

Judicial Review in India: Harmonizing Constitutional Authority with Democratic Governance

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Abstract

The doctrine of judicial review is a cornerstone of democratic governance. It first flourished in the USA and was brilliantly articulated in the landmark case of *Marbury v. Madison* (1803) by John Marshall, the esteemed Chief Justice of the American Supreme Court. In India, the power of judicial review is not just an authority but a sacred trust bestowed upon the judiciary by the Constitution itself, encompassing both the Supreme Court and High Courts.

Doctrine of Judicial Review:

The doctrine of judicial review is a cornerstone of democratic governance.¹ It first flourished in the USA and was brilliantly articulated in the landmark case of *Marbury v. Madison* (1803) by John Marshall, the esteemed Chief Justice of the American Supreme Court.² In India, the power of judicial review is not just an authority but a sacred trust bestowed upon the judiciary by the Constitution itself, encompassing both the Supreme Court and High Courts.³ Furthermore, the Supreme Court has affirmed that the power of judicial review is a fundamental feature that upholds the essence of the Constitution.⁴ This power cannot be curtailed or excluded even by a constitutional amendment.⁵

Meaning of Judicial Review:

Judicial review is the authority of the judiciary to examine the constitutionality of legislative enactments and executive orders issued by both the Central and State governments.⁶ If these laws or orders are found to violate the Constitution, the judiciary can declare them illegal, unconstitutional, and invalid⁷. Consequently, such laws and orders cannot be enforced by the government.⁸

The Supreme Court has exercised the power of judicial review in various cases, including the *Golaknath* case (1967), the *Bank Nationalization* case (1970), the *Privy Purses Abolition* case (1971), the

¹ <https://www.ijfmr.com/papers/2024/3/21701.pdf>,4.1.2025

² <https://www.history.com/topics/united-states-constitution/marbury-v-madison>,4.1.2025

³ <https://www.iilsindia.com/blogs/art-32-power-of-judicial-review-by-supreme-court-of-india/1.1.2025>

⁴ <https://www.legalserviceindia.com/legal/article-13832-the-power-of-judicial-review.html,1.1.2025>

⁵ <https://www.legalserviceindia.com/legal/article-3597-judicial-review.html.1.1.2025>

⁶ <https://www.nextias.com/blog/judicial-review/1.1.2025>

⁷ <https://testbook.com/question-answer/the-supreme-court-of-india-enjoys-the-power-of-3--6049d209c46962e83cef5fc6,1.1.2025>

⁸ <https://indiankanon.org/doc/238792/4.1.2025>

Kesavananda Bharati case (1973), and the Minerva Mills case (1980)⁹. In 2015, the Supreme Court declared both the 99th Constitutional Amendment (2014) and the National Judicial Appointments Commission (NJAC) Act (2014) unconstitutional and null and void through the exercise of judicial review.¹⁰

Importance of Judicial Review:

Judicial review is essential for several reasons:

1. To fiercely uphold the supremacy of the Constitution.¹¹
2. To ensure the maintenance of federal equilibrium, striking the perfect balance between the Centre and the states.¹²
3. To staunchly protect the Fundamental Rights of all citizens.¹³

The Supreme Court stresses the importance of judicial review.¹⁴ In India, the Constitution is the highest law, and laws must adhere to it.¹⁵ The judiciary checks whether laws are constitutional, especially regarding Fundamental Rights, which require strong protection.¹⁶

No branch of government is above the Constitution. Each one derives its power from it and must stay within its limits. The Supreme Court interprets the Constitution to ensure compliance.¹⁷

Judges assess the validity of laws; without this power, Fundamental Rights would lose their meaning. Supreme Court judges uphold the Constitution and maintain balance among government branches, preventing any from exceeding its limits. Judicial review is essential for protecting individual rights and ensuring government balance.

Judicial Review and Democratic Governance: Balancing Constitutional Authority:

Judicial review is like a vibrant safeguard that ensures our democratic governance shines brightly within the framework of constitutional authority! In India, this empowering doctrine allows the judiciary to joyfully examine and, when necessary, invalidate legislative and executive actions that step outside the bounds of the Constitution.¹⁸ Let's dive into a delightful exploration of how judicial review harmonizes constitutional authority with the essence of democratic governance!¹⁹

1. Judicial Review as a Guardian of the Constitution

The judiciary acts as the custodian of the Constitution, ensuring that all laws and actions of the state adhere to constitutional principles.

Articles 13, 32, 226, and 136 of the Indian Constitution empower the judiciary to annul unconstitutional

⁹ <https://www.legalservicesindia.com/article/1734/Judicial-Review-in-India-And-USA.html>. 1.1.2025

¹⁰ <https://blog.ipleaders.in/99th-constitutional-amendment/>. 1.1.25

¹¹ <https://prepp.in/news/e-492-supremacy-of-the-constitution-indian-polity-notes>. 1.1.25

¹² <https://pwoniyas.com/udaan/centre-state-financial-relation/>. 1.1.25

¹³ <https://byjus.com/free-ias-prep/fundamental-rights/>. 1.1.25

¹⁴ <https://www.mondaq.com/india/constitutional-administrative-law/1467242/judicial-review-in-india-importance-landmark-cases-and-criticism>, 1.1.2025

¹⁵ <https://www.mondaq.com/india/constitutional-administrative-law/1467242/judicial-review-in-india-importance-landmark-cases-and-criticism>, 1.1.2025

¹⁶ <https://www.drishitjudiciary.com/to-the-point/ttp-constitution-of-india/judicial-review-under-coi>. 1.1.2025

¹⁷ <https://www.legalservicesindia.com/article/1617/Separation-of-Powers-and-Its-Development-with-Special-constitution-of-indi>. 1.1.2025

¹⁸ <https://lawfullegal.in/the-role-of-judicial-review-in-indian-politics/>. 1.1.25

¹⁹ <https://www.questionai.com/essays-eVZpv0SGvj4/importance-judicial-branch-democracy-essay-exploration>. 1.1.2025

laws and policies.²⁰

For instance, the landmark judgment in *Minerva Mills Ltd. V. Union of India*²¹ reinforced the Constitution's supremacy by declaring that Parliament cannot alter its "basic structure."

2. Preserving Fundamental Rights

Judicial review plays a pivotal role in safeguarding fundamental rights against state encroachment.

In cases like *Maneka Gandhi v. Union of India*,²² the Supreme Court expanded the interpretation of Article 21, emphasizing the importance of personal liberty and due process.

By striking down laws that infringe upon individual rights, the judiciary upholds the democratic principle of protecting minorities and marginalized communities.

3. Strengthening the Doctrine of Separation of Powers

The judiciary ensures that the legislative, executive, and judicial branches function within their constitutional boundaries.

In *Kesavananda Bharati v. State of Kerala*,²³ the Court introduced the "basic structure doctrine, restricting Parliament's power to amend the Constitution in ways that undermine its fundamental principles.

This doctrine protects democratic governance by preventing any organ of the state from becoming authoritarian.

4. Intervention to Address Legislative and Executive Failures

Judicial review often intervenes when the legislature or executive fails to fulfill its constitutional obligations.

Through Public Interest Litigations (PILs), courts have addressed issues ranging from environmental degradation to social justice. For example, in *M.C. Mehta v. Union of India*,²⁴ the judiciary directed measures to curb pollution in Delhi. While these interventions address immediate issues, they raise questions about the judiciary's encroachment into policymaking domains.

5. Judicial Review as a Check on Executive Power:

The judiciary limits the arbitrary exercise of executive power, thereby ensuring accountability and transparency.

In *S.R. Bommai v. Union of India*,²⁵ the Supreme Court curbed the misuse of Article 356 (President's Rule), ensuring that executive decisions respect democratic norms.

Such interventions strengthen federalism and prevent the executive from undermining elected state governments.

6. Challenges in Balancing Constitutional Authority and Democracy:

Judicial Overreach: Courts have sometimes been criticized for overstepping their mandate, venturing into legislative or executive domains. For instance, the Supreme Court's decision to strike down the NJAC Act in *Supreme Court Advocates-on-Record Association v. Union of India*²⁶ raised concerns about judicial supremacy.

Subjective Interpretation: The "basic structure doctrine" lacks precise boundaries, leading to subjective

²⁰ Constitution of India 1950, arts 13, 32, 226, and 136.

²¹ *Minerva Mills Ltd. V. Union of India* (1980) 3 SCC 625.

²² *Maneka Gandhi v. Union of India* (1978) 1 SCC 248.

²³ *Kesavananda Bharati v. State of Kerala* (1973) 4 SCC 225.

²⁴ *M.C. Mehta v. Union of India* (1987) 1 SCC 395.

²⁵ *S.R. Bommai v. Union of India* (1994) 3 SCC 1.

²⁶ *Supreme Court Advocates-on-Record Association v. Union of India* (2015) 5 SCC 1.

judicial interpretations that can challenge legislative sovereignty.²⁷

Delays in Judicial Process: Prolonged litigation in critical cases can delay governance and undermine the judiciary's effectiveness.

7. Judicial Restraint as a Solution:

For judicial review to function effectively in a democracy, the judiciary must exercise self-restraint and adhere to constitutional boundaries.

Justice O. Chinnappa Reddy aptly noted that judicial activism should not transform into judicial adventurism, as such tendencies can destabilize the separation of powers.²⁸

Judicial review is undoubtedly needed for upholding constitutional authority and safeguarding democracy. While it prevents state organs from overstepping their mandates, excessive use can undermine democratic processes.²⁹ The judiciary must exercise restraint and remain guided by the principles of justice and constitutionalism.³⁰

Constitutional Provisions for Judicial Review:

Although the term "Judicial Review" is not explicitly mentioned in the Constitution, various Articles confer this vital power upon the Supreme Court and High Courts. These provisions include:

- Article 13: This article asserts that any law inconsistent with or diminishing the Fundamental Rights will be rendered null and void, thereby establishing a direct relationship between the supremacy of constitutional rights and legislative actions.³¹
- Article 32: This provision guarantees individuals the right to approach the Supreme Court for the enforcement of their Fundamental Rights, empowering the Court to issue necessary directions, orders, or writs to protect these rights.³²
- Article 132: This article pertains to the appellate jurisdiction of the Supreme Court in cases concerning the Constitution, where it can also exercise its judicial review powers.³³
- Article 133: Similar to Article 132, this article deals with the appellate jurisdiction of the Supreme Court, specifically in civil matters.³⁴
- Article 134: This provision addresses the appellate jurisdiction of the Supreme Court in criminal cases, ensuring broader access to justice.³⁵
- Article 134-A: This article facilitates appeals to the Supreme Court originating from High Courts, reinforcing the hierarchy of the judicial system.³⁶
- Article 226: This empowers High Courts to issue directives, orders, or writs not only for the enforcement of Fundamental Rights but also for any pertinent legal matters, thereby extending judicial review to a wider realm.³⁷

²⁷ H.M. Seervai, *Constitutional Law of India* (4th edn, Universal Law Publishing 2012) 274.

²⁸ Justice O. Chinnappa Reddy, "Judicial Activism: The Indian Experience" (1994) 1 SCC J-43.

²⁹ <https://lawfullegal.in/judicial-overreach-in-india-disrupting-the-balance-of-power-in-policy-making/1.1.2025>.

³⁰ <https://blog.ipleaders.in/judicial-restraint/1.1.2025>.

³¹ <https://testbook.com/constitutional-articles/article-13-of-indian-constitution.1.1.25>

³² <https://blog.ipleaders.in/constitutional-remedies-supreme-court/1.1.25>

³³ <https://testbook.com/constitutional-articles/article-132-of-indian-constitution.1.1.25>

³⁴ <https://www.constitutionofindia.net/articles/article-133-appellate-jurisdiction-of-supreme-court-in-appeals-from-high-courts-in-regard-to-civil-matters/1.1.2025>

³⁵ <https://indiankanoon.org/doc/1446285/1.1.2025>

³⁶ <https://testbook.com/constitutional-articles/article-134-of-indian-constitution>

³⁷ <https://www.geeksforgeeks.org/article-226-power-of-high-courts-to-issue-writs/1.1.2025>

- Article 227: Article 227 empowers High Courts with supervisory authority over all courts and tribunals within their jurisdiction, except military tribunals, ensuring a robust system of checks and balances in the judiciary.³⁸

All these articles collectively contribute to the foundation and exercise of judicial review in the Indian legal system.

Scope of Judicial Review:

Judicial Review of the Ninth Schedule:

Judicial review extends to the Ninth Schedule, as established in the landmark I.R. Coelho v. State of Tamil Nadu (2007)³⁹ case. The Supreme Court held that laws added to the Ninth Schedule after April 24, 1973, are not immune from judicial scrutiny if they violate Fundamental Rights under Articles 14, 15, 19, and 21 or contravene the Constitution's 'basic structure.' This principle is rooted in the Kesavananda Bharati case, which introduced the "basic structure" doctrine.⁴⁰

Key takeaways from these rulings include the following:

1. Laws that infringe upon Fundamental Rights under Part III of the Constitution may breach the basic structure, regardless of whether they are introduced through constitutional amendments or placed in the Ninth Schedule.⁴¹
2. Such laws can be invalidated through judicial review, which examines their direct impact and consequences.⁴²
3. The validity of new constitutional amendments must be independently assessed, as underscored in Kesavananda Bharati and Indira Nehru Gandhi v. Raj Narain.⁴³

Article 137:

Article 137 of the Constitution pertains specifically to the power of judicial review.⁴⁴ It permits the court to reassess civil proceedings based on factors such as the discovery of new evidence, errors or mistakes apparent on the record, and other sufficient causes deemed necessary to secure justice for the parties involved.⁴⁵ However, this power is also subject to specific limitations and guidelines set forth within the legal framework.⁴⁶

Judicial review serves as a crucial mechanism to ensure that legislative, judicial, and administrative actions align with constitutional principles.⁴⁷ It allows for reviews based on considerations such as adherence to natural justice, judicial errors, fraudulent judgments, and jurisdictional authority.⁴⁸

³⁸ <https://thelawmatics.in/supervisory-jurisdiction-of-high-courts-under-article-227-an-analysis/1.1.2025>

³⁹ <https://lawplanet.in/ir-coelho-vs-state-of-tamil-nadu/2.1.25>

⁴⁰ <https://vajiramandravi.com/quest-upsc-notes/ninth-schedule/2.1.2025>

⁴¹ <https://blog.ipleaders.in/fundamental-rights-under-the-indian-constitution-a-comprehensive-guide-with-case-laws/1.1.2025>

⁴² <https://www.juscorpus.com/doctrine-of-judicial-review-and-its-relevance-in-india/1.1.2025>

⁴³ <https://www.verdictum.in/court-updates/supreme-court/anjum-kadari-anr-v-union-of-india-ors-2024-insc-831-basic-structure-constitutional-validity-statute-1556998>

⁴⁴ <https://indiankanoon.org/doc/249731/1.1.2025>

⁴⁵ <https://www.mcolegals.in/kb/An-Analysis-of-powers-of-Review-and-Revision-vested-in-Courts-under-Code-of-Civil-Procedure-1908.pdf>

⁴⁶ <https://thelawbrigade.com/wp-content/uploads/2019/05/Dr.-Banamali-1.pdf>

⁴⁷ <https://lawfullegal.in/the-evolution-of-judicial-review-in-india-a-constitutional-analysis/1.1.1.2025>

⁴⁸ <https://www.lawctopus.com/academike/grounds-judicial-review-123/1.1.2025>

Judicial review is categorized into three primary types:

- Review of Legislative Actions: This aspect involves assessing whether laws enacted by the legislature comply with constitutional provisions, particularly those outlined in Part III of the Constitution, which embodies fundamental rights.⁴⁹
- Review of Judicial Decisions: This category deals with situations where the validity of a statute is questioned, particularly if it is claimed that the statute was enacted without proper authority.⁵⁰ Courts play a vital role in determining the legitimacy of such legislation. It is important to note that the legislature is not empowered to direct state entities to contravene judicial rulings.⁵¹
- Review of Administrative Actions: This mechanism ensures that administrative agencies adhere to constitutional norms while exercising their powers, thereby promoting accountability and governance.⁵²

Transgressions Made by Judicial Review in India:

Judicial review is a critical mechanism for safeguarding constitutionalism, but it has also been criticized for instances of judicial overreach, subjectivity, and disregard for the separation of powers. These transgressions arise when courts exceed their constitutional mandate, thereby undermining the role of the legislature and executive in a democratic setup. Below are some significant examples and instances of judicial transgressions:

1. Judicial Overreach

Judicial overreach occurs when courts interfere excessively in policy matters, thereby stepping into the domain of the legislature or executive. This often leads to criticisms that the judiciary is encroaching on democratic processes.

a. Vishaka Guidelines Case (1997)

In *Vishaka v. State of Rajasthan*, the Supreme Court issued binding guidelines for addressing workplace sexual harassment, citing legislative inaction. While the judgment addressed a pressing social issue, it was criticized for performing a legislative function, which is constitutionally reserved for Parliament.⁵³

b. Ban on Firecrackers

In *Arjun Gopal v. Union of India*, the Supreme Court imposed restrictions on the sale and use of firecrackers to curb pollution. Critics argued that the judgment ignored cultural practices and policy considerations better suited for the legislature.⁵⁴

2. Subjectivity in Basic Structure Doctrine

The “basic structure doctrine,” introduced in *Keshavananda Bharati v. State of Kerala*, allows courts to strike down constitutional amendments that violate the Constitution’s fundamental framework⁵⁵ However, the lack of clear parameters defining the “basic structure” has led to subjective interpretations.

Example: Striking Down of the NJAC Act (2015)

In *Supreme Court Advocates-on-Record Association v. Union of India*, the Court invalidated the 99th Constitutional Amendment and the National Judicial Appointments Commission (NJAC) Act, citing a

⁴⁹ <https://www.freelaw.in/legalarticles/Judicial-Review-in-India.1.1.1.2025>

⁵⁰ <https://www.drishtijudiciary.com/to-the-point/tp-constitution-of-india/judicial-review-under-coi>

⁵¹ <https://prepp.in/news/e-492-indian-judicial-doctrines-indian-polity-upsc-notes>.

⁵² <https://lawbhoomi.com/judicial-review-of-administrative-action/1.1.2025>

⁵³ *Vishaka v. State of Rajasthan* (1997) 6 SCC 241.

⁵⁴ *Arjun Gopal v. Union of India* (2017) 9 SCC 416.

⁵⁵ *Keshavananda Bharati v. State of Kerala* (1973) 4 SCC 225.

violation of judicial independence as part of the basic structure. Critics argue that the judiciary acted to protect its own primacy in appointments, disregarding the democratic mandate behind the NJAC.⁵⁶

3. Delay and Inefficiencies

Judicial review, particularly in the context of Public Interest Litigations (PILs), has sometimes led to delays in governance and policy implementation. Example: Environmental Clearances in Infrastructure Projects.

The judiciary's intervention in environmental matters, such as in *Sterlite Industries (India) Ltd. V. Union of India*,⁵⁷ led to prolonged delays in key industrial and infrastructure projects. While the intent to protect the environment is laudable, such delays can impede economic development.

4. Intervention in Legislative Processes

Judicial intervention in legislative processes has also raised concerns about undermining parliamentary sovereignty.

Example: Floor Test in Karnataka Assembly (2018)

In *B.S. Yeddyurappa v. Union of India*, the Supreme Court directed the Karnataka Governor to hold a floor test within 24 hours to prove the majority of the Chief Minister. Critics argued that the judiciary had overstepped by dictating the timeline for legislative proceedings, a domain traditionally reserved for the legislature and executive.⁵⁸

5. Creation of New Rights

The judiciary has, at times, expanded the scope of fundamental rights through judicial review, effectively creating new rights without legislative approval.

Example: Right to Privacy as a Fundamental Right

In *Justice K.S. Puttaswamy v. Union of India*, the Supreme Court declared the right to privacy a fundamental right under Article 21.⁵⁹ While the decision was widely celebrated, critics argue that such expansive interpretations should ideally emanate from legislative debates and enactments rather than judicial pronouncements.

6. Judicial Legislation

When courts legislate in areas where Parliament has failed to act, it raises questions about the separation of powers. Example: Regulation of CNG Vehicles in Delhi.

In *M.C. Mehta v. Union of India*, the Supreme Court directed the conversion of public transport in Delhi to Compressed Natural Gas (CNG). Although the decision aimed to reduce pollution, it effectively imposed policy decisions on the executive, bypassing the legislature.⁶⁰

While judicial review is indispensable for upholding constitutional principles, instances of overreach and transgression highlight the need for judicial restraint.⁶¹ Courts must balance their duty to protect fundamental rights with respect for the separation of powers and democratic governance. By adhering to constitutional boundaries, the judiciary can avoid undermining the very democracy it seeks to protect.

⁵⁶ *Supreme Court Advocates-on-Record Association v. Union of India* (2015) 5 SCC 1.

⁵⁷ *Sterlite Industries (India) Ltd. V. Union of India* (2013) 4 SCC 575.

⁵⁸ *B.S. Yeddyurappa v. Union of India* (2018) SCC Online SC 830.

⁵⁹ *Justice K.S. Puttaswamy v. Union of India* (2017) 10 SCC 1.

⁶⁰ *M.C. Mehta v. Union of India* (1998) 6 SCC 63.

⁶¹ <https://lawfullegal.in/the-evolution-of-judicial-review-in-india-a-constitutional-analysis/1.1.2025>

Articles of the Indian Constitution Ensuring Checks and Balances Between Judicial Review and Separation of Powers:

The Indian Constitution incorporates a system of checks and balances to regulate the power of judicial review and maintain the doctrine of separation of powers.⁶² Judicial review ensures that the legislature and executive do not exceed their constitutional authority, while the separation of powers ensures that no organ of the state dominates others.⁶³ The following constitutional provisions are instrumental in achieving this balance:

1. Article 13: Judicial Review of Laws

Article 13 explicitly empowers the judiciary to invalidate any law or executive action that is inconsistent with the Constitution. It provides the legal foundation for judicial review, ensuring that the legislature operates within its constitutional limits.⁶⁴ However, this article also requires judicial restraint to respect the legislature's domain and prevent excessive interference.

2. Article 50: Separation of Judiciary from Executive :

Article 50, under the Directive Principles of State Policy, directs the state to separate the judiciary from the executive in public services.

This article promotes judicial independence, a prerequisite for unbiased judicial review, while ensuring that the judiciary does not assume executive functions.⁶⁵

3. Article 32 and Article 226: Protection of Fundamental Rights:

Article 32 empowers the Supreme Court to issue writs for enforcing fundamental rights, while Article 226 extends similar powers to High Courts. These provisions allow courts to check legislative or executive actions that violate fundamental rights.⁶⁶ The judiciary must balance this power by respecting democratic mandates and avoiding unwarranted interference in policy matters.

4. Article 245 and 246: Legislative Powers of Parliament and State Legislatures:

Articles 245 and 246 define the legislative competence of Parliament and state legislatures. The judiciary uses these articles to determine the constitutionality of laws under judicial review, ensuring that legislative powers are exercised within their prescribed limits.⁶⁷

5. Article 141: Judicial Precedents as Binding Law:

Article 141 establishes that the law declared by the Supreme Court is binding on all courts in India.

This provision ensures uniformity in judicial decisions, maintaining consistency in the application of judicial review.⁶⁸

6. Article 144: Obligation of Authorities to Act in Aid of the Judiciary

Article 144 mandates all civil and judicial authorities to act in aid of the Supreme Court.

This provision ensures that judicial decisions are implemented effectively, but it also reinforces the need for judicial prudence to avoid overreach.⁶⁹

7. Article 122 and Article 212: Non-Interference in Legislative Procedures Article 122 prevents courts from questioning the validity of parliamentary proceedings, while Article 212 provides similar protection

⁶² <https://lawfoyer.in/doctrine-of-checks-and-balances/1.1.2025>

⁶³ <https://www.drishtijudiciary.com/to-the-point/ttp-constitution-of-india/judicial-review-under-coi>

⁶⁴ Constitution of India 1950, art 13.

⁶⁵ Constitution of India 1950, art 50.

⁶⁶ Constitution of India 1950, arts 32 and 226.

⁶⁷ Constitution of India 1950, arts 245 and 246.

⁶⁸ Constitution of India 1950, art 141.

⁶⁹ Constitution of India 1950, art 144.

to state legislatures.

These provisions uphold the separation of powers by restricting judicial interference in legislative processes.⁷⁰

8. Article 368: Limits on Judicial Review of Constitutional Amendments

Article 368 grants Parliament the power to amend the Constitution, but the judiciary has interpreted this power to be subject to the "basic structure doctrine."

In *Kesavananda Bharati v. State of Kerala*,⁷¹ the Supreme Court ruled that amendments violating the Constitution's basic structure are invalid, ensuring a balance between parliamentary sovereignty and constitutional integrity.

9. Article 131: Jurisdiction Over Federal Disputes:

Article 131 gives the Supreme Court original jurisdiction over disputes between the Union and states, ensuring judicial intervention in cases of federal imbalance. The judiciary's role here complements the separation of powers by resolving conflicts without encroaching on legislative or executive domains.⁷²

10. Article 212A (Judicial Appointments and Independence):

Though not explicitly mentioned, the interpretation of judicial independence under the basic structure doctrine ensures a balance between the judiciary's autonomy and accountability mechanisms, as debated in cases like the NJAC judgment.⁷³

The interplay between judicial review and separation of powers is carefully orchestrated through various constitutional provisions.⁷⁴ While judicial review ensures the accountability of the legislature and executive, separation of powers prevents the judiciary from overstepping its role.⁷⁵ By adhering to these constitutional principles, India maintains a democratic and constitutional equilibrium.⁷⁶

Significant Case Laws:

The evolution of judicial review in India can be traced back to landmark cases. In *Shankari Prasad v. Union of India* (1951),⁷⁷ the Supreme Court addressed a challenge to the First Amendment concerning fundamental rights, concluding that Parliament has the power to amend these rights. A similar position was echoed in *Sajjan Singh v. State of Rajasthan*.⁷⁸ However, in *Golaknath v. State of Punjab*⁷⁹ (1967), the Supreme Court clarified that Parliament cannot abridge fundamental rights. Subsequently, the 24th and 25th amendments were enacted to reaffirm parliamentary authority.⁸⁰

The landmark case of *Keshavananda Bharati v. State of Kerala*⁸¹ introduced the doctrine of the "Basic Structure," where the Court ruled that while Parliament can amend the Constitution, it cannot alter its fundamental principles. Additionally, in *Minerva Mills v. Union of India*,⁸² the Court reaffirmed that laws

⁷⁰ Constitution of India 1950, arts 122 and 212.

⁷¹ *Kesavananda Bharati v. State of Kerala* (1973) 4 SCC 225.

⁷² Constitution of India 1950, art 131.

⁷³ *Supreme Court Advocates-on-Record Association v. Union of India* (2015) 5 SCC 1.

⁷⁴ <https://www.ijllr.com/post/a-critique-of-judicial-activism-with-reference-to-separation-of-powers>

⁷⁵ <https://www.drishtijudiciary.com/to-the-point/ttp-constitution-of-india/judicial-review-under-coi>

⁷⁶ <https://www.indiastudychannel.com/resources/123300-Basic-Principles-Indian-Constitution.aspx>

⁷⁷ <https://lawbhoomi.com/shankari-prasad-case-shankari-prasad-vs-union-of-india/1.1.2025>

⁷⁸ <https://blog.ipleaders.in/sajjan-singh-v-state-of-rajasthan-1964-case-analysis/1.1.2025>

⁷⁹ <https://lawnote.in/i-c-golak-nath-v-state-of-punjab/1.1.2025>

⁸⁰ <https://www.gktoday.in/constitution-24th-amendment-act-1971/1.1.2025>

⁸¹ <https://lawfullegal.in/kesavananda-bharati-v-state-of-kerala-the-case-that-redefined-constitutional-amendments-in-india/1.1.2025>

⁸² <https://lawfullegal.in/minerva-mills-ltd-v-union-of-india/1.1.2025>



passed by the Parliament and State legislatures could be subjected to judicial review if they infringe upon individual fundamental rights.