THE INDIAN CONSTITUTION: A CONVERSATION WITH POWER (2025). By Gautam Bhatia, Harper Collins Publishers India, Gurugram. Pp. [xxvi] + 347, Price INR 599/-.

The constitutional controversies of the period between 2019 and 2024, the abrogation of Article 370, the deployment of the Prevention of Money Laundering Act, 2002 and the Unlawful Activities (Prevention) Act, 1967 against political dissenters, the manipulation of the money bill procedure to circumvent the Rajya Sabha, and sustained legislative pressure upon the composition of the Election Commission admit of two distinct interpretations. The first treats each episode as an instance of ordinary political contestation within a functioning constitutional order. The second, and analytically more demanding, reading identifies these episodes as surface manifestations of structural features embedded within the Constitution itself. It is the second reading that *The Indian Constitution: A Conversation with Power*by Gautam Bhatia undertakes to develop and sustain.

The work proceeds to a thesis of some range: that the Indian Constitution despite its character as a terrain of contested power has drifted inexorably over seven decades to its centralisation - to its unitary, concentrated, and statist power at the expense of federal, distributed, and individual power. This organising metaphor is the metaphor of power map. The text does not seek to separate rights out of their relationship with federalism, or institutional design out of its relationship with rights, but suggests instead an integrated reading in which the disparate provisions of the Constitution are understood as standing in continuous and constitutive relationship to such other provisions. This methodological approach is based on the argument by Roberto Gargarella that constitutions consist of two inseparable halves - a dogmatic half which lists rights and a structural half which organises power - and that the latter half, which acts as the constitutional engine room, must be read together with the former[1]. Applied to the Indian experience, this construct leads to the additional concept of the constitutional common sense: the unarticulated set of assumptions, diffused among the judges, lawyers and administrators, that drives the constitutional interpretation towards the centralizing tendency. The subsequent chapters are organised into

[1]Gautam Bhatia, *The Indian Constitution: A Conversation with Power*9 (Harper Collins Publishers India, Gurugram, 2025).

six axes of constitutional power, namely, federalism, parliamentarianism, pluralism, guarantor institutions, rights and popular participation.

The chapter on federalism begins with the 2023 fiscal confrontation between Kerala and the Union on net borrowing ceilings[2] under Article 293[3], using this modern dispute as a window into the founding moment of Indian federal jurisprudence the majority decision in *State of West Bengal v. Union of India*[4]. The case today, in its affirmation of the constitutional power of Parliament to make laws in order to acquire state property, synthesised a historical narrative of India as being an essentially unitary polity with the provision of the many Union-favouring provisions of the constitution creating a centralising interpretive default which has since governed federal adjudication[5]. The dissent, which was retrieved as an alternative silenced in the Constitution, is the opposition of Justice Subba Rao in his dissent that constitutional silences had to be resolved in favour of state autonomy rather than Union supremacy.

The quasi-federal character of the Constitution, it is argued, was no less compatible with a policy of federalism that considered the Union supremacy an exception to the rule which would have needed to be expressly textually justified. Then one can speak about the following federal cases as the instances of this highly-rooted interpretative bias: the Mullaperiyar dam affair[6] and the application of the Armed Forces Special Powers Act, 1958.

Parliamentarianism chapter addresses how power has gradually accredited to the office of the executive to prejudice Parliament. The anti-defection measures of the Tenth Schedule, which was introduced in 1985 to curb the opportune party-switching, in effect placed extraordinary disciplinary power in the hands of the party leadership, and reduced the elected legislators to instruments of executive and party will[7]. This tendency has been strengthened and not corrected by the judicial transactions with these provisions. A combination of the money bill process under Article 110[8] which is reviewed through the prism of the

[2] *Id*., at 29.
[3] Constitution of India.
[4] AIR 1963 SC 1241.
[5] *Supra* note 1, at 74.
[6] *Id*., at 43.
[7] *Id*., at 82.
[8] *Supra* note 3.

constitutional questions raised by the phenomenon of the Aadhaar litigation[9] and the judicial approach to the powers of the ordinance-maker[10]. This finishes a portrait of an institutional structure which formally shares authority between the executive and the legislature and structures access to marginalise the latter.

The pluralism chapter fails to recognize Article 370[11] as a mere instrument of asymmetric federalism but as a recognition of constitutional democracy that there could exist various internal arrangements within an overall federal system. The Supreme Court decision in support of the abrogation of Article 370, is interpreted as a further entrenchment of the centralising logic and of a constitutional pluralism. The special texts of other states under Articles 371A to 371I[12], the constitutional governance of scheduled and tribal areas under Fifth and Sixth Schedules, respectively, is taken to be evidence that the strain between pluralism and homogenisation penetrates the constitutional text on a much larger scale than the conventional scholarship has appreciated[13].

The chapter on guarantor institutions, the Election Commission, the Comptroller and Auditor General, the Information Commission, argues that the fact that the Constitution did not design the institutions to be insulated against the influence of the executive, by providing inadequate appointment and tenure provisions or simply by saying nothing, served as a structural facilitator of executive domination.The *Anoop Baranwal v. Union of India*[14] ruling, which temporarily transferred the appointment of Election Commissioners to a three-person committee, is discussed as an important shift away to executive control - one which was quickly reversed by parliamentary legislation before the 2024 general elections[15]. The comparative mode of engagement with constitutional practice in Bolivia, Brazil, Kenya, and South Africa, in the service of identifying the possibilities of reform based on empirical

[9] The author engages with the Aadhaar judgment (*(Retd.) Justice K.S. Puttaswamy v. Union of India* (2018) 1 SCC 809) in the context of the money bill procedure, noting that the Court's majority upheld the Speaker's certification despite significant scholarly criticism of its basis.
[10] *Supra* note 1, at 112.
[11] *Supra* note 3.
[12] *Ibid.*
[13] *Supra* note 1, at 154.
[14] (2023) 6 SCC 1.
[15] The Parliament subsequently enacted the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, which replaced the Chief Justice in the appointment committee with a Union cabinet minister, effectively restoring executive control over the Election Commission's composition.

experience and not abstract prescription are one of the more distinctive contributions to be made by the chapter[16].

Part III of the Constitution of India is discussed in the rights chapter in terms of the duel of interpretations between state-centric and people-centric interpretations. India's constitutional authorisation of administrative detention under Article 22[17] not as an Emergency measure but as a permanent feature of the ordinary constitutional order is identified as a provision whose consistently state-deferential judicial interpretation has normalised the suspension of civil liberties as a routine instrument of public order[18]. The bail jurisprudence which the Prevention of Money Laundering Act, 2002 and the Unlawful Activities (Prevention) Act, 1967 have introduced which have provisions inverting the principle that bail is the rule have received judicial sanction, is analysed as a further dimension of this direction.

The last chapter is a continuation of the constitutional position of 'the people'. Although the Preamble proclaims popular authorship, the constitutional text gives no means of referenda on constitutional amendments, no assurance of any participation in any legislative administrative process, and no right of recall, the only formal channel of popular power[19]. Using the historical scholarship of Rohit De and Ornit Shani[20], the chapter retrieves submerged histories of popular engagements in the making of constitutions that might suggest a more constitutive role of ordinary citizens than the standard narrative would allow, and explores whether these histories hold the resources of constitutional readings that might restore more direct relationship between the people and their Constitution[21].

The six substantive chapters proceed to present a potentially compelling cumulative argument to the overall thesis statement of the book, but a number of limitations to analysis are worth more than mere consideration. The main issue is sufficiency of centralisation as the analytic framework.When the author examines the anti-defection law, the partisan Speaker, the capture of the Election Commission, or the state-centric reading of fundamental rights, the phenomenon under scrutiny is not strictly one of power migrating from states to the

[16]*Supra* note 1, at 168.
[17]*Supra* note 3.
[18]*Supra* note 1, at 210.
[19]*Supra* note 1, at 264.
[20]See Rohit De, *A People's Constitution: The Everyday Life of Law in the Indian Republic* (Princeton University Press, 2018); Ornit Shani, *How India Became Democratic: Citizenship and the Making of the Universal Franchise* (Cambridge University Press, 2018).
[21]*Supra* note 1, at 285.

Union. It is, rather, one of power consolidating in dominant political and executive actors at all levels of governance -a dynamic that the concept of centralisation, in its federal sense, cannot adequately capture. The anti-defection law disciplines state legislators with the same rigour it applies to members of Parliament; partisan Speakers have shaped state legislative proceedings as consequentially as they have shaped those of the Lok Sabha. A more differentiated conceptual vocabulary distinguishing between vertical centralisation in the federal sense and horizontal consolidation in the separation-of-powers sense, would have rendered the book's diagnosis both more precise and more practically useful, given that the normative and institutional responses to the two phenomena are substantially different.

A related limitation concerns the selection of judicial decisions. The book's reliance on inflection-point judgments entrenching the centralising drift is methodologically productive, but the absence of systematic engagement with the counter-centralising strand of the Supreme Court's record weakens the overall argument. Decisions crystallising the collegiums system, the basic structure doctrine established in *Kesavananda Bharati*[22], the series of judgments constraining misuse of Article 356[23], *NCT of Delhi v Union of India*[24], and the judgment quashing the electoral bonds scheme[25] each represent significant judicial checks upon executive consolidation. Their limited integration into the analytical framework leaves unresolved the question of what accounts for variation in the Court's interpretive trajectory. Be it, the bench composition, the socio-political moment, the character of advocacy, or the ideological commitments of individual judges.

A further concern relates to the book's theory of constitutional change. The deeper question as to how the constitutional common sense favouring executive power emerged, through what social and historical processes it commands its present legitimacy, and what conditions would be required to displace it, is left largely unaddressed. Former Prime Minister of India, Indira Gandhi's electoral return following the Emergency illustrates that undemocratic exercises of power do not necessarily exact a political cost, suggesting that the primary battleground is not constitutional text but the dominant narrative of state power that citizens have internalised as natural.

[22](1973) 4 SCC 225.
[23]*Supra* note, 3.
[24](2018) 8 SCC 501.
[25]*Assn. for Democratic Reforms (Electoral Bond Scheme) v. Union of India* (2024) 5 SCC 214.

These reservations notwithstanding, *The Indian Constitution: A Conversation with Power* is a work of genuine intellectual contribution. Its integrated reading of the Constitution as a power map, its deployment of the concept of constitutional common sense, and its comparative engagements represent substantive additions to Indian public law scholarship, meriting attention from jurists, parliamentarians, and scholars of comparative constitutionalism alike.

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