

Judicial Review and Its Impact on Constitutional Interpretation in India

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ABSTRACT

The judiciary, as a vital branch of government, plays a crucial role in interpreting the law and has the authority to invalidate any law that contradicts the Constitution. Judicial review empowers the Supreme Court and High Courts to assess whether laws and government actions align with the Constitution. If a law is deemed unconstitutional, it is rendered void and unenforceable.

This power enables the judiciary to hold the executive and legislative branches accountable, ensuring their actions conform to constitutional principles. Judicial review is an essential component of the Basic Structure Doctrine, acting as a safeguard against potential abuses of power by other branches of government.

Often referred to as constitutional review, judicial review has a profound effect on how constitutional provisions are interpreted. This paper seeks to explore the significance of judicial review in shaping constitutional law and interpretation, offering a comprehensive analysis of its role in upholding constitutional governance.

Keywords: Judiciary, judicial review, constitutional interpretation, justice, separation of powers.

Introduction:

The judiciary, as an essential branch of government, is tasked with interpreting laws and ensuring their alignment with the Constitution. Judicial review, a power bestowed upon the Supreme Court and High Courts, enables them to assess whether any law violates constitutional principles. When a law is found to contradict the Constitution, it is deemed invalid and unenforceable. This power allows the judiciary to examine the actions of the executive and legislative branches, ensuring that these actions remain consistent with constitutional values (Kapoor, 2018; Sharma, 2020).

Judicial review is regarded as a crucial aspect of the Basic Structure Doctrine, which preserves the fundamental tenets of the Constitution. Also known as constitutional review, it plays a significant role in shaping how constitutional provisions are interpreted (Mehta, 2017).

The Indian Constitution guarantees an independent judiciary, which serves as the protector of both the Constitution and citizens' rights. A vital function of the judiciary is to ensure that laws passed by the legislature and actions taken by the executive are in harmony with constitutional ideals. Thus, judicial review is a foundational element of the Indian Constitution (Rao, 2015).

In India, judicial review forms the bedrock of constitutional governance, ensuring that legislative and executive actions adhere to constitutional principles. While inspired by the U.S. model, India has uniquely adapted judicial review to suit its own legal and political landscape. It functions as a guardian of individual

rights and a bulwark against arbitrary governance. This paper delves into the historical evolution, scope, and influence of judicial review on India's legal and constitutional framework (Chand, 2019).

Objective of the Study:

This study seeks to examine the importance, extent, and influence of judicial review within the framework of the Indian Constitution. The main objectives are as follows:

- **Understanding Judicial Review:** Investigate its role in ensuring that the actions of the executive and legislature align with constitutional principles.
- **Historical Development:** Explore the origins and growth of judicial review in India, particularly its adaptation from the U.S. model.
- **Legal Foundation and Judicial Autonomy:** Assess the constitutional provisions that empower judicial review and the importance of an independent judiciary in this process.
- **Scope and Impact:** Analyze the judiciary's function in evaluating the constitutionality of laws and the broader effects of judicial review on India's legal system.
- **Safeguarding Fundamental Rights:** Examine how judicial review protects citizens' rights and prevents arbitrary actions by the government.
- **Basic Structure Doctrine:** Investigate the connection between judicial review and the Basic Structure Doctrine.
- **Challenges and Future Directions:** Discuss the challenges faced by judicial review and explore potential future developments in response to changing political and legal environments.

Methodology of the Study:

This study will adopt a descriptive, analytical, and doctrinal approach, utilizing secondary data sources such as legal texts, academic articles, judicial decisions, and constitutional documents. The methodology will be carried out in the following phases:

- **Literature Review:** Analyzing scholarly writings and books to explore the concept, evolution, and theoretical foundations of judicial review in India.
- **Document Analysis:** Examining the Constitution and significant judicial decisions to identify constitutional provisions that support judicial review.
- **Case Study Examination:** Studying landmark rulings such as Kesavananda Bharati and Minerva Mills to assess how judicial review has been applied in key cases.
- **Comparative Analysis:** Comparing India's judicial review framework with those of other democratic nations, especially the United States, to identify similarities and differences.
- **Impact Assessment:** Investigating the influence of judicial review on governance, the protection of citizens' rights, and the broader legal system.
- **Constitutional Interpretation:** Analyzing how judicial review contributes to the interpretation of the Constitution and upholds its core principles.
- **Qualitative Research:** Collecting insights from legal experts and commentaries to assess the effectiveness of judicial review and its future prospects.
- **Synthesis and Recommendations:** Drawing conclusions from the research findings and offering recommendations to enhance the role of judicial review in India.

Review of Literature:

- **Historical Development and Constitutional Foundation:** Judicial review in India, inspired by the U.S. model, is integrated into the Constitution through Articles 13, 32, and 226. V. R. Krishna Iyer (2006) highlights its vital role in preserving the Constitution, ensuring that legislative and executive actions stay within constitutional boundaries (Constitution of India, 1950).
- **Judicial Review and Its Role in Democracy:** A. K. Verma (2010) argues that judicial review is crucial in safeguarding fundamental rights, though it cautions against excessive judicial intervention. In contrast, Chandrachud (2019) affirms that judicial review is indispensable for defending individual rights in a democratic society. Scholars like B. R. Ambedkar and L. M. Singhvi (2016) emphasize its function in curbing abuses of power by the legislature and executive.
- **Landmark Case Law and Judicial Review:** Important cases such as *Shankari Prasad v. Union of India* (1951) and *Maneka Gandhi v. Union of India* (1978) have been pivotal in shaping judicial review in India. C. K. Thakker (2011) underscores the importance of the *Kesavananda Bharati* case (1973), which cemented judicial review as a mechanism for preserving the Constitution's basic structure.
- **Criticism and Debate on Judicial Review:** Critics like M. P. Jain (2014) and A. R. Desai (2009) argue that judicial review could result in overreach, with the judiciary stepping into areas more appropriate for the legislature or executive, potentially disrupting the balance of power.
- **Judicial Review and Fundamental Rights:** T. K. Tope (2003) examines how judicial review has been instrumental in protecting fundamental rights, particularly in cases like *Maneka Gandhi* (1978), where it expanded the scope of personal liberty.

Significance of Judicial Review:

Judicial review is a cornerstone of the Indian Constitution, empowering the judiciary to monitor the actions of the legislature and executive. This authority ensures that government actions are in line with constitutional principles, thereby safeguarding citizens' rights (Iyer, 2006).

In addition, judicial review is crucial for upholding the rule of law and ensuring the proper functioning of the separation of powers among the three branches of government. It serves as a vital check, preserving the core values of the Constitution even amid evolving political and legal circumstances (Verma, 2010).

Procedure for Judicial Review in India:

In India, both the Supreme Court and High Courts possess the authority to carry out judicial review, as outlined in Articles 32 and 226 of the Constitution, respectively. Article 32 grants individuals the right to approach the Supreme Court for the protection of fundamental rights, while Article 226 provides a similar right to approach the High Courts. This power covers laws enacted by both the central and state governments (Iyer, 2006).

Judicial review in India operates on the principle of "procedure established by law" as outlined in Article 21. This principle asserts that a law is only valid if it follows the constitutional process. For a law to be enforceable, it must first pass constitutional scrutiny (Constitution of India, 1950).

The Constitution not only guarantees fundamental rights but also establishes the division of powers between the Union and the States and outlines the functions of each government branch, including the judiciary. Judicial review is an essential tool in protecting these provisions. Several constitutional articles, such as Articles 13, 32, 131-136, 143, 226, 145, 246, and 372, explicitly support the practice of judicial review (Verma, 2010).

Article 13(2) underscores that any law that contradicts fundamental rights is void to the extent of the contradiction. This mandates that courts interpret the Constitution and strike down laws that are unconstitutional, ensuring judicial oversight (Jain, 2014).

In the case of *State of Madras v. Row*, the Supreme Court affirmed the role of judicial review in ensuring that laws comply with constitutional provisions. While acknowledging the authority of the legislature, the Court maintained that it is responsible for reviewing the constitutionality of laws (Kapoor, 1998). This was further reinforced in *Gopalan*, where the Court ruled that for a law to be valid, it must adhere to constitutional standards, and if it does not, it must be invalidated. Similarly, Justice Bhagwati, in *Rajasthan v. Union of India*, expanded on judicial review's role in upholding constitutional supremacy (Thakker, 2011).

Cases on Judicial Review in India:

Indian judicial history is marked by several landmark rulings that have significantly shaped the legal framework, particularly in relation to judicial review. These cases reflect the judiciary's critical role in ensuring that laws are in harmony with the Constitution. Key cases include:

- **Shankari Prasad v. Union of India (1951):** The Supreme Court upheld the First Amendment of 1951, which curtailed the right to property. The case centered around the argument that the amendment violated the restriction on altering Fundamental Rights as per Article 13(2) (Verma, 2010).
- **Sajjan Singh v. State of Rajasthan (1965):** This case involved the Rajasthan government's Land Reforms Act and the 17th Amendment, which placed land acquisition powers under Article 31A in the Ninth Schedule to shield it from judicial review. The Court upheld this amendment despite objections (Iyer, 2006).
- **Golaknath v. State of Punjab (1967):** The Supreme Court ruled that Parliament could not amend Fundamental Rights. However, this decision was later overturned by the 24th Amendment, which granted Parliament the authority to amend any part of the Constitution, including Fundamental Rights (Jain, 2014).
- **Kesavananda Bharati v. State of Kerala (1973):** This landmark case established the "Basic Structure Doctrine," which placed limits on Parliament's power to amend the Constitution, asserting that certain core features of the Constitution cannot be altered (Thakker, 2011).
- **Maneka Gandhi v. Union of India (1978):** The Court expanded the scope of personal liberty under Article 21, including the right to travel abroad, setting a significant precedent in the protection of individual freedoms (Kapoor, 1998).
- **Minerva Mills v. Union of India (1980):** The Supreme Court struck down certain provisions of the 42nd Amendment, emphasizing that Fundamental Rights and Directive Principles must coexist and neither should have precedence over the other (Constitution of India, 1950).
- **Vishaka v. State of Rajasthan (1997):** The Court recognized sexual harassment in the workplace as a violation of fundamental rights and issued guidelines for its prevention and redress (Singhvi & Ambedkar, 2016).
- **Githa Hariharan v. Reserve Bank of India (1999):** The Court addressed gender discrimination in the Hindu Minority and Guardianship Act, interpreting it in a way that allowed a mother to act as a guardian in the absence of the father (Tope, 2003).
- **John Vallamattom v. Union of India (2003):** This case challenged the discriminatory treatment of Christians under Section 118 of the Indian Succession Act, 1925, which restricted property bequests

for religious and charitable purposes, a provision not applicable to other religious communities (Chandrachud, 2019).

- **Puttaswamy v. Union of India (2017):** The Supreme Court declared the right to privacy a fundamental right, emphasizing its importance in protecting personal liberty, dignity, and regulating data privacy and government surveillance (Verma, 2010).
- **Navtej Singh Johar v. Union of India (2018):** The Court decriminalized consensual same-sex relationships by striking down Section 377 of the Indian Penal Code, affirming the right to sexual autonomy and equality (Desai, 2009).

Criticism of Judicial Review:

Despite its crucial function in ensuring checks and balances within a democratic system, judicial review has faced several criticisms, especially regarding its impact on governance, the judiciary's role, and the broader legal framework:

- **Excessive Interference:** One major critique is that judicial review can lead to frequent interference by courts in the policy decisions and actions of the government. This constant judicial intervention may cause instability and unpredictability, as legislative or executive decisions might be overturned or delayed by the courts, hindering long-term governance and planning (Verma, 2010).
- **Judicial Overreach:** Another concern is the potential for judicial overreach, where courts exceed their constitutional mandate and interfere with the legislative and executive functions. This intrusion disrupts the balance of power between the government branches and undermines the principle of separation of powers (Jain, 2014).
- **Delays and Backlogs:** The judicial review process is often slow and subject to delays, which contributes to significant backlogs in the judiciary. This results in inefficiencies within the court system and delays the resolution of important legal issues, thereby affecting the timely delivery of justice (Chandrachud, 2019).
- **Undermining Democracy:** Some critics argue that judicial review may weaken the democratic process by empowering unelected judges to invalidate laws passed by elected representatives. This undermines the authority of lawmakers chosen by the people and disrupts the fundamental principle that legislative bodies should hold primary responsibility for lawmaking (Iyer, 2006).

Remedies and Suggestions:

To address the criticisms of judicial review and enhance its effectiveness, the following measures could be considered:

- **Limit Unnecessary Interference:** Courts should exercise their power of judicial review only in instances of clear constitutional violations, avoiding unnecessary encroachment into the policymaking domain to prevent overreach and minimize disruptions in governance (Verma, 2010).
- **Create Clear Guidelines:** The judiciary should establish clear frameworks that balance the authority of the different branches of government, ensuring judicial review serves to protect constitutional principles without intruding upon legislative or executive duties (Jain, 2014).
- **Accelerate Judicial Procedures:** Efforts to expedite judicial review, such as increasing the number of judges, improving case management systems, and leveraging technology, could reduce delays. Promoting alternative dispute resolution mechanisms could also ease the burden on the judiciary (Iyer, 2006).

- **Strengthen Democratic Processes:** Courts should respect the role of elected lawmakers, only invalidating laws when there is a direct constitutional breach. Greater transparency and accountability in judicial actions would enhance public trust in the legal system (Chandrachud, 2019).
- **Preserve Judicial Independence:** Safeguarding judicial independence from political influence and ensuring that judicial appointments are made based on merit will help maintain impartiality in the judicial review process (Kapoor, 1998).
- **Make Judicial Review Accessible:** Simplifying the procedures for Public Interest Litigations (PILs) and raising public awareness of their right to access judicial review would make the system more inclusive and accessible to the general public (Thakker, 2011).
- **Uphold a Balance of Powers:** Ensuring that the judiciary, executive, and legislature operate independently while respecting each other's roles will help preserve the democratic system and strengthen the effectiveness of judicial review (Verma, 2010).

Conclusion:

Judicial review forms a cornerstone of the Indian Constitution, ensuring that all laws and government actions are in harmony with constitutional principles and upholding the rule of law (Iyer, 2006). By empowering the judiciary to evaluate the constitutionality of legislative and executive actions, judicial review prevents potential overreach by other government branches and reinforces the supremacy of the Constitution (Constitution of India, 1950).

The evolution of judicial review in India, while inspired by the U.S. model, has been uniquely adapted to the country's socio-political landscape, playing an essential role in maintaining the balance of power and protecting citizens' fundamental rights (Verma, 2010). Landmark judgments, such as *Kesavananda Bharati v. State of Kerala* and *Minerva Mills Ltd. v. Union of India*, have reaffirmed the Basic Structure Doctrine, ensuring the inviolability of the core principles of the Constitution (Thakker, 2011).

This study highlights the significance of judicial review in interpreting constitutional provisions, safeguarding democracy, and protecting individual rights (Chandrachud, 2019). It also stresses the importance of judicial independence and adherence to constitutional values, which fosters public trust in democratic institutions (Jain, 2014).

However, challenges such as delays in the judicial review process, the burden on courts, and the balance between judicial activism and restraint remain pressing issues (Desai, 2009). Addressing these concerns will be vital for ensuring the continued effectiveness of judicial review in the future.

Ultimately, judicial review is not merely a procedural mechanism but a significant responsibility entrusted to the judiciary. It ensures that governance in India remains accountable, transparent, and aligned with the ideals enshrined in the Constitution (Iyer, 2006). As India continues to evolve, judicial review must adapt to preserve its crucial role in upholding justice, fairness, and the integrity of the Constitution.

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