

THE LAWWAY WITH LAWYERS JOURNAL
VOLUME:-25 ISSUE NO:- 25 ,JULY 25, 2025
ISSN (ONLINE):- 2584-1106
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JUDICIAL REVIEW: EXPLORING THE ROLE OF THE JUDICIARY IN CONSTITUTIONAL INTERPRETATION

ABSTRACT:

Judicial review is a main mechanism through which the judiciary interprets and enforces the Constitution, ensuring that legislative and executive actions conform to constitutional mandates. This power acts as a major check on the other branches of government, safeguarding the supremacy of the Constitution and protecting fundamental rights. The Indian judiciary, through landmark judgments and evolving interpretive methods, has shaped the doctrine of judicial review to balance constitutional stability with flexibility. The concept of the “basic structure” doctrine further reinforces the judiciary’s role in preserving the core values of the Constitution against arbitrary amendments. This paper explores the role of judicial review in constitutional interpretation, its constitutional basis, landmark judgments, and its impact on Indian democracy and governance.

KEYWORDS: Judicial Review, Constitutional Interpretation, Basic Structure Doctrine, Constitutional Supremacy, Landmark Judgments, Rule of Law.

INTRODUCTION:

Judicial review refers to the power of the judiciary to examine the constitutionality of legislative and executive actions and to invalidate those that are inconsistent with the Constitution. In India, this authority is vested in the Supreme Court and the High Courts, as provided by several constitutional provisions, including Articles 13, 32, and 226. Judicial review gives a fundamental check and balance within the framework of separation of powers, ensuring that the actions of the legislature and executive binding to the supreme law of the land – The Constitution.

This process allows the judiciary to act as the guardian of the Constitution and the protector of citizens’ rights. Judicial review is not only central to upholding fundamental rights but also to maintaining the rule of law and preventing arbitrary governance. The doctrine, though inspired by the United States, has been uniquely adapted to suit India’s constitutional context and societal needs. Over time, judicial review has evolved into a cornerstone of Indian democracy, with courts empowered to strike down any law, ordinance, order, or executive action that violates constitutional principles or the basic structure of the Constitution.

Judicial review is the judiciary’s mechanism for supervising the actions of the other branches of government, legitimizing government action, and safeguarding the Constitution from arbitrary powers.

HISTORICAL EVOLUTION OF JUDICIAL REVIEW IN INDIA:

The historical evolution of judicial review in India is marked by a gradual development influenced by ancient legal traditions, colonial experience, and constitutional design.

Ancient and Colonial Roots:

While ancient Indian legal traditions emphasized the rule of law and judicial impartiality, a formal doctrine of judicial review did not exist. The concept began to take shape under British colonial rule, where courts were empowered to interpret laws and ensure they conformed to statutory and constitutional limits. Notable cases such as *Emperor v. Burrah* (1877) and *Annie Besant v. Government of Madras* (1918) established that laws exceeding the authority granted by the British Parliament could be declared void.

Constitutional Framing:

After independence, the framers of the Indian Constitution explicitly incorporated judicial review, drawing inspiration from both the British and American systems. The Constitution, adopted in 1950, vested the Supreme Court and High Courts with the authority to review legislative and executive actions for constitutional compliance, particularly through Articles 13, 32, and 226.

Early Judicial Pronouncements:

The Supreme Court first asserted its power of judicial review in *Shankari Prasad v. Union of India* (1951), addressing the scope of Parliament's amending powers. This was further clarified in *Golaknath v. State of Punjab* (1967), where the Court held that Parliament could not amend Fundamental Rights—a decision later reversed by the 24th Amendment.

Basic Structure Doctrine:

The landmark case of *Kesavananda Bharati v. State of Kerala* (1973) fundamentally shaped the doctrine of judicial review in India. The Supreme Court ruled that Parliament's amending power was limited by the "basic structure" of the Constitution, which could not be altered or destroyed. This doctrine has since served as a bulwark against arbitrary constitutional amendments and expanded the scope of judicial review.

Expansion and Modern Developments:

Subsequent cases like *Minerva Mills v. Union of India* (1980) and the NJAC ruling (2015) reaffirmed and refined the judiciary's review powers, especially regarding constitutional amendments and the protection of fundamental rights. Judicial review now encompasses not only legislative acts but also executive actions, ensuring that all branches of government operate within constitutional boundaries.

CONSTITUTIONAL PROVISIONS EMPOWERING JUDICIAL REVIEW

The Constitution of India empowers the judiciary to exercise judicial review through several explicit provisions. These articles grant the Supreme Court and the High Courts the authority to examine and invalidate legislative and executive actions that contravene the Constitution, thereby ensuring constitutional supremacy and the protection of fundamental rights.

Constitutional Provisions Empowering Judicial Review are

Article 13:

Declares that any law inconsistent with or in derogation of the Fundamental Rights shall be void. This article forms the bedrock for judicial review, allowing courts to strike down unconstitutional laws.

Article 32:

Grants individuals the right to approach the Supreme Court directly for the enforcement of Fundamental Rights, empowering the Court to issue directions, orders, or writs for their protection.

Article 226:

Empowers High Courts to issue directions, orders, or writs for the enforcement of Fundamental Rights as well as for any other purpose, extending the scope of judicial review at the state level.

Articles 131–136:

Provide for the original, appellate, and special leave jurisdictions of the Supreme Court in constitutional, civil, and criminal matters, enabling the Court to review the validity of laws and executive actions.

Article 143:

Authorizes the President to seek the Supreme Court's opinion on questions of law or fact, including constitutional interpretation.

Article 372:

Establishes judicial review of pre-Constitution legislation, ensuring that older laws are also subject to constitutional scrutiny.

Article 246:

Defines the distribution of legislative powers between the Union and the States, with the judiciary empowered to resolve disputes regarding legislative competence.

These provisions collectively ensure that the judiciary can act as a check on legislative and executive powers, uphold the supremacy of the Constitution, and protect citizens' rights from arbitrary state action. Judicial review is recognized as a basic feature of the Constitution, and even constitutional amendments are subject to this scrutiny if they violate the basic structure doctrine.

THE JUDICIARY AS THE GUARDIAN OF THE CONSTITUTION

The Judiciary in India is widely recognized as the guardian of the Constitution, entrusted with the responsibility to uphold constitutional supremacy and protect the rights and liberties of citizens. This role is rooted in the power of judicial review, which allows courts to examine the constitutionality of legislative and executive actions and strike down those that violate constitutional provisions.

Protection of Fundamental Rights:

The judiciary ensures that individuals' rights, as enshrined in Part III of the Constitution, are not infringed upon by the State or any other authority. It can issue writs to enforce these rights, making justice accessible through mechanisms like Public Interest Litigation (PIL).

Interpretation of the Constitution:

Courts interpret constitutional provisions, resolve ambiguities, and settle disputes between the legislature, executive, and judiciary. This interpretive function is crucial in adapting the Constitution to contemporary challenges and societal needs.

Judicial Review and the Basic Structure Doctrine:

Through landmark judgments such as *Kesavananda Bharati v. State of Kerala*, the Supreme Court asserted that while Parliament can amend the Constitution, it cannot alter its “basic structure.” This doctrine empowers the judiciary to invalidate amendments or laws that threaten the core principles of the Constitution, such as democracy, secularism, and the rule of law.

Checks and Balances:

By reviewing and, if necessary, invalidating government actions that exceed constitutional limits, the judiciary prevents the concentration and abuse of power, maintaining the balance among the branches of government.

Judicial Independence:

The effectiveness of the judiciary as guardian relies on its independence from the executive and legislature. Constitutional safeguards, such as secure tenure and financial autonomy, help ensure impartial and fearless adjudication.

The Supreme Court, as the apex judicial body, is often referred to as the “watchdog of democracy.” It not only protects the Constitution from violation but also evolves its interpretation to meet new societal demands, ensuring the document remains a living, dynamic charter for governance and justice in India.

Key Doctrines and Landmark Judgments

1. Basic Structure Doctrine

The Basic Structure Doctrine is the most significant judicial innovation in Indian constitutional law. It holds that certain fundamental features of the Constitution—such as the supremacy of the Constitution, rule of law, separation of powers, federalism, secularism, and judicial review—cannot be amended or abrogated by Parliament, even through a constitutional amendment.

This doctrine acts as a safeguard against arbitrary or radical changes, ensuring the Constitution’s stability and adherence to its core values.

1. Supremacy of the Constitution

The Constitution is the supreme law of the land, and any law or amendment that undermines this supremacy is invalid.

1. Judicial Review

Judicial review itself is considered part of the basic structure, empowering courts to strike down laws and amendments that violate the Constitution’s core principles.

1. Separation of Powers

The doctrine emphasizes the separation between the legislature, executive, and judiciary, ensuring checks and balances within the government.

Related Landmark Judgements

Shankari Prasad v. Union of India

Shankari Prasad v. Union of India (1951) was a landmark Supreme Court case that addressed whether Parliament had the power to amend the Constitution, specifically the Fundamental Rights. The case arose after the First Amendment Act, 1951, which curtailed the right to property and introduced Articles 31A and 31B, was challenged by zamindars (landowners) who argued that Parliament could not amend Fundamental Rights.

The Supreme Court held that:

Parliament has the power to amend any part of the Constitution, including Fundamental Rights, under Article 368. The Court distinguished between “law” under Article 13(2) and a constitutional amendment, ruling that constitutional amendments are not subject to the limitations imposed by Article 13(2) and thus can affect Fundamental Rights.

The First Amendment was declared constitutionally valid, and the judgment clarified that the procedure under Article 368 was sufficient for amending the Constitution.

This decision validated Parliament’s authority to amend the Constitution broadly and laid the foundation for future constitutional amendments, including those impacting Fundamental Rights.

Golaknath v. State of Punjab

Golaknath v. State of Punjab (1967) is a landmark Supreme Court judgment that fundamentally shaped Indian constitutional law. The case arose when the Golaknath family challenged the Punjab Security and Land Tenures Act, 1953, which imposed a ceiling on land ownership and, according to the family, violated their fundamental rights to property, equality, and profession under Articles 19(1)(f), 14, and 31.

The Supreme Court ruled that Parliament does not have the power to amend or abridge Fundamental Rights enshrined in Part III of the Constitution. The Court held that the term “law” in Article 13 includes constitutional amendments, meaning any amendment that takes away or abridges Fundamental Rights is void. The doctrine of prospective overruling was introduced: this decision would apply only to future amendments, not to those already made. The ruling effectively overruled the earlier decision in Shankari Prasad v. Union of India, which had allowed Parliament to amend Fundamental Rights.

Impact:

The Golaknath judgment significantly restricted Parliament’s power to curtail Fundamental Rights, setting the stage for the later development of the Basic Structure Doctrine. In response, Parliament passed the 24th Amendment in 1971 to reassert its authority to amend the Constitution, including Fundamental Rights.

Kesavananda Bharati v. State of Kerala

Kesavananda Bharati v. State of Kerala (1973) is a landmark Supreme Court case that fundamentally shaped Indian constitutional law by establishing the **Basic Structure Doctrine**.

Background:

The case began when Kesavananda Bharati, head of the Edneer Mutt in Kerala, challenged the Kerala Land Reforms Act, which allowed the state

to acquire religious and private land. He argued that this violated his fundamental rights under Articles 14, 19(1)(f), 25, 26, and 31.

Context:

During the pendency of the case, Parliament passed the 24th, 25th, and 29th Constitutional Amendments, expanding its power to amend the Constitution and curtailing judicial review and certain fundamental rights.

Judgment:

A 13-judge bench, the largest in Indian history, heard the case. In a narrow 7:6 decision, the Supreme Court ruled that Parliament has wide powers to amend the Constitution under Article 368, but it cannot alter or destroy its “basic structure” or essential features. This means that while amendments are permissible, they cannot undermine fundamental constitutional principles such as the supremacy of the Constitution, rule of law, separation of powers, judicial review, federalism, and protection of fundamental rights.

Impact:

The judgment upheld the validity of the 24th Amendment (which clarified Parliament’s amending power) but struck down parts of the 25th Amendment that infringed on the basic structure. The Basic Structure Doctrine remains a cornerstone of Indian constitutional law, empowering the judiciary to review and invalidate constitutional amendments that threaten the fundamental architecture of the Constitution.

This case firmly established the Supreme Court’s role as the ultimate guardian of the Constitution and placed meaningful limits on Parliament’s power to amend, ensuring the preservation of India’s core constitutional values.

Indira Gandhi v. Raj Narain

Indira Gandhi v. Raj Narain (1975) is a landmark Supreme Court case that tested the limits of parliamentary power and reinforced the principles of judicial review and the rule of law in India.

Background:

The case originated when Raj Narain, who lost the 1971 Lok Sabha election to Prime Minister Indira Gandhi in Rae Bareilly, challenged her victory, alleging electoral malpractices and misuse of government machinery. The Allahabad High Court found Indira Gandhi guilty under Section 123(7) of the Representation of the People Act, 1951, declared her election void, and barred her from contesting elections for six years.

Political Fallout:

Following the High Court’s verdict, Indira Gandhi appealed to the Supreme Court, which granted a conditional stay. During this period, the government declared a national Emergency, and Parliament passed the 39th Constitutional Amendment, introducing Article 329A. This amendment sought to prevent the courts from adjudicating disputes regarding the election of the Prime Minister and Speaker, placing such matters exclusively under a parliamentary committee.

Supreme Court Judgment:

The Supreme Court struck down the relevant provisions of the 39th Amendment, declaring them unconstitutional. The Court held that Parliament cannot use its amending power to override the basic structure

of the Constitution, which includes the rule of law, judicial review, and free and fair elections. The judgment reaffirmed that no authority, not even Parliament, can place itself above the Constitution or insulate its actions from judicial scrutiny.

Significance:

This case is a pivotal affirmation of the basic structure doctrine established in *Kesavananda Bharati*, emphasizing that the principles of judicial review and rule of law are inviolable features of the Indian Constitution. It also underscored the judiciary's role as the ultimate guardian of constitutional democracy, ensuring that the government remains accountable and subject to constitutional limits.

Minerva Mills v. Union of India

Minerva Mills v. Union of India (1980) is a landmark Supreme Court case that reaffirmed and expanded the basic structure doctrine established in *Kesavananda Bharati*. The case arose when the constitutionality of Sections 4 and 55 of the 42nd Constitutional Amendment Act, 1976 was challenged. These sections sought to give Parliament unlimited power to amend the Constitution and shield laws implementing Directive Principles from judicial review, even if they violated Fundamental Rights under Articles 14 and 19.

Significance:

The Supreme Court held that Parliament's power to amend the Constitution is limited; it cannot use this power to destroy or emasculate the "basic structure" of the Constitution.

The Court struck down Sections 4 and 55 of the 42nd Amendment, declaring that Parliament cannot grant itself unlimited amending power and cannot remove judicial review or the balance between Fundamental Rights and Directive Principles.

The judgment emphasized that judicial review and the balance between Fundamental Rights and Directive Principles of State Policy are themselves part of the basic structure.

The ruling reinforced that the supremacy of the Constitution prevails over Parliament, and any attempt to undermine its core features is unconstitutional.

Impact:

Minerva Mills v. Union of India solidified the limits on Parliament's amending power, protected the role of the judiciary as guardian of the Constitution, and preserved the essential balance between individual rights and social objectives.

These doctrines and judgments have ensured that the core principles of the Indian Constitution remain inviolable, protecting democracy, the rule of law, and individual freedoms against arbitrary state action or legislative overreach.

Methods of Constitutional Interpretation

Courts use several **methods of constitutional interpretation** to understand and apply the Constitution, ensuring its relevance and adaptability to changing societal needs[2][4]. The primary approaches include:

Textualism (Literal Interpretation):

Focuses on the plain and ordinary meaning of the words used in the Constitution, interpreting provisions as they are written without delving into the intent of the framers.

Originalism (Original Meaning):

Seeks to determine the meaning of constitutional provisions as understood at the time of their framing, considering the historical context and intent of the framers.

Purposive Interpretation:

Emphasizes the broader purpose and objectives behind a constitutional provision, seeking to fulfill the Constitution's underlying goals and values rather than sticking strictly to the text.

Harmonious Construction:
Ensures that different provisions of the Constitution are interpreted in a way that avoids conflict and allows them to coexist.

Doctrine of Pith and Substance:

Determines the true nature or essence of legislation to assess its constitutional validity, especially when legislative competence is in question.

Doctrine of Colourable Legislation:

Prevents legislatures from doing indirectly what they are prohibited from doing directly under the Constitution.

Doctrine of Severability:

Allows unconstitutional parts of a law to be severed, keeping the remainder valid if possible.

These methods are often used in combination, allowing the judiciary to interpret the Constitution as a dynamic, living document that evolves with changing times while safeguarding its core principles.

IMPACT OF JUDICIAL REVIEW ON INDIAN DEMOCRACY

Judicial review has had a profound and far-reaching impact on Indian democracy, serving as a key for holding constitutional governance and the rule of law.

Protection of Fundamental Rights:

Judicial review ensures that the rights and liberties guaranteed by the Constitution are protected and enforced. The judiciary has expanded the scope of individual rights and provided remedies against discrimination, thereby empowering citizens and marginalized groups..

Checks and Balances:

By scrutinizing the actions of the executive and legislature, judicial review prevents the concentration and abuse of power. It acts as a vital check, fostering transparency, accountability, and adherence to constitutional norms.

Upholding Rule of Law:

The judiciary's ability to declare laws and executive actions unconstitutional ensures that everyone, including the government, is subject to the law. This maintains equality before the law and prevents arbitrary governance.

Strengthening Democratic Governance:

Judicial review reinforces democratic values by ensuring government actions align with constitutional principles. It promotes good governance, responsiveness, and accountability to the people.

Promotion of Social Justice:

Through progressive judgments and the use of Public Interest Litigation (PIL), the judiciary has advanced social justice, addressed historical inequalities, and protected the interests of vulnerable communities.

Preservation of Constitutional Supremacy:

The courts have the power to invalidate not just ordinary laws but also constitutional amendments that threaten the basic structure of the Constitution, ensuring that core democratic values remain intact.

Judicial review, therefore, is essential to the functioning of Indian democracy. It safeguards rights, maintains the balance of power, and ensures that the Constitution remains a living, dynamic document guiding the nation's democratic journey.

CONCLUSION:

Judicial review plays an important role in the constitutional framework of many democratic nations by providing the judiciary with the authority to interpret and uphold the constitution. It ensures that legislative and executive actions align with constitutional principles, safeguarding individual rights and maintaining the rule of law. While judicial review empowers courts to act as a check on governmental power, it also raises debates about the balance between judicial activism and restraint, as well as concerns over the role of unelected judges in shaping public policy. Ultimately, judicial review is essential in preserving the integrity of the constitution and protecting democratic values, but its practice must be exercised with caution and respect for the separation of powers. Through careful and consistent interpretation, the judiciary can help ensure that the Constitution adapts to the evolving needs of society while maintaining its foundational principles.

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