ors. V. State of Punjab & Anr.* 1967 AIR 1643, 1967 SCR (2) 762

<sup>54</sup> MP JAIN, *INDIAN CONSTITUTIONAL LAW* 489-492 (Justice Jasti Chelameswar, Justice Dama Seshadri Naidu 8<sup>th</sup> ed. 2018)



and improvised by the landmark case of *Keshavanand Bharti*<sup>55</sup> which maintained the above-mentioned distinction and held that any part of the Constitution can be amended but in such a manner so as not to violate the basic structure of the constitution and thus, the power to amend was kept restricted<sup>56</sup> but the basic features were not defined at that time, leaving to the courts to determine them as per their discretion and thus, till date they remain undecided. A non-exhaustive list does consist of a few features considered to be basic like Supremacy of the Constitution, Republican and democratic form of government, Secular character of the Constitution, Separation of powers between legislative, executive and the judiciary, Federal character of the Constitution,<sup>57</sup> etc but its definition is nowhere to be found. This aspect might prove to be useful in certain cases but might also lead to grave injustice by the hands of the judiciary in case it errs in interpreting correctly what constitutes as a basic feature and should not be violated. The possibility always persists that the courts might regard irrelevant features to be basic or relevant features to be not basic thus, leading to erroneous decisions being passed. Therefore, it is time that the Constitution is transformed to provide a list of features that should necessarily be covered under the ambit of non-violative Basic Features.

## CONCLUSION

Therefore, from the above discussion, it can be concluded that our Constitution does require transformation but in the form of Amendments and not in the form of Replacement. What we have today with us, is a full-fledged document borne out of immense hard work combined with brilliant ideas of genius minds and prolonged deliberation over the things to be included and not to be included in this document that we call as our Constitution. Indeed, it was framed in the background of 1950s' situations but the fact that society evolves with changing times remained in back of the minds of the framers and opportunities were left open for transformation. It is high time that those opportunities are actually utilised and changes are made wherever required and necessary, a few of which have been discussed in this essay. Framing an entirely new Constitution, with commencement of a new Constituent Assembly is not possible because this process will take time and render India vulnerable during the time period of its framing thus,

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<sup>55</sup> *Keshavanand Bharti v. State of Kerala* AIR 1973 SC 1461

<sup>56</sup> MP JAIN, INDIAN CONSTITUTIONAL LAW 494 (Justice Jasti Chelameswar, Justice Dama Seshadri Naidu 8<sup>th</sup> ed. 2018)

<sup>57</sup> MP JAIN, INDIAN CONSTITUTIONAL LAW 495 (Justice Jasti Chelameswar, Justice Dama Seshadri Naidu 8<sup>th</sup> ed. 2018)

enabling other countries to gain an upper hand like the British did years ago for 200 plus years and we cannot afford that at this point when we have achieved so much which we cannot give up.



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