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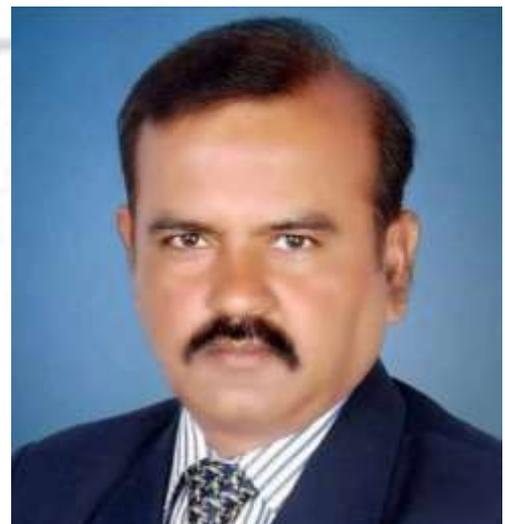
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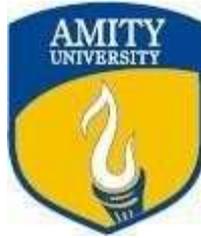
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With this thought, we hereby present to you



**SUPREME COURT AS THE GUARDIAN AND PROTECTOR OF CONSTITUTION: A
CRITICAL ANALYSIS OF ITS POWERS & DUTIES**

**RESEARCH DISSERTATION SUBMITTED TO AMITY INSTITUTE OF ADVANCED
LEGAL STUDIES
AMITY UNIVERSITY UTTAR PRADESH**

**IN PART FULFILMENT OF REQUIREMENT FOR THE DEGREE OF
MASTER OF LAWS (LLM)**

**UNDER THE GUIDANCE AND SUPERVISION OF
PROFESSOR ARUN UPADHYAY**

**AUTHORED BY - ANIRUDDHA GUPTA
LLM (CONSTITUTIONAL LAW)
ENROLMENT NO. A0342624016 BATCH: 2024-25**

DECLARATION

This is to certify that the dissertation work under topic “SUPREME COURT AS THE GUARDIAN AND PROTECTOR OF CONSTITUTION: A CRITICAL ANALYSIS OF ITS POWER AND DUTIES” is my original and intellectual research work. I hereby declare that this dissertation work has not been submitted to any other university for whole or in part fulfillment of the degree. I have given appropriate credits to the original authors and sources from where I took help for my research work.

ANIRUDDHA GUPTA



CERTIFICATE

This is to certify that the Dissertation entitled "SUPREME COURT AS THE GUARDIAN AND PROTECTOR OF CONSTITUTION: CRITICAL ANALYSIS OF ITS POWER AND DUTIES" submitted by Mr.

ANIRUDDHA GUPTA, a student of Amity Institute of Advanced Legal Studies is a bona-fide research work for the award of the Degree of LLM (Constitutional Law). He has been working under my constant supervision and guidance and his dissertation is complete and ready for submission.

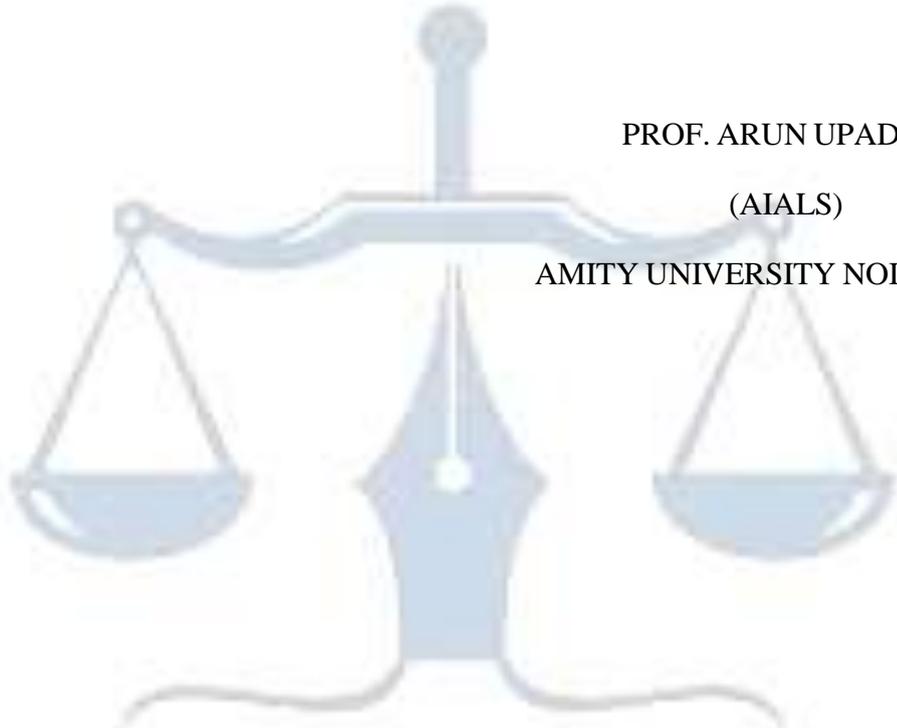
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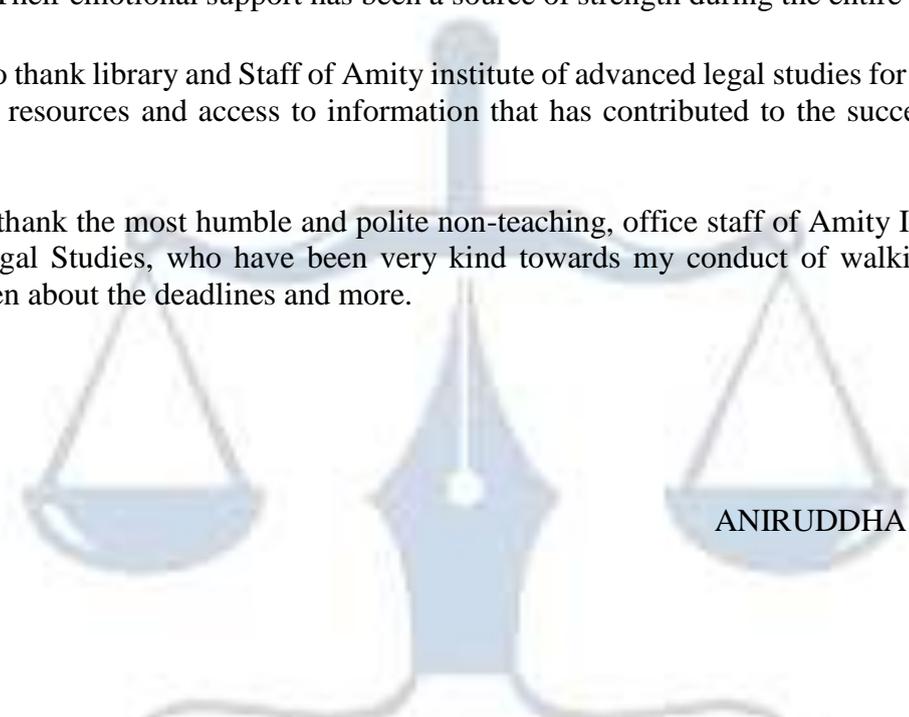
I would like to express my sincere gratitude to all those who have supported and contributed to the completion of this work.

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ANIRUDDHA GUPTA

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LIST OF ABBREVIATIONS

COI	CONSTITUTION OF INDIA
HC	HIGH COURT
SC	SUPREME COURT
DPSP	DIRECTIVE PRINCIPLES OF STATE POLICY
PIL	PUBLIC INTEREST LITIGATION
LCI	LAW COMMISSION OF INDIA
RTI	RIGHT TO INFORMATION
NHRC	NATIONAL HUMAN RIGHT COMMISSION
WP	WRIT PETITITON
GOI	GOVERNMENT OF INDIA
GOVT	GOVERNMENT
AR	ANNUAL REPORT
IPC	INDIA PENAL CODE
ART	ARTICLE
FR	FUNDAMENTAL RIGHTS

LIST OF CASES

- Keshavananda Bharati v. State of Kerala, 1973 4 SCC 225
- Golaknath v. State of Punjab, 1967 AIR 1643, 1967 SCR (2) 762
- Minerva Mills v. Union of India, AIR 1980 SC 1789
- A.K. Gopalan v. State of Madras, AIR 1950 SC 27
- Maneka Gandhi v. Union of India, 1978 AIR 597, 1978 SCR (2) 621
- Indira Nehru Gandhi v. Raj Narain, 1975 2 SCC 159
- ADM Jabalpur v. Shivkant Shukla, 1976 (2) SCC 521
- S.R. Bommai v. Union of India, (1994) 2 SCR 644 : AIR 1994 SC 1918 : (1994) 3 SCC1)
- Vishaka v. State of Rajasthan, (1997) 6 SCC 241
- I.R. Coelho v. State of Tamil Nadu, (2007) 2 SCC 1, 2007 SCC Online SC 71
- Olga Tellis v. Bombay Municipal Corporation, 1985 SCC (3) 545
- M.C. Mehta v. Union of India, 1987 SCR (1) 819; AIR 1987 965
- Unnikrishnan v. State of Andhra Pradesh, 1993 AIR 2178, 1993 SCR (1) 594
- Navtej Singh Johar v. Union of India, AIR 2018 SC 4321
- Justice K.S. Puttaswamy v. Union of India, WP (Civil) No. 494 of 2012
- Shayara Bano v. Union of India, AIR 2017 9 SCC 1 (SC)
- Lily Thomas v. Union of India, AIR 2000 SC 1650
- State of West Bengal v. Union of India, 1963 AIR 1241 1964 SCR (1) 371

ABSTRACT

The position that the Supreme Court of India has always held is the Constitution That mandates it upholding rule of law and protecting national fundamental principles now codified in this country authority. This role has been designated by Part V, Chapter IV of the Indian Constitution. It presupposes that the Supreme Court is not only a simple arbiter between disputing parties in conflict with one another: it also functions as ultimate interpreter of constitutional provisions, guarantor democratic values and purveyor justice. This paper probes the diverse role of the Supreme Court as the Constitution protector and warrior of constitution, examining its mandate under the constitution, Powers of judicial review adopted by law, and Jurisprudence that is yet in flux.

From a perspective of doctrine, this research picks up the history and significance of the Supreme Court's role in protecting the Constitution: this is most clearly seen from its landmark rulings. *Kesavananda Bharati vs. State of Kerala* (1973), *Minerva Mills vs. Union of India* (1980), and *Indira Gandhi vs. Raj Narain* (1975) are all examples that show how the Court plays a central role in safeguarding this "basic structure" doctrine, as well as trying to balance legislative and executive power rights of citizens. Moreover, when there were constitutional crises (or a state of emergency), the Court's activity Kt An intervention, combined with its commitment to judicial activism to achieve no one is above the law stiff 11. reflects large that it is performing an indispensable function in the defence of constitutional setup.

Through its power of judicial review and its interpretation of the Constitution, the Supreme Court of India maintains the democratic spirit indispensable to a country's existence. As guardian and judge for any standard or principle that is essential in an orderly society, it helped draft India's post-Independence Constitution. But all along it has also functioned as a protection of fundamental rights for individuals who make up its citizenry. The purpose of this thesis is to enhance the discussion concerning how courts operate within the constitutional structure of India and what their duties are according to canons in a modern democratic state.

Keywords: Constitution, Supreme Court, Judicial Review, Fundamental Rights.

CHAPTER 1: INTRODUCTION

Set up under Article 124 of the Indian Constitution, the Supreme Court of India is the highest judicial authority in the country. Apart from just being a forum in which disputes can be heard, the Constitution of India gives it an even more important job--as protector and defender of our country's constitutional path.

As the highest interpreter of the Constitution, the Supreme Court not only resolves disputes but also maintains the rule of law, upholds constitutional principles and protects citizens' fundamental rights. It also acts as a check on the powers of the legislature and the executive, making sure that their actions are confined within the limits laid down by the Constitution.

This thesis takes as its theme the vital role of the Supreme Court in protecting the Constitution, elaborating on its powers, duties and the ways in which it safeguards the order of law.

The living document that is the Constitution of India, promulgated in 1950, lays out the structure, powers and duties of the three branches of government - the Legislature, Executive and Judiciary. It determines the relationship between the state and its people, with an emphasis on safeguarding fundamental rights.

The judiciary—led by the Supreme Court—is responsible for role of interpreting and enforcing these constitutional provisions.

This book, however, is not merely about the Supreme Court's role in applying the law in specific cases; constitutional safeguarding is also an active part of its work--making sure that unconstitutional action or legislation does not significantly damage or wholly breach the spirit of our Constitution.

The origin of the power of judicial review is in the Constitution itself. Article 13 provides that the judiciary has the right to examine whether or not laws are constitutional. Meanwhile, Articles 32 and 226 allows citizens to go directly before the Supreme Court or High Courts if basic rights are infringed. Judicial precedents further solidify the Supreme Court's authority in the area of constitutional interpretations. Landmark cases such as *Kesavananda Bharati v. State of Kerala* (1973), *Minerva Mills v. Union of India* (1980) and *Maneka Gandhi v. Union of India* (1978) have greatly defined what the Court should do in situations dealing with the Constitution.

¹M.P. Jain, *Indian Constitutional Law*, LexisNexis, 8th ed.

The Supreme Court in *Kesavananda Bharati* (1973) formulated the rule of the "basic structure" of the Constitution. What this meant was that certain fundamental aspects could not be changed by any legislative act—they were protected forever from any such meddling. This translates to life on both fronts helpfully for future generations when they go forward (as we worded at the Conference). The "basic structure" doctrine has since been invoked in many cases. It has acted as a unifying force-giving effectiveness to concepts of democracy, justice and the rule of law which might otherwise have been viciously distorted. All this shows that, as the Court must observe itself, so others in society look up to it. The most fundamental values will be guaranteed- although they may lie in potential contradiction with other levels or branches (such as parliament). This sort of contradictory thing will not happen thanks to arbitration of the Court and precise definition cases of constitutional law. To the confusion of outside observers, Maneka Gandhi (1978) saw the Supreme Court once again broaden the meaning of right to life under Article 21. This time, it made right to life and personal liberty include a decent standard of living—a real advance over pre-Maneka jurisprudence on this point.

The Court was once again showing that it interprets our Constitution with an eye towards both what is new and unchanging, flexible yet never contradictory; in other words their interpretation retains year after year windows of fresh development. For the vulnerable members of the public it represents a constant friend without thought for its own interest, standing between them and their self governancial destructive tendencies. As a just survivor among the ruins of petty feudalism the court has grown into being virtually regarded as guardian and trustee for civil society. One of its fundamental tasks is to act as the final arbiter upon questions relating to constitutional interpretation; to ensure that there cannot be any doubt in what Congress has intended by its provisions. In disputes between the Union and the States, between different organs or branches of government, how the Court construes these matters is definitive and binding. This important function is vital for preserving India's federal system and seeing that disputes over constitutional powers are decided in accordance with law.

At times of national crisis the Court's power as guardian of the Constitution becomes most apparent, such as during periods when there is an emergency or political instability. *Raj Narain* (1975) is an example of how the court will stick to constitutional principles no matter what the political situation.

M.P. Jain, *Indian Constitutional Law*, LexisNexis, 8th ed.
D.D. Basu, *Introduction to the Constitution of India*, LexisNexis, 25th ed.

Statement Of Problem

As the tallest judiciary, the Supreme Court plays a critical role in protecting the Constitution, which is a duty that has been at the heart of its work since it was set up. It is also a living document, which gives flesh to the skeleton of government and outlines rights guaranteed to citizens as well as the organization of government in India.

The Supreme Court, using its power of judicial review, ensures that legislative and executive acts conform with the provisions of the Constitution, safeguarding democratic principles and individual freedoms. At the same time however, public administration is becoming ever more complex today; At the same time, constitutional interpretation changes the court to any given matter will depend on which one comes before it makes for an evolving set of social problems.

This is throw into question there are limits beyond straightforward application of words in statutes proved by effect decisions about what firm modern Western society needs as guidance we look back on old precedents and decide were applicable or applicable there has been a growing number legal cases which involve human rights

What are the bounds of the Court's role as defender of the Constitution is an issue thrown up by the multi-dimensional nature of modern governance, changing interpretations, and evolving social problems. L Article 72. Although courts have the power to annul unconstitutional laws and actions through their power of judicial review, they often come into conflict with other branches of government when they do so. Judicial intervention in both the legislative and executive realms has thus become an issue of intense debate, particularly in instances where the Court appears to be encroaching on powers that are constitutionally vested elsewhere.

This study is an attempt to answer these questions by giving a critical appraisal of the functions and obligations of the Supreme Court as protector and guardian of the constitution. By means of a study of landmark cases, this research will explore how the court has both interpreted its constitution and safeguarded fundamental rights in addition to interacting with other branches of government. It will also look at the limitations of the Court, especially its difficulty in maintaining a balance between judicial power and the imperatives of democratic governance.

Research Objectives

1. **To Examine the Constitutional Foundations of the Supreme Court's Role:** To understand the constitutional provisions that grant the Supreme Court the power to act as the highest interpreter of the Constitution and as the guardian of constitutional values, particularly its power of judicial review and its duty to protect fundamental rights. This will include an analysis of relevant provisions such as Articles 124, 13, 32, and 226.
2. **To Investigate the Evolution of Judicial Review and Constitutional Interpretation:** To trace the development of the Supreme Court's power of judicial review, examining how the Court's approach to constitutional interpretation has evolved over time. This will include an analysis of landmark judgments such as *Kesavananda Bharati v. State of Kerala* (1973), *Maneka Gandhi v. Union of India* (1978), and *Minerva Mills v. Union of India* (1980), and how these cases have shaped the Court's role in protecting the Constitution.
3. **To Analyze the Court's Duty to Protect Fundamental Rights:**
To evaluate the Supreme Court's responsibility in safeguarding the fundamental rights of citizens, particularly its role in interpreting and enforcing Part III of the Constitution. This objective will explore how the Court has expanded and interpreted rights, especially under Articles 14, 19, and 21, and how it has balanced individual rights with state interests.
4. **To Explore the Balance Between Judicial Power and the Doctrine of Separation of Powers:**
To critically assess the balance between the judiciary's power as a guardian of the Constitution and the legislature and executive's authority. This includes exploring the limits of judicial intervention, the principles of judicial activism and judicial restraint, and the tension between the Court's duty to uphold constitutional values and the principle of democratic governance.
5. **To Examine the Supreme Court's Role During Constitutional Crises and Emergency Situations:**
To explore how the Supreme Court has acted as a protector of the Constitution during periods of national crises, such as the Emergency (1975-77), and how it has ensured the maintenance of constitutional order during times of political upheaval.
6. **To Assess the Impact of the Supreme Court's Constitutional Role on Indian Democracy and Governance:**
To investigate the broader implications of the Supreme Court's function as the guardian of the Constitution on Indian democracy, the rule of law, and governance.

This will include an analysis of the Court's role in shaping public policy, its influence on legislative action, and its relationship with the executive.



Research Questions

1. What constitutional provisions empower the Supreme Court to act as the guardian and protector of the Constitution of India?
2. How has the Supreme Court's power of judicial review evolved over time, and what is its significance in protecting the Constitution?
3. What is the scope of the Supreme Court's role in interpreting and safeguarding fundamental rights as enshrined in Part III of the Constitution?
4. How has the Supreme Court's interpretation of the Constitution contributed to the development of constitutional doctrines like the "basic structure" doctrine?
5. What is the role of the Supreme Court in maintaining the balance between judicial power and the principle of separation of powers within the Indian democracy?

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Literature Review

Books:

1. "The Supreme Court of India: A Socio-Legal Perspective" by Upendra Baxi
2. "The Constitution of India" by D.D. Basu
3. "Judicial Review and the Supreme Court: A Constitutional Perspective" by M.P. Singh
4. "Supreme But Not Infallible: Essays in Honour of the Supreme Court of India" edited by M.P. Singh and S. Narayan
5. "The Role of the Judiciary in the Protection of Fundamental Rights in India" by S.P. Sathe

Articles:

1. "Judicial Activism and the Indian Supreme Court" by V.N. Shukla
2. "The Supreme Court and the Basic Structure Doctrine" by Sandeep S. Choudhary
3. "The Indian Supreme Court and the Protection of Fundamental Rights" by Upendra Baxi
4. "Judicial Review and the Rule of Law: A Constitutional Analysis of the Role of the Supreme Court of India" by D.D. Basu
5. "The Supreme Court of India and the Doctrine of Separation of Powers" by T.R. Andhyarujina

Hypothesis

- The Supreme Court of India serves as the main guardian and interpreter of the Constitution. One of its most significant functions is judicial review, reviewing laws and ensuring that legal activity is in line with the Constitution.
- The Court's role as the protector of fundamental rights and the painstaking attention it pays to the "basic structure" doctrine ensure the integrity of our constitution and prevent any unconstitutional changes, particularly those motivated by political pressure or legislative attack.
- Judicial activism--particularly in cases involving protection of human rights--changed that from being merely an adjudicative body into a body of policy making as well as governance advisor.
- The tension between judicial activism and judicial restraint determines to what extent the Court lives up to its duty of defending the Constitution against any constitutional violation and of guaranteeing proper separation between judicial, legislative and executive powers.
- Although the power of judicial review performed by the Supreme Court and the role of interpretation played by it have done a great deal to protect the Constitution, anxieties about judicial activism and its possible erosion of democratic norms still remain a problem.
- The changes in the Court's powers reflect its vital role in adapting constitutional protections to the social, political and legal challenges today.
- The article, although somewhat sketchy in places, concludes that despite criticisms, the Supreme Court remains a wholly indispensable instrument in safeguarding the Constitution. Yet at the same time it must strike the right balance to maintain its legitimacy and not encroach on the democratic functions of the other branches of government.

Research Methodology

1. Doctrinal Research

This dissertation will emphasize doctrinal research. It means finding and reading large amounts of judicial and constitutional texts, as well as scholarly works. This effort is to better understand the Supreme Court's powers and duties in relation to its role as guardian of the Constitution. This methodology will concentrate on:

- **Constitutional Provisions:** Examining such relevant constitutional provisions as Articles 124, 13, 32, 226, and the basic structure doctrine among other, to understand the legal framework under which the Supreme Court operates.
- **Judicial Decisions:** A close look at landmark cases by the Supreme Court, like *Kesavananda Bharati v. State of Kerala* (1973), *Maneka Gandhi v. Union of India* (1978) and *Minerva Mills v. Union of India* (1980), together with more recent judgments, to examine how the Court has interpreted the Constitution and its powers down through history.

2. Case Study Method

Case studies in respect of major decisions by the Supreme Court are used to illustrate the practical application of its powers as the safeguard of the Constitution. Using case studies will illustrate the interpretative role of the Supreme Court, its duty to protect basic rights and how its judgments influence constitutional and legal norms. The following types of cases will be of particular interest:

- **Judicial Review Cases:** Where the Court exercises its power of judicial review to invalidate unconstitutional laws or executive acts, such as in *Minerva Mills* (1980) and *Indira Gandhi v. Raj Narain* (1975).
- **Fundamental Rights Cases:** Cases that expanded or clarified the meaning of fundamental rights, like *Maneka Gandhi* (1978) and *Right to Privacy* (2017), to understand the Court's role in ascribing constitutional protection.²

² M.P. Jain, *Indian Constitutional Law*, LexisNexis, 8th ed.
D.D. Basu, *Introduction to the Constitution of India*, LexisNexis, 25th ed.

3. Secondary Sources

- a. **Books and Articles:** Texts and peer-reviewed journal articles on constitutional law, judicial review, and the role of the judiciary in India, focusing on the Supreme Court's powers, duties, and judicial philosophy.
- b. **Reports and Publications:** Government reports, legal opinions, and publications from think tanks and constitutional bodies will be used to understand the institutional perspective on the judiciary's role.
- c. **News Articles and Media Reports:** Analysis of media coverage, public debates, and criticism of the Supreme Court's decisions, especially those involving judicial review or the protection of fundamental rights, to understand the public perception and the Court's influence on political and legal discourse.



Student Learning Outcome

- **Critically evaluate** the constitutional role and jurisdiction of the Supreme Court as the ultimate interpreter and protector of the Constitution.
- **Analyze the evolution** of the Supreme Court's powers through key judicial decisions, constitutional amendments, and legal doctrines.
- **Examine the principles** of judicial review, separation of powers, and checks and balances in the context of Indian constitutional law (or your specific jurisdiction).
- **Differentiate between** judicial activism and judicial overreach, and assess their implications on democratic governance and constitutional integrity.
- **Assess the impact** of landmark Supreme Court judgments on the protection of fundamental rights and democratic values.
- **Demonstrate an understanding** of comparative constitutional frameworks by analyzing how other countries' apex courts function as constitutional guardians.
- **Apply legal reasoning** to contemporary constitutional issues involving the Supreme Court's interventions in legislative and executive domains.
- **Present a well-researched argument** that integrates legal theories, case laws, and scholarly opinions on the balance between judicial power and democratic accountability.

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Chapter 2 - Constitutional

Foundations of the Supreme Court's

Role The Constitution of India:

Article 124 -- • Establishment And Composition Of The Supreme Court: The Supreme Court of India shall consist of a Chief Justice and such other judges as may be determined by Parliament from time to time. As things stand at present, the Supreme Court are made up to 34 judges, including Chief Justice himself.

- Appointment of Judges: The President of India appoints the judges of the Supreme Court. Yet this counts as part of its process and not unilaterally done inasmuch as it requires consultation with members from other judiciary. This power of the President to appoint judges is exercised on the advise given by the Chief Justice of India, and in practice, the collegium system plays a big part in these appointments.

- Qualifications of Judges: The qualifications required by the Constitution for a person to become a Judge of the Supreme Court cannot be ascertained but it has been stipulated that criteria is broad. A person must be an Indian citizen, must have been a judge of a High Court (or the equivalent) for at least five years and barrister for at least ten years, or must have some other qualifications yet to be prescribed by Parliament.

- Tenure of Judges: Judges of the Supreme Court of India hold office until they are 65. They can be impeached, requiring a higher level of procedure with both Houses in Parliament involved, if they wish to resign before that time comes.

- Removal of Judges: The judges of the Supreme Court can only be removed from office on the grounds that they have proved their misconduct or are incapacitated. Article 124 clause (4) gov emsn that a judge may be removed only if both Houses of Parliament so decide by a majority of not less than two- thirds of the total membership each House; this is an important safeguard for the independence of the judiciary from arbitrary abuse.

Article 124 of the Indian Constitution is an important underpinning of the rule of law and independence for India's judicial system. By laying down how judges are appointed, their term and their removal, it ensures the independence of justice and that judicial authority operates beyond party politics.³

³ Upendra Baxi, *The Indian Supreme Court and Politics*, Eastern Book Company.
Rajeev Dhavan, *Judging the Judges*, Har-Anand Publications.



Though the text and practice of Article 124, in particular the process of appointing judges to the Supreme Court, have evolved over time, it remains a fundamental provision guaranteeing that judiciary independence. Still, this point is critical for ensuring India's democracy works properly.

The discussions about how judges are appointed and how this process can be improved demonstrate unfinished negotiations on whether accountability or independence is the major problem in India's constitutional design.

-Article 13: Laws inconsistent with or in derogation of the fundamentals of law: "All laws which are in force in the territory of India immediately before the commencement of this Constitution, to the extent that they are inconsistent with the provisions of this part, shall be void."

-Law Defined: "The State shall not make any law which takes away or abridges the rights conferred by the Constitution in Part III. Any State law that is in contravention of this clause will, to the extent of such contravention, be void."

-Pre-Constitutional Legislation: An example of " laws in force " discussed in Article 13 is that it refers to laws which existed before 1950, the year when India began drafting its Constitution. These laws would continue to be of some validity; however if any of their provisions were inconsistent with the fundamental rights then they too are liable to be voided insofar as such inconsistency exists.

-Parliamentary Power to Change Existing Law: Article 13 also allows the Parliament to amend laws and bring them into conformity with the rules of the Constitution, meaning that they become valid again.

Article 32 – Remedies for enforcement of rights.

The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights under this Part is guaranteed.

- **The Power of the Supreme Court:**

"The Supreme Court shall have power to issue directions or orders or writs, including writs in the form of habeas corpus, mandamus, prohibition, quo warranto, certiorari and any such nature, for enforcement of any rights conferred by Part III."

- Power of Parliament to regulate:

"Without prejudice to the provisions of clause (1), Parliament may by law empower any court to issue orders, directions or writs mentioned in clause (2) of this article. "

- Suspension of the right to move the Supreme Court during an emergency:

"Notwithstanding anything in this article, the right to move the Supreme Court by appropriate proceedings for enforcement of the rights under this Part shall not be suspended except as otherwise provided in this Constitution during any period of emergency."

The Doctrine Of Judicial Review:

Article 13:

Section 13 of the Indian Constitution provides that any law in India which Learnt Malay in the nature of fundamental rights conferred g Pirtin of the Constitucion can be declared null and void to the extent' the consumerate inconstateny. This enables the isrto declare invalid laws that contravene basic rights. It establittins the Judicial Beyi: practice verifynd crowd me when diecen orudg lay rights peaceful living at which no press or wonven? producev is allowed. Finally it creates a mechanism of judicial review, making sure that no act of law can supersede constitutional warrants.

Article 32:

Article 32 guarantees the right of any human being in India to approach the Supreme Court with respect to enforcing his or her fundamental rights. In its words, then, the Supreme Court has power to chisel out a sculpture of laws which may infringe individual people's basic rights. This is one way in which judicial review is established, by providing an instrument to the Court.

Article 226:

This article grants power to the High Courts of India to issue writs for enforcement of fundamental rights or an other purpose, giving High Courts a mode for judicial review over state action. The vehicle of responsibilty for inquiry into acts which may amount to judicial review therefore becomes not

only the Supreme Court but also Relief Universe (High Courts), which can declare invalid laws or executive acts on constitutionality grounds.

Importance of Judicial Review

The primary role of judicial review is to protect the fundamental rights of individuals. As long as the government does not introduce or enforce laws or policies that violate basic ones guaranteed in Constitution--such as the right to life and liberty (Article 21), freedom of speech (Article 19), religion (Article 25)--it takes care of all issues required.

Judicial review helps ensure the Constitution's supremacy and establishes that legislation or actions all comply with it. It acts as a check on both the legislative and executive branches of government, preventing them from acting beyond what has been conferred upon them by this fundamental document

Utilizing judicial review, separation of powers is to remain in full force; that is, no department of government no branch from the legislature, executive or judiciary can encroach on any function or power normally belonging to another branch. It guarantees that the legislature does not make unconstitutional laws and that the executive will not go out of its province rule.

Judicial review is crucial to the maintenance of rule of law, which stipulates that law is sovereign and that everyone government agents included must obey it. It assures that government acts are legal and consistent with constitutional principles.

Judicial review lends support to the public's trust in the legal and political system. When citizens believe that their rights are secure from an independent judiciary, they are much more likely to believe in the system as a whole.

Fundamental Rights And Role Of Courts:

In India, Fundamental Rights are set out in Part III of the Constitution, Articles 12 to 35 inclusive. These rights are indispensable to ensuring every individual the maximum freedom and equality that she or he has a right to hope for. The following are the six main types of fundamental rights:⁴

⁴ G. Subbarao, "Judicial Review in India: Some Reflections," Indian Journal of Public Administration.
N. Gopal Jayal, "Democracy and the Judiciary," Economic and Political Weekly.

Right to Equality (Articles 14-18)

Article 14: Ensures equality before the law and equal protection of the laws within the boundaries of India.

Article 15: Prohibits discrimination on grounds of religion, race, caste, sex or place of birth.

Article 16: Secures equality of opportunity in matters of public appointment. Article 17:

Abolishes 'untouchability' and forbids its practice any form.

Article 18: Abolishes titles (except military and academic titles) and prohibits the State from granting them.

The Right to Freedom (Articles 19-22):

o Freedom of expression, assembly, association, movement, residence, and profession should be protected; subject to reasonable restrictions.

o Arbitrary arrest and detention are forbidden under Article 20. Nobody shall be tried or punished for a crime of which he has not had due process and tried by the law court.

o The right to life and personal liberty is protected by Article 21, which stipulates that no person should be deprived of these rights at which demand a protection in nature except in accordance with the procedure established by law.

o For example, police in a town where riots have been banned by order under this Act (on the grounds that such riots are illegal according to military law) may nevertheless arrest an innocent person who is merely looking for shelter. Article 22 provides that people found guilty of any such crime cannot be taken into military custody for more than QUOTE the procedure established by military law.

He jumped off the moving train as soon as the ticket collector had gone. 12. To put it in another way, the conditions of press freedom guaranteed in Article 19 must be kept internal peace and national security any longer threatened by outside forces. 2. The Right to Freedom (Articles 23-24):

o Human trafficking is forbidden by Article 23. It also forbids forced labour, and the employment of children.

o No child under 14 years of age may be employed in any factory, mine, or other hazardous employment. This is said expressly in Article 24. 5. The child who had once been happy at his play beneath the sky, but now lay injured in a ditch.

Enfeebled by misery, Chinese children - like those of many other countries - are born into poverty and stay saddled with their parents' debts until they are grown up and personable enough to sin for themselves.³ The Right to Freedom of Religion (Articles 25--28):

o Freedom of conscience is guaranteed by Article 25 and also the right to freely profess, practise and propagate religion.

o Article 26 gives freedom to manage religious affairs.

o There are no Taxes: it proportionably enter into any particular religion expenses incurred by the government for or to a religious purpose (Quran budget is an Islamic organization).

o Its Article 28 prohibits the interaction of religious education releases anywhere tuition so whole-heartedly funded by the state as Hong Kong Chinese University for example. Penguins are closely related to large albatross and shearwaters.⁴ Cultural and Educational Rights (Articles 29--30):

o The rights of minorities to conserve their language, script and culture are protected by Article 29.

o Minorities have a right to establish and administer educational institutions - this is fast becoming the norm worldwide. Penguins are closely related to the great albatrosses and shearwaters.⁵ Right to Constitutional Remedies (Article 32):⁵

⁵ Supreme Court of India
Legislative Department – Ministry of Law and Justice

o This article has often been called "The Heart and Soul of our Indian Constitution". It allows Indians themselves to directly approach the Supreme Court if any of their fundamental rights are infringed, to lodge a complaint against the violators of those rights before this highest tribunal which happens to exist in one sense, essentially form policy for such high-level emergency safeguards as riot restorations or sieges on state governments.

Role of Courts in Protecting Fundamental Rights

The **judiciary** in India plays a critical role in interpreting and safeguarding the **fundamental rights** of individuals. The courts, particularly the **Supreme Court of India** and **High Courts**, have the authority to review government actions, policies, and laws to ensure that they do not violate the constitutional provisions, especially the fundamental rights.

Judicial review

- Judicial review is a basic feature of the Indian Constitution that enables the judiciary to test the constitutionality of laws and executive actions. If any Act or government action is in conflict with a fundamental right, it is open to the courts to strike it down.
- Article 13 gives power to the Judiciary to validate laws which transgress fundamental rights. If there is an inconsistency between a law and any of the fundamental rights, then it can be declared void to the extent of such inconsistency.

Enforcement of Fundamental Rights (Article 32 & 226)

- Article 32 provides for individuals who have suffered an infringement of their fundamental rights to go directly to the Supreme Court. The Court can issue writs such as habeas corpus, mandamus, prohibition, quo warranto and certiorari etc. to protect these rights.
- Article 226 similarly gives the High Courts the power to issue writs for enforcement of fundamental rights or for any other purpose. High Courts can entertain petitions in the case of violation of rights and to get relief to citizens.
- The judiciary has been especially active in expanding the range of fundamental rights. In the Maneka Gandhi case (1978), for instance, the Supreme Court read

Article 21 (Right to Life and Personal Liberty) liberally, saying that the right to



life includes a right to live with dignity. This last aspect involves access to clean air, water, education and shelter, both equal or equitable so far as is possible.

Expansion of Fundamental Rights through Judicial Interpretation

- **The Right to Privacy** An explicit deni of the right to privacy is found nowhere in the Constitution of India, but Supreme Court has read it as a fundamental right under Article 21. The *K.S. Puttaswamy v. Union of India* (2017) case set a precedent. In this landmark judgment, fundamental rights were enlarged in this digital age by, among other things, guaranteeing that privacy be protected as an essential part of personal freedom.
- **Right to Education** In the case of *Unni Krishnan v. State of Andhra Pradesh* (1993), the Supreme Court held that the Right to Education is implied under Article 21. Later Article 21-A was introduced by the 86th Constitutional Amendment Act of 2002, making free and compulsory education for children 6-14 an essential right.

PIL Meaning and Its Special Significance

- Meanwhile, the judicial system has played a pioneering role in PIL. That means citizens, social organizations, or even unselfish and public-spirited individuals may submit cases for enforcement of fundamental rights. The net effect has been a great promotional role of legal practice in the society of protecting various marginalized and vulnerable groups.
- PILs are important means of right protection. Now there is wider space for the enforcement of rights laid down in the Constitution, and issues like environmental protection, human rights violations, child labor and prisoners' rights can also be resolved by the court system.

Writ Jurisdiction

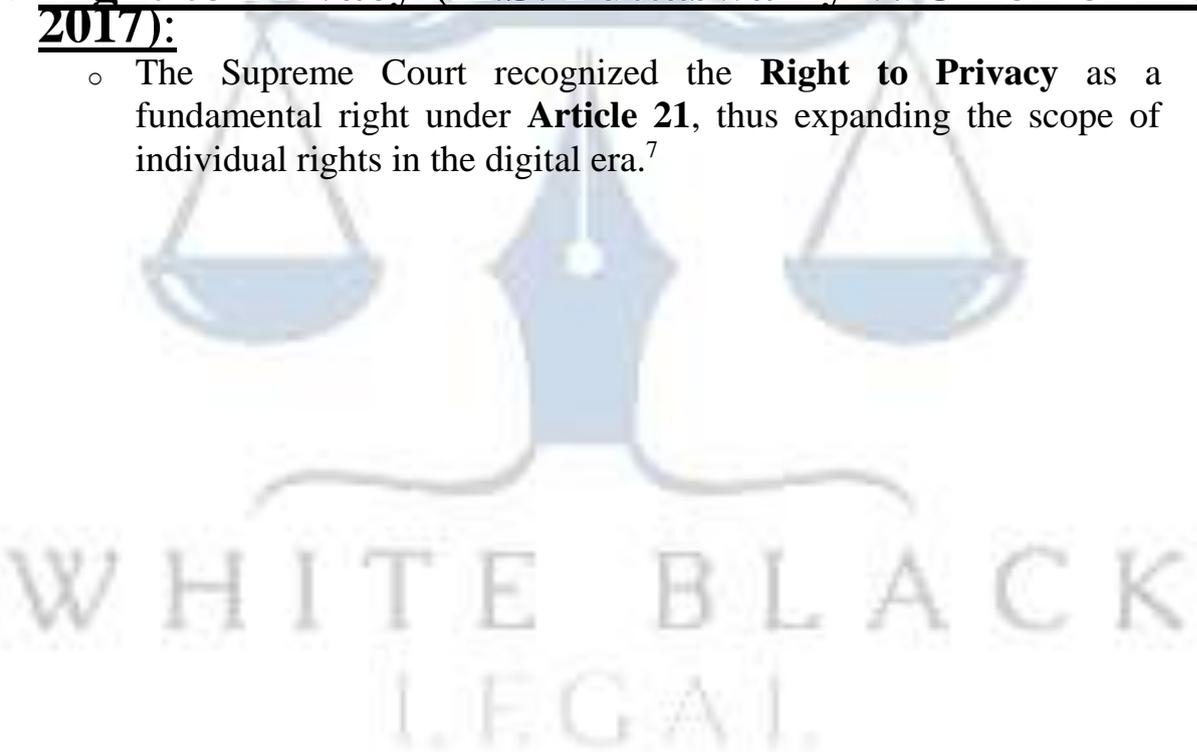
- Under Article 32 in the Supreme Court and Article 226 concerning High Courts, individuals whose fundamental rights are violated can file a writ petition to the proper court. The writ jurisdiction allows the judiciary to issue orders or directions for enforcing fundamental rights, thereby precluding the state from using force arrogantly and unlawfully.⁶

⁶ Kesavananda Bharati v. State of Kerala (1973) 4 SCC 225.
Minerva Mills Ltd. v. Union of India (1980) 3 SCC 625.



Landmark Cases Related to Fundamental Rights

1. **Kesavananda Bharati v. State of Kerala (1973):**
 - The Supreme Court established the **basic structure doctrine**, ruling that Parliament cannot amend or alter the fundamental structure of the Constitution, which includes fundamental rights.
2. **Maneka Gandhi v. Union of India (1978):**
 - The Court expanded the scope of **Article 21** (Right to Life and Personal Liberty) and held that the right to life includes the right to live with dignity and access to a fair procedure.
3. **Minerva Mills Ltd. v. Union of India (1980):**
 - The Supreme Court held that **judicial review** is an essential feature of the Constitution, and any law that diminishes fundamental rights is invalid.
4. **Right to Privacy (K.S. Puttaswamy v. Union of India, 2017):**
 - The Supreme Court recognized the **Right to Privacy** as a fundamental right under **Article 21**, thus expanding the scope of individual rights in the digital era.⁷



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⁷ Kesavananda Bharati v. State of Kerala (1973) 4 SCC 225.
Maneka Gandhi v. Union of India (1978) 1 SCC 248.



Chapter 3: Evolution of the Supreme Court's Power and Jurisprudence

Pre-Independence Era

Before India gained independence, under colonial British law and the Government of India Act 1935, forms were prepared for this country's institution of justice. During this phase, the Privy Council in England supplied judicial review to laws made by the Orient, sat in over them.

- The Indian Council Act of 1861 and the Government of India Act 1935 gave the courts authority only to consider whether laws were legal. The final authority to make laws thus still resided with the British Crown and the Privy Council which also powerfully influenced how these laws were reviewed.
- The Privy Council, which was the supreme court of appeal for India during British rule, had the power to review laws made by the Indian legislature ensure that they did not violate British laws or the fundamental tenets of Britain's constitution. As an imperial instrument of policy enforcement, the Indian judiciary was more an instrument of British policy rather than an independent agency defending Indian interests.

Post-Independence Era: Judicial Review under the Constitution of India

The **Indian Constitution**, adopted in **1950**, established an independent judiciary with **judicial review** as an inherent power, particularly for the protection of **fundamental rights** and ensuring that laws are consistent with the Constitution.

Constitutional Provisions Supporting Judicial Review

The **Constitution of India** does not explicitly mention the term "judicial review," but judicial review is implicitly guaranteed by various provisions:

Article 13. This article gives the courts power to strike down legislation that is inconsistent with your fundamental rights. It is the judicial review of law making by legislature.

Laws that are inconsistent with the fundamental rights enshrined in Part III of the Constitution are to be considered void, to the extent of their inconsistency. Through this means [the Judiciary also becomes a protector of individual rights ([]) , which is a kind of judicial review.

Article 32: This article grants the Supreme Court exclusive power to issue orders or writs (e.g. habeas corpus, mandamus, certiorari, quo warranto), to ensure that individuals' fundamental rights are not violated. Article 226 (subject to Ore.), which allows High Courts to see whether an administrative action is in conformity with any positive law of both India and other countries or organizations supplying laws on behalf of them, has further strengthened this mechanism of review by way of judicial authority.

Article 226: This article allows High Courts to issue writs for the protection of fundamental rights and also for any other purpose. It further re-inforces the mechanism for review of legislation by judiciary.

Early Development of Judicial Review (1950s-1970s)

In the early years after independence, the Indian judiciary asserted its power of judicial review to protect **fundamental rights**. The Supreme Court's interpretations played a significant role in developing judicial review as an essential feature of the Indian legal system.

The Kameshwar Singh v. State of Bihar (1952) Case

Today, due to globalization, almost every nation the world over has accepted or accepted only recently by trial and error this principle at one time or another. As for India, they just take a constitutional matter for granted.

Golaknath v. State of Punjab (1967):

The Golaknath case marked a turning point in the development of judicial review. It said that Parliament could not use its amending power to abrogate any of the basic rights guaranteed in part III the Constitution. For fundamental freedoms were considered inherent and inviolable the case established principle fundamental rights are "inalienable" against any action, be it addition or deletion, that would infringe them.

- The decision declared that fundamental rights were not subject to the laws made by Parliament as their name would suggest. This ruling created an important limit on the power of the legislature and thus served to reinforce judicial review.⁸

⁸ Golaknath v. State of Punjab (1967)

The Kesavananda Bharati case: argued that not all changes to the Constitution could be made by means of Amendment, only some and eventually it was limited. Our ancient Constitution, as emblazoned in the 394th Amendment Act of 1974 and 1976. Is the Constitution still the same as in its Origin? Is this the kind of India? This is a matter of debate among legal scholars.

Important Points in the Case:

- Even though Parliament can alter the Constitution through amendments, alterations must not change or destroy its basic structure.
- This doctrine set the stage for judicial review of constitutional amendments and therefore heightened the role that India's judiciary plays in national life.
- The basic structure of the Constitution can not be altered by Parliament through amendments and so the tradition of judicial review remains a key instrument in defending our nation's supreme law from being altered or distorted.

Emergency and the Courts (1975-1977)

In the emergency imposed by Indira Gandhi during the two years of the late 1970's, Questions were raised anew over judicial review. The 34th Amendment Act and the 42nd Amendment Act sought to decrease the powers of judicial review by limiting the Supreme Court's authority to review constitutional amendments as well as making certain laws beyond challenge in any court. The courts, however, reasserted their role as the guardian of the Constitution.

The Indira Gandhi v. Raj Narain(1975) Case:

- By striking down the constitutional amendments done during the Emergency period, the Supreme Court showed the second time how basic structure becomes dependent on its role in judicial review. Although the administration took steps to constrain the property of judicial review, court exercised power but never chose to interfere fundamentally with the plan under consideration at any time.⁹

⁹ Indira Nehru Gandhi v. Raj Narain (1975) Supp SCC 1.

The Minerva Mills Case (1980):

- In this case, the Court again emphasized that judicial review is a constitutional feature. The Court held that Parliament's power to amend the Constitution is not unlimited and that it cannot pick its essential structure, including the power of the Supreme Court to review laws or orders for their constitutionality. This ruling reconfirmed the judiciary's role as guardian of the landscape of laws.

Post-Emergency Period and Expanding Judicial Review (1980s-Present)

After the Emergency, India's judiciary became more assertive in exercising its power of judicial review, often enlarging and interpreting fundamental rights.

Public Interest Litigation (PIL):

- A PIL case is generally heard using the method of hearing en banc. As a result, the party in majority may change significantly if appeals are heard through this route.
- The public also has the right to call to the attention of the judicial branch any possible violation regarding Executive orders. In the case of a hijacking a pilot may also use such means.
- One of the most important developments in the post-emergency period was Public Interest Litigation (PIL). This allows any individual or organization to file a petition on behalf of public interest, especially for the protection of human rights and environmental issues. Consequently, people can resort to the courts a little easier than before. The role of courts and justice has also been reinvigorated.

Right to Privacy Case (2017):

- K.S. Puttaswamy v. Union of India (2017) saw the Supreme Court declare in a landmark ruling that Article 21 of the Indian Constitution guarantees all citizens a right to privacy as fundamental human right. This example showed how the judiciary interprets and applies the Constitution in circumstances unique today.

Conclusion

The development of **judicial review** in India has been a gradual process, evolving from the colonial period to the present day. It was initially inspired by the British system but has grown into a unique feature of India's **Constitutional democracy**.

Chapter 4: The Supreme Court as the Protector of Fundamental Rights

The India Supreme Court plays a controlling and crucial role in protecting the people's essential rights as set forth in Part Three of India 's Constitution. Those rights are the foundation of personal liberty, equal justice and equal opportunities. Since these safeguarding rights is guaranteed by the Constitution, the Supreme Court can also have the functions of protector to make sure they are not violated or ignored by any state organ, parliament or other institutions.

RIGHTS AND THE ROLE THE SUPREME COURT PLAYS IN THEIR PROTECTION

A Guardian of Fundamental Rights

Using its powers of constitutional interpretation and the judicial means at its disposal, the Supreme Court is not only the highest but also holds a high position as a defender of fundamental rights.

Judicial Review of Legislative and Executive Actions

Article 13 of the Constitution, which sets limits on the courts 'declaration of laws that may not render decrees void, restricts them in that way only to "fundamental rights', violates with specific provisions of this article out of all proportion. As a result this means that the courts can declare void any law that infringes upon the fundamental rights, however properly enacted it may be in itself.

Individuals are entitled to approach the Supreme Court directly for the enforcement of their fundamental rights under article 32. The court's jurisdiction is not confined only to examining legislative enactments but also extends into scrutinizing actions taken by executive authorities and states, subjecting them to constitutional review as regards whether they infringe upon any of citizens' most basic guarantees.

Enforcement of Fundamental Rights (Article 32)

It is into enforce one of the most significant features of the Constitution, the right to file a case with the Supreme Court if fundamental rights have been violated, which is guaranteed by Article 32, sometimes referred to as "the heart and soul" of our constitution.

Article 32 gives the Supreme Court the power to issue writs including habeas corpus, mandamus, prohibition, quo warranto and certiorari for enforcement of fundamental rights.

The Supreme Court is a protector of the people against arbitrary state practices, the upholder of citizens' rights and the counterweight for those parts which go too far.

Expanding the Scope of Fundamental Rights

India's Supreme Court has over the years interpreted Part III's provisions in such a way as to breathe some life into fundamental rights. Thus, they do not stand still while conditions change; rather, they adapt.

Some Right to Privacy *K.S. Puttaswamy v. Union of India, 2017*: In this judgment, the Supreme Court held that the right to life and personal liberty in Article 21 of Constitution should be interpreted to include a right of privacy. The Constitution did not mention this right specifically. One of the judgments in 2017 stands out: In affirming that dignity is part of every human being's life, is recognized as above though it may have been put into practice only recently. This judgment enlarged the scope for protection offered by fundamental rights in the context of digital technology.

Right to Education (*Unni Krishnan v. State of Andhra Pradesh, 1993*): Article 21 (Right to Life and Personal Liberty) encompasses this, the Supreme Court ruled. This was later spelled out in the Constitution in 2002 as Article 21-A by amendment No.86. Right to Live with Dignity (*Maneka Gandhi v. Union of India, 1978*): In the Maneka Gandhi case, the Supreme Court gave Article 21 a wide interpretation. It rules that the right to life includes the right to have one's life lived decently and not be interfered with by others unjustly or unfairly in any way.¹⁰

¹⁰ Arun K. Thiruvengadam, "The Constitution as a Site for Contestation: The Indian Experience," Law and Politics in Asia.

Public Interest Litigation (PIL)

One of the most noticeable changes in Indian justice is Public Interest Litigation, or PIL. The very concept of PIL succeeded in opening up new avenues for the Supreme Court to be sensitive to public welfare. By doing so it went into categories of cases where no-one had approached it from an aggrieved background, and this has served marginalized or vulnerable groups still further.

PIL was instrumental in throwing light on such areas as infringements of human rights, environmental protection, labor rights, and also social justice.

The Supreme Court has used PIL as its weapon for defending human rights and addressing the violation of rights at an institutional level. It has thus come to the aid of some who might never have been able to get near a court.

Cases involving child labor, the rights of slum dwellers, and environmental protection are among some of the major issues dealt with by PIL.

Protection of Rights of Vulnerable Groups

Judicial Review: The Supreme Court has taken an active role in exercising judicial review. This has been an unusual departure for its tradition of judgment from an earlier era.

Social Rights: The Supreme Court has acted to implement its judgment with regard to the judicial execution of rights. A good example is the Vasant Kumar v. State of Maharashtra (2000) case, in which the Supreme Court first ruled that if an accused person is on death row but has not had recourse to legal representation, he should be permitted to do so regardless of his financial capacity.

Rights of Men: The Court has also intervened to protect men's rights, such as in *Protestor Murali v. Karnataka State Road Transport Corporation* (1990). In that case, the Supreme Court held that a man could not be sent to prison for non-payment of a traffic ticket.

Rights of Women: The Supreme Court has taken a number of measures to protect women's rights, including declaring workplace sexual harassment a violation of fundamental human rights and setting down guidelines for this in the *Vishaka v. State of Rajasthan* (1997) case. **Planned Parenthood of SE**

Pennsylvania v. Robert P. Casey (1992) case against pro-lifers in defending women's right to choose aggravated the problem of protecting their lives further.

Rights of Children: The Court has also intervened to prevent child labor and guarantee the right to education for all children. For example, in M.C. Mehta v. State of Tamil Nadu (1996) case, the Supreme Court ordered that the government should ban child labor in hazardous industries.

Rights of Prisoners: The Court has interpreted Article 21 to guarantee prisoners human rights, so that their conditions in prison do not infringe their fundamental rights to life and dignity.

Safeguarding Against Arbitrary State Action

If you want to reduce the excessive use of power by executors or legislatures to a defended minimum, at some point this must become a legal consideration.

For instance, in the case of Indira Gandhi v. Raj Narain (1975), the Supreme Court upheld the right to a fair trial and judicial review even at this time of Emergency when many fundamental rights were suspended.

The Supreme Court has sternly warned the government that arbitrary detention, forced removal of people from their homes, and actions not in force of law by state can all be considered a violation of the right to life which is guaranteed under article 21.-5words

Role in Constitutional Amendments

In the case of Kesavananda Bharati v. Province of Kerala (1973), the Supreme Court created the "basic structure" doctrine, which stopped Parliament from altering the Constitution. In a separate judgment, the Court decided that the basic structure of the Constitution cannot be altered by Parliament, even if it amends it. This means that fundamental rights--as part of this "basic structure"-- are therefore protected and can never be taken away through amendments.¹¹

¹¹ N. Gopal Jayal, "Democracy and the Judiciary," Economic and Political Weekly.
Surya Deva, "Public Interest Litigation in India: A Critical Review," Civil Justice Quarterly.

Conclusion

The Supreme Court of India plays a central role to uphold fundamental freedoms in India. It also watches over the Constitution and safeguards human rights ever since we had independence beginning 70 years ago. Trying national legislators, ministers and departments within their proper bounds has been its responsibility; it guards against any tyrannous laws on behalf of individual constitutional rights. By means of its function of interpreting the law through judicial review, Pil and statutes--as well all-inclusive explanations about what is meant by "a people" or "the earth" in our written rules constitution--the Supreme Court has employed forceful measures which serve to protect each citizen's right. The role it plays not only hunts but also makes a half-decent life possible for all residents of India.



Chapter 5: Judicial Review

and the Separation of Powers What

is Judicial Review?

Judicial review is the authority of the judiciary to examine and, as appropriate, invalidate actions made by the Legislature, the Executive or other governmental authorities that contradict the Constitution. This guides the other branches' actions as a check and balances on their decisions for being constitutional.

Judicial review has played a crucial role in upholding fundamental rights, sustaining the democratic ethos of the Constitution as well as ensuring the rule of law in India. The Supreme Court of India, being the highest judicial body, has had a substantial influence in this respect.

The Doctrine of Separation of Powers

The separation of powers is a principle of democratic governance. It is the separation of government powers into three branches:

The Legislature: Has the authority to create laws. Executive:

Enforces and implements laws.

The Judiciary: The system also, which interprets the laws and applies them to individual cases.

This is to guarantee that no branch of government becomes too powerful, or oversteps their constitutional authority. While each branch has its specific functions, they are intertwined and collaborate on maintaining the pillars of democracy, justice and fairness.¹²

¹² G. Subbarao, "Judicial Review in India: Some Reflections," Indian Journal of Public Administration.



In India, these powers are apportioned among the branches through the Constitution itself, and each branch is assigned specific duties. The Constitution does permit certain areas of overlapping power, however, in order to ensure the system of checks and balances necessary to prevent one branch from gaining too much power.

Judicial Review and the Separation of Powers

Perhaps more than anything else, judicial review prevents one branch of the Indian government from becoming too powerful and unaccountable. The Supreme Court, as the protector of the Constitution, guarantees that the other branches of government do not overstep their constitutional authority. Infringement on Fundamental Rights: The Constitution allows the Court to review if the laws and actions done by the Legislature and the Executive violate its provisions especially the fundamental rights guaranteed in Part III.

Separation of powers is a principle, not an absolute. The Constitution has placed limitations on the legislative and executive branches as well and in such cases the Judiciary may be called upon to step in and apply checks to these organs when required to uphold the Constitution's basic framework or to ensure the civil liberties of the citizens are not being unlawfully violated. Thus, the Judiciary offshoots its power and jurisdiction through the mechanism of Judicial review to ensure that the separation of powers is preserved.

Judicial Review in the Indian Context

Explicit mention of judicial review was not made in the original text of the Indian Constitution, it was however implied in various provisions especially Article 13 (which says laws are void if inconsistent with the Constitution) and Article 32 (providing a right to constitutional remedies including judicial review).

Various important cases of India (the Constitution), reaffirm the power of Judicial review, and emphasise a vital role of the Judiciary to maintaining the separation of powers.

Landmark Judgments and Evolution of Judicial Review in India *Marbury v.*

Madison (1803) — U.S. Influence:

Among the international judgments, it must be stated that although not an Indian case, the judgment in *Marbury v. Madison* (1803) in the United States laid the very concept of judicial review across the globe. By the principle established by the U.S. Supreme Court Andrew Jackson, the Indian Supreme Court will also recognize and exercise judicial review.

Kesavananda Bharati v. State of Kerala (1973)

In one of the most significant cases in the history of constitutional law in India, *Kesavananda Bharati* laid down the foundational basic structure doctrine. It is held by the Supreme Court that Parliament has the power to amend the Constitution but it cannot change its basic structure.

This case was a touchstone for the Judiciary's role in keeping the Legislature in check and ensuring that constitutional amendments were not contrary to the bedrock pillars of democracy. It affirmed the separation of powers, reminding that it is the Judiciary's duty to review actions of the Legislature.

Minerva Mills v Union of India (1980)

The core concept of the doctrine was established to retain the balance between the powers of both the Directive Principles of State Policy and Fundamental Rights, the ruling further entrenched the basic structure doctrine and the role of judicial review in upholding this balance.

The Supreme Court invalidated provisions of the law that could have vitiated fundamental rights, reflecting that the Court has played a role in ensuring that no branch of government can compromise the Constitution's core principles.

Indira Gandhi v. Raj Narain (1975)

The period of Emergency (1975-77) also saw pivotal role played by the Supreme Court in putting checks on the powers of the Executive. In this case, the particular provisions of the Election Laws Amendment Act that conferred immunity to the Prime Minister from judicial scrutiny were struck down by the Court.¹³

¹³ *Kesavananda Bharati v. State of Kerala* (1973) 4 SCC 225.
Minerva Mills Ltd. v. Union of India (1980) 3 SCC 625.

The Court reaffirmed its right to judicial review even in the face of national emergency, thus strengthening the separation of powers and preventing Executive overreach.

S. R. Bommai v. Union of India (1994)

This concerned the authority of the President to declare a State Government inoperative and to dissolve legislative assemblies (Article 356--President's Rule). The Constitution intended states to be autonomous unlike Union Territories and the Supreme Court judicially reviewed the imposition of President's Rule over several states and held that the Judiciary could delve into the Executive's decision to dismiss state governments.

Judicial Review and the Limits of Separation of Powers

Judicial review is an essential tool for upholding the separation of powers, but it needs to be exercised judiciously. The Constitution empowers the Judiciary to exercise its authority to ensure the other two branches do not exceed the faculties granted to them by the Constitution, but the Judiciary cannot substitute itself for the Legislature or the Executive.

Legislative Supremacy The Legislature is the primary law-making body in a democracy, so judicial review cannot give the Judiciary the right to make laws or dictate public policy. The Supreme Court exists to ensure that laws are consistent with the constitution, not to undermine the policy choices of the Legislature unless those choices are themselves unconstitutional.

Executive Power: The Executive has the task of officiating the law and governing the country. Judicial review is a mechanism to ensure that the Executive does not exceed its powers, but is also not an affront to everyday administration, as long as the actions of the Executive fall within the limits set out in the Constitution.

Judicial Independence: Judicial review depends on the condition that the Judiciary acts independently and is not interfered by the Legislature or the Executive thereby maintaining the separation of powers. The Court must protect its role in constitutional interpretation but not so much that it tramples on the functions of the other branches.

Conclusion

Judicial review plays a critical role in the separation of powers in India. It serves as a checks and balances system so the Legislature and the Executive do not overstep their constitutional responsibilities and infringe upon fundamental rights or destroy the basic structure of the Constitution. The Supreme Court has repeatedly declared itself the protector of the Constitution in landmark cases, making sure that no branch of government oversteps its jurisdiction.

Judicial review enhances separation of powers, but must be tempered by judicial restraint, acknowledging the Legislature and Executive have their own spheres of authority. This balance maintains the democratic structure as well as the operational exigency of constitutional democracy in our country.

Judicial Activism vs. Judicial

Restraint

Judicial

Activism

Judicial Activism is a judicial philosophy in which higher courts like the Supreme Court of India are more active in deciding cases in the context of public policy, legislative matters, and executive action. Judicial activism, then, is the aspect wherein different judges take a wide view of their powers and actively interpret it to expand rights or protect an individual — and this step is particularly common whenever a failure of action exists in the Legislature or the Executive.

Key Features of Judicial Activism:

Active Policy Role: Judges are viewed as active participants in setting social policies and interpreting the Constitution to meet current social needs.

Key Features of an Activist Judiciary: 1. **Broadation of the Constitution:** Courts have a broad interpretation of constitutional provisions, which expands the scope of fundamental rights, and courts try to do justice in every case and even intervene in legislative or executive matters.

Making Up New Laws: Courts are creating new laws tailored to the ever-changing, bizarre and unnatural world in which we live today, today.

However, courts sometimes act to safeguard the rights of marginalized communities, enforce the public interest (such as environmental or labor rights),



which provides a sense of social justice orientation that a judicial activism critique might not capture.

Judicial Review: Courts can invalidate unconstitutional laws/executive actions through judicial review if they violate fundamental rights or the basic structure of the Constitution.

Key Examples of Judicial Activism:

Public Interest Litigation (PIL): One of the best examples of judicial activism is the growth of PIL in India. By allowing people to walk up to the Supreme Court on behalf of times when it was not possible for the poor, disenfranchised, marginalized communities to go and seek remedies directly. It also exposed the plight of child laborers, rights of slum dwellers, environmental protection and prison reforms.

Right to Education (Unni Krishnan v. State of Andhra Pradesh, 1993): Here the Supreme Court by interpreting Article 21 (Right to Life and Personal Liberty) included the Right to Education within its ambit as a fundamental right for children, which was later formally inserted in the Constitution, through the 86th Amendment, 2002.

Environmental protection (Vishakha v. State of Rajasthan, 1997) The Court laid down guidelines for the prevention of sexual harassment at the workplace which later became part of laws. This judicial effort stepped in where the Legislature had not adopted specific laws.

Criticisms of Judicial Activism:

Judicial Overreach: One of the points by the opponents is that the concept of judicial activism leads to judicial overreach, which could infringe the section between the different three organs of the state Judiciary, Legislature or Executive, which will counter the concept of separation of powers.

Undemocratic: Critics argue that judicial activism enables unelected judges to make substantive policy decisions over which they should, as a general rule, yield to duly elected representatives of the American people. This can shake the foundations of the democratic process.

Legal Uncertainty: A flexible, adaptable interpretation of the law can occasionally lead to legal uncertainty, whereby citizens struggle to comprehend the legal implications of their actions.

Judicial Restraint

Judicial Restraint as a judicial philosophy advocates for limited judicial interference in matters that ought to be dealt with by the Legislature or Executive. Judges who practice judicial restraint believe courts should only step in when the Constitution is directly violated, and that they should defer to the Legislature in creating laws and the Executive in carrying them out.

Key Features of Judicial Restraint:

Respect for Separation of Powers: Reliance on Judicial restraint respects the separation of powers where the Judiciary refrains from unnecessary interference with the Constitution by allowing the Legislature to legislate and the Executive to implement laws.

Judicial Restraint: Under this principle, judges will defer to the Legislature with respect to policy and lawmaking and will only overturn laws when they are plainly unconstitutional.

Stare Decisis: Judicial restraint is built on the principle of stare decisis, or the idea that courts should uphold precedent and should not make sweeping changes to the law unless absolutely necessary.

Courts Should Have Limited Role in Shaping Public Policy: Courts should not make policy decisions or ruling on political questions that are instead best left to the elected branches of government.

Judicial Restraint and Original Intent: Judicial restraint is focused on applying the Constitution as it was originally intended, rather than conforming the Constitution to fit the contemporary world.¹⁴

¹⁴ Pratap Bhanu Mehta, "The Indian Supreme Court and the Art of Democratic Positioning," Journal of Law and Policy.

Key Examples of Judicial Restraint:

Kesavananda Bharati v. State of Kerala (1973): This case was famous for establishing the basic structure doctrine but it also represented a clear case of judicial restraint, holding that the Supreme Court would not interfere with the constitutional amendments unless the basic structure was altered, thus largely leaving parliamentary authority unchallenged.

Minerva Mills v. Union of India (1980): Applied a limited review to balance Directive Principles of State Policy with Fundamental Rights and maintain the essence of the basic structure of the Constitution.

Indira Gandhi v. Raj Narain (1975): The Supreme Court did not overreach the principle despite the emergency conditions, recognizing the government's prerogative in certain matters, including matters of national security and political processes.

Criticisms of Judicial Restraint:

Inability to Safeguard Rights: One of the major criticism of the judicial restraint is that it has led the Judiciary into failing to enforce the fundamental rights of its citizens, especially when the Legislature or Executive is not acting upon the public interest or the violation of rights are being denied.

Limited Protection for Marginalized Groups: A rigidly restrained approach can result in limited judicial intervention in protecting marginalized groups, when the Executive and Legislature may be slow or unable to act.

Conservative Stance: Judicial restraint can sometimes be interpreted as too conservative, conservative in a sense that the law is not progressive enough, particularly in areas related to human rights, gender equality, or environmental protection.

The Role of the Court During Constitutional Crises:

Judicial Oversight of Executive Power

During constitutional crises, the Executive may violate its constitutional limits by deceleration of emergency powers, one-sided decisions, and encroachment of the individual basic rights. The Supreme Court frequently intervenes to safeguard the Constitution from such behavior, protecting the Constitution from being violated by these actions.

Example: The Emergency (1975-77):

In 1975 an Emergency was declared by the then prime minister Indira Gandhi on December 25 by invoking Article 352 of the Constitution citing internal disturbances as a reason. At that time, certain rights were suspended, and numerous political leaders were imprisoned without trial.

It is here that the Third Supreme Court played its most important role, especially in the area of Habeas Corpus. Initially the Court upheld the legality of the Emergency but became increasingly assertive. The Corpus' judgments during this period, in particular the ADM Jabalpur casere, provoked controversy by upholding the suspension of Article 32 (the right to approach the court for the enforcement of fundamental rights) during the Emergency.

Protecting Fundamental Rights

The Supreme Court of India has the power to review any actions or legislation that violate fundamental rights guaranteed by the Constitution (Part III). During constitutional crises, the Court serves as the protector of individual rights, ensuring that the Executive or Legislature cannot infringe on basic freedoms and civil liberties.¹⁵

¹⁵ Rajeev Dhavan, *Judging the Judges*, Har-Anand Publications.

Example: Kesavananda Bharati Case (1973):

The Kesavananda Bharati case, which established the basic structure doctrine, emphasized the Judiciary's role in protecting the Constitution's core values. Even in times of crisis, the Court declared that certain principles, such as fundamental rights, cannot be altered by constitutional amendments. This case reaffirmed the Judiciary's role as a constitutional watchdog during crises.

Judicial Review and the Separation of Powers

Part of the most important role the Court plays during a constitutional crisis is engaging in judicial review—the power to review and invalidate the actions or laws passed by the Legislature or Executive that are found to be unconstitutional. This gives power to the other branches of government to maintain the separation of powers so that no branch exceeds its constitutional authority.

Illustration: S.R. Bommai v. Union of India (1994):

The President's Rule (Article 356) was imposed in a number of states, bringing the dismissal of their state governments — a situation that necessitated the intervention of the Supreme Court. The Court held that imposition of President's Rule is open to be questioned and reviewed by the court. The judgment reiterated that the Executive cannot take arbitrary action to dissolve the government of a state indiscriminately nor can it violate constitutional provisions even in the face of a crisis.¹⁶

¹⁶ Kesavananda Bharati v. State of Kerala (1973) 4 SCC 225.

Resolving Political and Constitutional Disputes

Beneath their effort to establish relations with the people and buildup constitutional governance, the need for government officials becomes greater throughout the crisis itself. Thus, the Justice tends to take up a mediating role in disputes originating at one level of governance between several levels; disputes arising between Union and States, originally two different institutional spheres. In this way, between political and governmental concerns, the Judiciary functions as an independent arbitrator to avoid upset of continuity in constitutional governance.

Example: The affinity between the two

The Supreme Court has participated in a number of constitutional debates on the status of Jammu and Kashmir, as well as the fate of Article 370. The Court is a central player in interpreting the Constitution During times of political and constitutional crisis and resolving disputes over the relationship between the Union and States separate According to Example, in 2019, the Court considered whether the abrogation of Article 370 had constitutional validity. The Article had given special status to Jammu and Kashmir.

Balancing the Doctrine of Judicial Restraint with Judicial Activism

It is the Judiciary as judicial system that constantly finds itself balancing between restraint and activity. Judicial activism refers to how, when the constitution is threatened, the court takes the initiative to protect its values; judicial restraint, on the other hand emphasizes respect for other branches of government by the court—especially in times of political turmoil.

Judicial Activism:

The Court sometimes takes an active role in addressing social issues or in cases where the Executive fails to enforce constitutional rights. For instance, the Supreme Court's involvement in environmental protection (such as in *MC Mehta v. Union of India*) exemplifies the Court's willingness to address critical issues during times of crisis, even when they arise from a lack of executive action.

Judicial Restraint:

The Court on other occasions is v. restrained from acting in matters of politics, leaving them to be taken up by Legislature or Executive. This balance is crucial in constitutional crises to avoid judicial overreach.

The Court's Role in Ensuring Accountability and Transparency

In helping keeping the government above-board and in good democratic order, the Supreme Court is fundamental. During constitutional crises, the Judiciary ensures that transparency and accountability, as well as democratic norms are observed, even if government conduct is muddled with political interests or over-reaches off tale, and whether it's hurtling towards dictatorship.

Example: The National Judicial Appointments Commission (NJAC) Case (2015):

The Supreme Court knocked down the NJAC Act, which intended to alter how judges are appointed to higher judiciary, including an increased role for the Executive. The Court held that independence of the judiciary was essential to the working democracy. This case underscored clarity on how even judiciary must should be held to account, although within limits laid out by Constitution.

The Role of the Court in Preventing Authoritarianism

During a crisis, the executive or dominant political force always runs the risk of amassing power and trampling democratic values. The Supreme Court is a buttress against dictatorship, ensuring that no one of government's branches becomes too strong and undermines the rule of law.

Example: The Role of the Judiciary in the Emergency:

During the emergency (1975-77), the supreme Court was under pressure to fulfill the government's wishes. In time, however, it began to assert itself as independent reminding the government that nobody-no executive branch-stands above the Constitution. The Court's post-Emergency jurisprudence has had an increased emphasis on preserving democracy and human rights.¹⁷

¹⁷ Shayara Bano v. Union of India (2017) 9 SCC 1.

Conclusion

On the one hand, The Supreme Court of India will lead constitutional crises to a safe conclusion and see that the Constitution is the fundamental legal instrument independent of government regulation. The Court functions as an arbitrator of essential constitutional values, whether only to scrutinize legislation with regard to prior law and human rights provisions or to monitor equal separation power between branches. By far its legislative function goes further, too: the Court enforces democratic structure in a positive manner and holds the Government accountable to human beings, helping prevent it from becoming an arbitrary power.

In times of emergency when democratic principles themselves are endangered, the Supreme Court acts to prevent executive overreach, authoritarianism, and violation of fundamental rights. It supports society through difficult times, and sees that in the end an amendment to the Constitution is never passed without consultation. Indeed even under such circumstances the Constitution remains supreme law of constitutionality for India's democratic institutions and offers them guidance to guide their operations as well.



CHAPTER 6: Criticisms and

Challenges of the Supreme Court's Role

Critiques of Judicial Overreach:

What does a Judicial Overreach mean?

When people say that the judiciary 'overreaches,' they mean that it encroaches on the territory of either the legislature or executive, going beyond its constitutional brief. Whereas judicial activism is frequently applauded as a means to assert human rights and champion justice, overreach is seen as a gratuitous violation of the separation of powers per se - one India's Constitution.

Critic's View Of Judicial Overreach

- Separation of Powers

Critics charge that by taking on roles that affect policy (e.g., guidelines for police reforms, directions for appointment processes), the judiciary often does the work of an executive or legislature.

In the Vishaka v. State of Rajasthan, 1997 case, for example, guidelines were framed by the Court with respect to how not to sexually harass at work—a legislative function.

- Democratic Accountability

Elected representatives are accountable to their public, but judges are not. Critics point out that when courts make policy decisions they go around the democratic debate and public participation telltale of legislation.

T.R. Andhyarujina and others have risen fears that such judicial overreach could weaken democratic institutions over time.¹⁸

¹⁸ Menaka Guruswamy, "Litigating Against the Odds: The Supreme Court and the Rights of Sexual Minorities,"

Columbia Journal of Gender and Law.



- The Use of Article 142

Article 142 of India's Constitution gives the Supreme Court power to make any order that it feels "is necessary to do complete justice," but its frequent use and broad application has been called into question.

Examples would be the Court's orders on bans, regulations for fireworks in place of those previously in effect, and appointments—some critics argue that these could be characterized not as judicial beneficence but administrative business.

- PILs as a Tool of Overreach

Although Public Interest Litigations (PILs) have broadened the availability of justice, abuse can lead to courts stepping into fields like school fees, traffic regulations or even cricket administration (as in certain reforms of the Board for Control of Cricket in India are called by its Lodha Committee).

Scholars like Upendra Baxi once supported PILs but then later warned of their abuse and misuse.

- Lack of Institutional Expertise

Legal experts they may be, but judges can lack the technical, economic or administrative ability needed to make complex policy decisions.

This has resulted in orders which are ineffective or impractical—as blanket bans without scientific proof and feasibility analysis demonstrate.



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Some Notable Cases of

Judicial

Overreach

Vishaka vs. State

of Rajasthan

(1997)

Problem : No legal regulation on sexual harassment in the workplace.

Extravagance : The Court formulated standards, de facto legislating in the absence of parliamentary legislation.

Supreme Court Advocates -on- Record Association v. Union of India (2015)

Issue: Overturned the NJAC Act aimed at reforming judicial appointments.

Excess: In a sense, the judiciary was protecting its own patch in fear of democratic reform.

BCCI vs. Cricket Association of Bihar (2015-2017)

Issue: BCCI's governance.

Overreach: The Court went beyond mere adjudication into the administration of cricket, a privately registered organization.

Ban on Firecrackers and Diesel Vehicles Issue:

Environmental protection.

Overreach: No orders were given after adequate scientific studies or the analysis of feasibility.¹⁹

¹⁹ Vishaka v. State of Rajasthan (1997) 6 SCC 241.



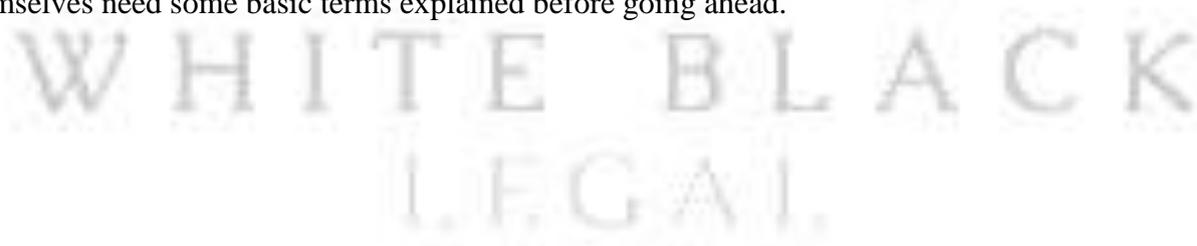
Ban of Sale of Liquor on National Highways Issue:

Road safety.

Overreach : Steps taken by the Court produced a scenario where both the revenues of the states and their federal polity were affected.

- Erosion of Democratic Principles: Skirting elected institutions also undermines representative democracy.
- Crisis of Accountability: Judges are not elected by the public and so what they decide has very wide implications.
- Governance Scramble: Courts may not have the administrative expertise needed to draw up complex policy.
- Institutions Weakening: Between them, successive interventions inelastically affect the incentive of legislative and executive to perform.
- Loss of Credibility and Public Trust: Overreach can and does invite criticism.

The guardians of the Constitution are the judiciary. But it should never become master of them. Though often well-intentioned, judicial excess threatens to upset the delicate balance of power among all three branches state a healthy democracy needs every organ performing their proper function in accordance with constitutional constraints, yet recognising their interrelating responsibilities to each another. Humility, responsibility and honesty with fellow-South Africans ought also be given its due share by those called upon to judge others -- unless bearers themselves need some basic terms explained before going ahead.



Debates on Judicial Activism

Judicial Activism is a process by which courts take on an active role to help attain justice and protect people's rights--especially when government authorities neglected these things themselves. The judiciary in this country has at times moved from its traditional role as arbitrator to that of advisor making law and policy. Such interventions have drawn widespread debate in the political, educational and legal communities about whether judges should be allowed continuously to play this kind of role or not.

Judicial activism in India began to form during the post-Emergency era (because of a judgment of Delhi high court) However the instrument of Public Interest Litigation (PIL) Emphasizes that courts can take broad-minded action against oppressive behaviors of Govt. Influential and judicial visionary Justice P. N. Bhagwati, and Mr. Justice V. R. Krishna Iyer, broke new ground in their interpretation of constitutional rights even as they loosened the rigid framework governing the provision of legal services for Indigents.

- A morality governed by constitution, legal innovation in harmony with the constitution.
- Limits on government power: The judiciary starts to shrink other institutions are weak or corrupt.
- Guaranteeing human rights: Make sure basic human rights are not violated, especially for those without recourse to the law.
- Social Justice Doctrine: The Indian Constitution lays emphasis on distributive justice as is evident from its Prologue and from active judicial deliveries in the area.

A look at some milestone cases that reflect how activists can influence the courts:

- The judgment on *Kesavananda Bharati v State of Kerala* (1973): This meant that we thus recognized what are known today as Basic Structure doctrine laws
- Judgment by the Supreme Court in *Maneka Gandhi v Union of India* (1978): Opening up interpretation of article 21²⁰

²⁰ *Kesavananda Bharati v. State of Kerala* (1973) 4 SCC 225.

- Guidelines for the future of sexual harassment came from the judgment in *Vishaka v State of Rajasthan* (1997).
- The cases came from pollution and environmental protection in *M.C. Mehta v Union of India*, which is our Environmental cases filed
- In *I.R. Coelho v State of Tamil Nadu* (2007), the Basic Structure principle was applied to Ninth Schedule laws.

Academic and Political Perspectives

- **Defending the Cause:** From the pen of scholars such as Upendra Baxi and Granville Austin, judicial activism has been seen to function as a liberating force for powerless subjects, and advocate of constitutional ideals.
- **Critical Aims:** Critics like T.R. Andhyarujina and S.P. Sathe argue that an activism which exceeds its proper measure will upset the balance between institutions and give rise to suspicions of judicial overreach.
- **Political Reactions:** Activism has at times been welcomed and at others condemned by political leaders, depending on whether it challenges the directions of the executive.

Concluding remarks

A vital role in shaping Indian democracy has been performed by judicial activism. It has led to progressive change, for which there is some justification. Despite this, questions arise about the role that the judiciary should quite properly play in a democratic set up. The responsibilities of a judge and his institutional limitations have to be viewed as essential supports for the sound running of Indian Constitution.²¹

²¹ Menaka Guruswamy, "Litigating Against the Odds: The Supreme Court and the Rights of Sexual Minorities," *Columbia Journal of Gender and Law*.

The Role of the Court in Political and Social Affairs Introduction

The Indian Constitution divides power among the legislature, executive, and judiciary. In practice, however, the judiciary has on occasion stepped into areas traditionally reserved for other branches--and not just when there was a void in government or no one else willing to act. In this way, we see how over time courts have come increasingly to wield influence over both politics and society.

Judiciary actions have ranged from insuring fair elections and environmental protection, to imposing social change and protecting fundamental rights. The "judicialization" thus reinforces courts as guardians of Constitutional norms, while also prompting debate on whether or not they are going too far beyond their proper sphere.

The judiciary takes another look from another eye at this taboo. The judiciary has become an important actor in the democratic process from reiterating the superiority of the Constitution to intervening in matters of public interest. Chief among them are Supreme Court and High Courts but this role is a product of Indian society 's development. Paying special attention to the judiciary's changing status as judge over public morality, this paper discusses numerous important decisions, debates background issues a snaraing courts and their repercussions for government, democracy, tserhsoldopez me with thereby.

Judicial Role in Political Affairs:

Electoral Reform and Democratic Infringement

As regards the important role played by judiciary directly in safeguarding integrity to marriage plays three chief points in. Electors who have become registered and served their sentences completely are innocent men, such as mine, always There is no real trouble in attaching the dream to the electrification of rural electrification in an age when technology permits all rural people both energy and power.

- **SR Bommai v. Assn. of India (1994):** Bolstered federalism and stopped the arbitrary use of President's Rule. The judiciary's decisions have profoundly influenced and improved our national election system over the past several years.
- **Association for Democratic Reforms v. Union of India (2002)** Makes

candidates to disclose their assets and criminal records. Over a decade, all the legislatures have been interpreting provisions of our Constitution aimed at making them the exclusive interpreters as competition increases. It is absolutely incorrect for a democracy to consider democratic and communist ideas as enemies.

- Lily Thomas v. Union of India (2013): Barred convicted legislators from holding office.

Anti-Corruption Measures

- The judiciary has addressed high-level corruption through 'judicial activism'.
- 2G Spectrum Case (2012): Canceled licenses obtained unlawfully.
- Coal Allocation Case (2014): Pronounced allotments arbitrary and illegal.

Upholding Federal Structure

The court has been attempting to preserve the separation of power between the highest courts of the land and the states.

2018: Inside National Council (NCT) of Delhi v. UOI Judicial

Review of Constitutional Amendments

It was in Sankari Prasad S. that for the first time in a country where the power of amendment was placed kesavananda Bharti v. state of kerala established this doctrine.

Judicial Role in Social Affairs

Changing the System from Inside The legislative regulations could hardly be said to keep up with social development.²²

22

The change comes from a labour case in which the Court, as its action angle, heard effective voice of the small groups.

Vishaka v. State of Rajasthan (1997), for example, involved a gang rape case and resulted in the Supreme Court laying down preventive guidelines for workplaces: overtime work was to cease after 8 p.m. and on holidays; all-night shifts could not be mandated; moving home meant no company travel.

- Environmental Protection M.C. Mehta Cases : Addressing pollution, vehicular emissions and industrial hazards.
- Judicial recognition of the Polluter Pays principle and Sustainable Development doctrines.
- Right to Education from the Chains of Monotony Mohini Jain v. State of Karnataka (1992) and Unni Krishnan v. State of Andhra Pradesh (1993) turned the right to education, which is constitutionally guaranteed by Article 21, into a law for those living in deprived areas.
- Paschim Banga Khet Mazdoor Samity v. State of West Bengal (1996) upheld that the state had an obligation to provide healthcare.
- Gender and Social Justice Navtej Singh Johar v. Union of India (2018) did away with the anachronism of a legal ban against homosexuality.
- Joseph Shine v. Union of India (2018) declared the adultery law unconstitutional.
- Triple Talaq Case (2017) declared instantaneous "triple-talaq" unconstitutional.

Recommendations for Balancing Judicial Power and Accountability

This essay attempts to explore the complex interplay between judicial authority and bureaucratic responsibility in contemporary India. When judicial authority increasingly encroaches in domains that have traditionally been the preserve of other branches, we must ask: what are restraint and responsibility appropriate for it? In this sense, it makes a systematic analysis of why and what problems come with expanded judicial authority, indicating specific suggestions on how to keep an enhanced judiciary in check but rooted in democratic China.

India's judiciary has become an increasingly influential institution in carrying on government affairs, often taking control of things as wide-ranging as policy evaluation or preservation of human-rights provisions. This has started to make political democracy in India richer, but it has also raised doubts about whether or not the judiciary is too aggressive and fails to shoulder its proper responsibilities.

Balancing judicial independence with oversight mechanisms is crucial. This paper offers a comprehensive examination of judicial power and puts forward rational decisions with reference to models in other countries, constitutional requirement, and democratic values.

The Rule of Law

Through articles 32, 136, 141, and 142 of the Indian Constitution, the Judiciary enjoys an enormous amount of power. Over time, it has worked its way into the forefront of public life by a series of judicial decisions:

- Public interest lawsuits (PIL);
- Judicial Review;
- Acting on Its Own Motion (suo motu)

These developments have had a significant impact on government, environmental protection, human rights and accountability. However, if unchecked there is a concern that too much power can lead to the original concept of separated powers being upset.

Challenges for the judiciary

- Judicial Overstep ``": Courts are not experts in making laws outside of their own fields.
- Unaccountable Appointment Proces: No one knows how judges are selected except the ones themselves-- there 's never an open presidential vote for these kinds of people.Really
- Lack of Uniform Accountability Mechanisms "-No procedure to measure the work of judges
- Time Lag: Judiciary having lots of cases to deal with will slow down efficiency, with greater numbers of long-pending ones interrupting its day an increasing is problem not solved in sight.
- Exclusion of Democratic Institutions: Supreme power assumee People-elected groups might be subverted.

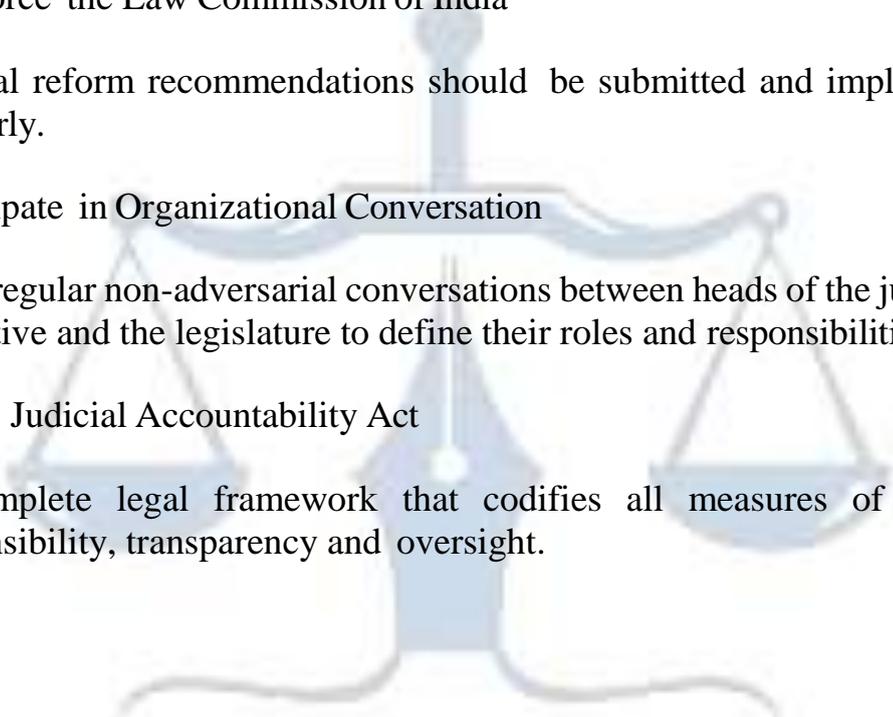
Recommendations for Balancing Judicial Power and Accountability:

- The Collegium System and its Institutional Reform
- Independently set up a Judicial Appointments Commission (JAC) with equal representation of judiciary, executive, legislature and civil society.
- Ensure transparency in criteria for elevation and transfer of judges
- Judicial Conduct and Ethics Codification
- Must enforce statutory Judicial Conduct Code, apply it to judicial all levels.
- Require that assets, conflicts of interest and affiliations be publicly disclosed.

- Establish a Judicial Performance Evaluation System
- Have objective metrics such as disposal of cases, quality of judgments, peer-review.
- Make annual performance reports publicly available.
- Restrict the Scope of Sua Motu Powers
- Detail when courts can take suo motu cognizance
- Obtain an internal judicial review panel prior to action.
- Touchtone One: A Uniform Impeachment and Disciplinary Process
- Make it easier to respond to judicial misconduct.
- Dissolve FAU; form an independent Judicial Oversight Committee — investigative and advisory.
- Mean to Maximize Capacity and Domain Awareness
- Regular training programs on public policy, technology and administrative law, and economics.
- Encourage hiring of law clerks and research associates to help judges with technical issues.
- Reinvigorate the Functioning of Parliamentary Committees
- And empower committees to examine how key judicial decisions are affecting governance.
- Dialogue between Judiciary and Legislature:
- What if we had Judicial Impact Assessments
- Do prospective analysis of court effects on budgets, policy outcomes, social programs.

- Make Technology Work for More Transparency
- Constitution benches to live-stream court proceedings
- Provide open access to publish all judgments including from lower courts.
- Discourage Frivolous PILs
- Create protocols and pre-screening processes.
- Punishing abuse of PILs to prevent forum shopping and political motivations
- Encourage ADR (Alternative Dispute Resolution)
- Encourage methods that lessen pressure on the judiciary ie arbitral, mediation, conciliation.
- Use judicial oversight to make ADR outcomes enforceable.
- Upgrade Judicial Infrastructure
- Systems of recording, tracking cases and hearing are digitized.
- Address vacancies on the bench by increasing judicial manpower.
- Promote Civic Legal Education
- Conduct public legal awareness campaigns on rights and remedies and boundaries of judicial power.
- Set up Internal Review Mechanism
- Request a formal internal vetting of foundational long-term decisions.
- Promote Judicial Interest Amount Academia
- Encourage judicial involvement in academic panels, research collaborations and public debates.

- Regional Consultations with the Judiciary
- Host regional forums to allow judges, lawyers, and civil society to discuss reform of the judiciary.
- Balanced Use of Article 142
- Put in place rules to confine its use to extraordinary circumstances only.
- Reinforce the Law Commission of India
- Judicial reform recommendations should be submitted and implemented regularly.
- Participate in Organizational Conversation
- Have regular non-adversarial conversations between heads of the judiciary, executive and the legislature to define their roles and responsibilities.
- Pass a Judicial Accountability Act
- A complete legal framework that codifies all measures of judicial responsibility, transparency and oversight.



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CHAPTER 7: Future Challenges and the Role of the Supreme Court in Protecting the Constitution

Introduction

The institution of the Supreme Court of India as the custodian and guardian of the Constitution assumes increasing significance as we journey through the 21st century. The Court has traditionally stood as a cornerstone of constitutional continuity, yet the evolving political, social, and technological environments call for innovative approaches. Expect to see the balance between judicial power and constitutional integrity tested in more complicated ways.

Emerging Social, Political, and Legal Issues

- **Constitutional Rights in the Digital Age**

Digital platforms, artificial intelligence, and data surveillance create new arenas of privacy, freedom of speech, and digital equity. The Supreme Court will need to rule on new issues such as data privacy laws, algorithmic biases, and digital censorship, weighing individual rights against national security.

- **Environmental Governance and Climate Change**

Environmental crises will contest constitutional mandate for sustainable development. The Court has to enforce Article 21 on the grounds of protecting the environment while balancing it with the economic growth needs of the country and society. Its rulings will frame India's environmental jurisprudence for generations.

- **Federalism and Further Regional Autonomy**

Disagreements between states and the central government on matters of taxation, language, law enforcement and political representation are bound to intensify. It will have to interpret the federal structures and preserve a balance of power in India's diverse polity.²³

²³Observer Research Foundation (ORF) – Articles on Constitutional Developments in India.

- Heightened Political Polarization

And growing ideological division in the political system can produce legislative and executive paralysis, or legislative and executive overkill. The Supreme Court will want to protect constitutional principles when democratic institutions are strained or under siege.

- Judicial Backlog and Efficiency

The Supreme Court—facing growing numbers of cases—will face tremendous pressure to innovate judicial processes. A delay in justice can undermine public confidence in constitutional remedies.

- Misinformation and Regulation of the Media

With the proliferation of social media, the Court will continue to be challenged to draw legal lines around fake news, freedom of expression and media ethics. It must protect civil liberties while also ensuring accountability.

- Constitutional Morality vs. Majoritarianism

The growing use of majoritarian logic to enact laws that can violate minority rights, gender equality, or personal freedoms will put the Court's position as the custodian of constitutional morality to the test.

The Supreme Court: Its role is changing

- Upholder of Basic Rights

The Court must be vigilant in the protection of right guaranteed under Part III of the Constitution. Its pronouncements will shape the contours of civil liberties in shifting socio-political circumstances.²⁴

²⁴ Ministry of Law and Justice, Annual Report, Government of India.

- **Constitution Interpreter**

It is vital for the judiciary to construe the Constitution in ways that reflect not just their fidelity to its umbilical ideations, but that also answers to contemporary necessities. This task will centre on the principle of a 'living Constitution'.

- **Your training goes only up to October 2023.**

In order to maintain the promise of cooperative federalism, the Court should settle disagreements without bias, upholding the heart of the Constitution's federal framework.

- **Check on Executive Power**

In an age where executive actions can circumvent parliamentary procedures, judicial review is an important mechanism. The Court should not overreach, but must act decisively whenever there is a violation of the Constitution.

- **Catalyst for Social Change**

The Court has often been a vehicle of reform—from decriminalizing homosexuality to promoting rights for women. That it must continue to respond to social inequalities with progressive jurisprudence.

- **Promoter of Democratic Values**

By maintaining electoral fairness, transparency, and institutional independence, the Court has the ability to protect a healthy democracy. It will only assume an increasingly prominent role in litigation over elections and holding politicians accountable.

Conclusion

Challenges galore await the Supreme Court of India that include regulatory architecture for technology and protection of basic rights in bhyntmistr political scenarios. If the Constitution is to be changed or destroyed, it can only be that the human consequences for the people, for no laws prohibit the law in the worst instances, it is the ones that the Constitution is not moved, making this law the living be destroyed in the world, and the worst cases of the law full of the truth of destruction. The Court's ability to navigate assertiveness and

restraint, and innovation and tradition, will define its success at upholding constitutional democracy in the decades to come.

Adapting the Judiciary to Modern India

The judiciary in India historically has been a bulwark against constitutional violations and an agent of progressive change. But as the process of rapid modernization continues, the systems, processes, and philosophies of the judiciary must also evolve. Modern India is experiencing a unique intersection of socio-political transformation, technological disruption, and rising public expectations and demand. Adjusting the judiciary to these realities is necessary to maintain its legitimacy and improve its effectiveness.

This part discusses the vital areas where legal adjustments are required and provides a detailed analysis of steps that will empower the Indian judiciary to face modern and upcoming difficulties.

Technological Modernization of the Judiciary

- Digital Infrastructure

The trend toward e-governance and digital service delivery should also be adopted in the judiciary. For example, the E-Courts project should be extended and fully implemented, allowing smooth implications for filing, hearings, and progress tracking.

- Artificial Intelligence (AI) in Legal Processes

AI can be used in advanced case analytics with statistical techniques to help judges understand the patterns of decisions and thus reduce cognitive workload. Chatbots and virtual assistants can handle the mechanical elements of public enquiry, while AI-based transcription services will improve court reports.

- Blockchain for Record-Keeping

The wisdom of the crowd is really set in stone. If blockchain can be used to guarantee factual authenticity and transparency in judicial records, as well as giving us protection against forgery by tampering with electronic data on one PC which won't have been published yet for everyone else who needs it, one more footnote.

Human Resource Development

- Judicial Training and Continuing Legal Education

As part of their legal training, administrative personnel must specialise in contemporary issues such as cybercrime, data protection, environmental law and international treaties. The Supreme People's Court senior judges and judges, the National Judicial Academy judges major courses should modernise curricula and introduce interdisciplinary training.

- Recruitment and Diversity

The judiciary should mirror the social make-up of the nation. Transparent and inclusive recruitment practices can advance representation of marginalized communities generally.

- Support Staff and Clerks

Increasing the number of qualified judicial clerks and research associates can raise judicial productivity by an order of magnitude, thereby vastly improving the quality of judgment.

Institutional Reforms

a. Transparent collegium system

In the operation of the collegium, both the selection and transfer of judges should be subject to greater transparency and public accountability. A system combining input from both outside representatives of civil society and oversight by the executive could offer some credibility.

b. Performance appraisal

A more sophisticated evaluation system ought to appraise judges in terms of their case-handling speed, jurisprudential quality and professional conduct.

c. National Judicial Commission

The setting up of a constitutional Judicial Commission can be entrusted with the job of making appointments, dealing with transfers and complaints as well as disciplinary action, instead of leaving these matters to random ad hoc or informal procedures.

Access to Justice

- Legal Aid and Awareness

Step up outreach programs by Legal Services Authorities and use technology to provide remote legal aid in rural and tribal areas. They can convey legal rights information to citizens via digital platforms in multiple languages.

- Infrastructure of Court in Far Places

Set up and improve judicial facilities in under-served regions. Virtual courts could help alleviate logistical hurdles while bringing neglected populations into the judiciary.

- Gender- and Disability-Friendly Courts

Ensure the dignity and comfort of all litigants by adapting court infrastructure and practices to be inclusive.

Public Trust and Accountability

- Live Streaming of the Proceedings

Live streaming of constitutional and high-profile cases will enhance transparency and educate the public about legal processes.

- Annual Reports Of Court Will Be Released

Regular annual updates on caseload, judicial interventions, and institutional performance can enhance public confidence.

- Code of Judicial Ethics

Expectations of conduct should be codified in an enforceable code, and the code can contain processes by which alleged violations may be addressed while maintaining judicial independence.

Embracing Constitutional Vision and Social Realities

- A living Constitution

The courts need to adopt a progressive, living Constitution approach that brings constitutional values into alignment with new social challenges.

- Protecting Minority Rights

In a climate of majoritarianism, the judiciary must become more assertive in protecting the rights of minorities, dissenters and vulnerable groups.

- Promoting Transformative Jurisprudence

Also, the judiciary cannot be limited to just deciding cases; it has to try to bring about social transformation through cutting edge judgments that not only define public policy but individual rights as well.

Comparative Insights: Learning from Other Jurisdictions

- United Kingdom

It offers scalable practices through the UK's digitization of small claims courts and online dispute resolution models.²⁵

²⁵ International Commission of Jurists, Judicial Accountability in India (Report).
United Nations Human Rights Council – Reports on Rule of Law in India.

- United States

The public vetting of judicial appointments by US courts is also a driver of accountability. Term limits for judges are also debated for having new perspectives be part of the legal system.

- Canada

Canada's Judicial Council provides a mechanism for oversight and evaluation without politicizing the judiciary.

Among these, besides borderline discriminatory policies, is the possibility of India borrowing selected global best practices after modifying them to not only fit but respect its federal and democratic fabric.

Conclusion

Modernising judiciary for contemporary India is not only an administrative necessity but also a constitutional obligation. From digital justice delivery to inclusive courtrooms and transparent appointments, the change will have to be multidimensional and future-oriented. A technologically empowered, institutionally capable, and socially responsive judiciary will reaffirm its legitimacy as a co-equal arm of governance.

India is at a cusp — the judiciary can either become the change agent, or risk becoming an institution in decline. The decisions made today will shape the judiciary's capacity to defend the Constitution, answer citizen aspirations and be the country's conscience in a world that's changing more quickly than it can govern.

Recommendations for Strengthening

the Role of the Court

Introduction

Both the Indian judiciary, and particularly the Supreme Court, has historically been the custodian of the Constitution at work here in defence of democratic ideals and the rule of law. Indian democracy faces the dual challenges of rapid social change, political polarisation and governance challenges, and this necessitates a recalibration of the Court's role in Indian democracy. This also includes recommendations that seek to substantially enhance the institutional authority, public trust and functional capacity of the Indian judiciary.

Institutional Empowerment

- Creating a National Judicial Commission

An open and independent National Judicial Commission can handle appointments, promotions and discipline, replacing the opaque collegium system.

- Budgetary Autonomy

Financial independence for the judiciary from the executive may help with effective resource planning on the court system's part, recruit competent judicial staff, and ensure infrastructure development as well.

- Judicial Cadre Reforms

Like the IAS or IPS, an Indian Judicial Service (IJS) can promote merit-based recruitment and nurture a career judiciary.

Enhancing Transparency and Accountability

- Live-Streaming of Court Proceedings

This will promote transparency and public understanding by opening up more constitutional and public interest cases to live telecasts.

- Annual Performance Reports

These High Courts and Supreme Court should publish the data related to pending cases, judgements passed, etc.²⁶

²⁶ Tarunabh Khaitan, "Reading Swaraj into Article 15: A New Deal for All," National Law School of India Review.

- Well-defined Disciplinary Procedures

Risking external influence, codified and time-bound disciplinary procedures for judicial misconduct will insulate internal accountability.

Expanding Constitutional Jurisdiction

- Strengthening Public Interest Litigation (PIL)

The PIL has become an indispensable instrument for social justice. That being said, stricter scrutiny against frivolous petitions as well as a nuanced and higher quality involvement of amicus curiae can lend these petitions a high degree of credibility and improve their possibility of success.

- Constitution Benches on Important Questions

Constitution Benches on Permanent Bases resolution of urgent constitutional issues.

- Outdated Precedent Review

Expanded structures for judicial standard-setting in reference, evolution of doctrine, and progressive insight, as a tool to revisit politically urgent and outdated judgments on the regular.

Capacity Building and Legal Education

- Judicial Training Institutes

To upgrade and modernize education for judges and court staff, including debate on modern topics like digital rights, environmental justice, and gender equality.

- Law Schools and Judicial Internships

New Law curricula will reflect modern jurisprudence, whereas judicial internships should be institutionalised to build talent for the future.

- Learning Across Jurisdictions

In the not-too-distant future, judges must engage with other legal systems of the world through exchange programs so that the best practices are gained.

Reducing Judicial Delays and Backlog

- An Alternative Dispute Resolution (ADR)

Mandate pre-litigation mediation in civil and family cases.

- Technological Integration

Digitisation of all court records and an AI-based system to handle preliminary hearings and cause-list generation.

- Hiring Judicial Law Clerks and Staff

Increasing the support staff per judge can improve case preparation and quality adjudications.

Promoting Inclusivity and Accessibility

- Court Services in Multiple Languages

Regional language versions of legal resources, court proceedings should be available.

- Gender Sensitive Infrastructure

The courts need to protect safety and allow access for women, children and transgender persons.

- Access for Persons with Disabilities

All courts must adhere to accessibility standards, including assistive technologies for persons with sensory disabilities.

Rebuilding Public Confidence

- Community Outreach Programs

Periodic community visits and educational campaigns by judges can demystify legal processes.

- Civic Legal Education

Incorporate basic legal education in school syllabi to promote constitutional literacy.

- Social Media Engagement

Use social media judiciously for myth-busting and promoting verified judicial updates.

Strengthening the Role in Governance

- Prevention of Legislative Overreach

Judiciary must be judiciously diligent to censor laws encroaching upon pivotal rights, the umbrella under which lies the basic structure doctrine.

- ACCOUNTABILITY OF EXECUTIVE DATA

Courts need to take a decisive stance against arbitrary actions of the executive through judicial review and writ jurisdiction.

- Upholding Federalism

In intra-state disputes and centre-state conflicts, the Court should be an independent arbiter which acts for restoring constitutional balance.

Emphasizing Constitutional Values

- Judgments Based on Constitutional Morality

Judges must not only follow the text of the Constitution, but must do so in a manner that does not disregard its spirit — especially when it comes to vulnerable populations.

- Precedents as Instruments of Social Change

The judiciary should proactively develop jurisprudence that dismantle structural inequities.

- Promoting Inter-Branch Dialogue

Institutional mechanisms for consultation/coordination between judiciary and executive and legislature can reduce friction and enhance policy coherence.

Addressing Future Challenges

- Climate Justice

Judiciary needs to evolve deep-rooted environment jurisprudence balancing development and sustainability.

- Data and Privacy

Courts need to lay down limits on surveillance, data ownership and the regulation of AI to protect digital rights.

- Political Neutrality

Stay completely nonpartisan in politically sensitive cases, to keep the judiciary above political considerations.

Conclusion

The constitution is best protected in India by an active judiciary, which had paved the way towards the fulfilment of social justice, and democratic order in the country. It will take a combination of institutional reform, process modernization and a recommitment to constitutional values to strengthen its role. If adopted, these recommendations will not only enable the judiciary to cope with the challenges that modern governance poses, but also make it a more inclusive, efficient and accountable institution that inspires public faith and preserves the rule of law.

CHAPTER 8: Conclusion & Recommendations

Conclusion

The Supreme Court of India is currently the keystone in the arch of constitutional governance and the foremost guardian of the Constitution. The Court has been a transformative force in India's democratic journey as a protector of the sanctity, supremacy, and spirit of the Constitution. Its actions have shaped the boundaries of legislative competence, executive accountability and the inalienable rights of the citizenry.

Most importantly, the Constitution itself empowers the Supreme Court to interpret, enforce, and protect the Constitution — under its various constitutional provisions, mostly Articles 32, 131, 136, 141, and 142. By way of these articles, the framers imagined the judiciary as an independent arbiter that would occupy a place above political fire and passing majoritarian will. This is the vision of the judiciary that has this activist role, that where the judges are not just interpreters, but they are guardians of the constitutional values.

Judicial review, a doctrine that does not appear explicitly in the Constitution, has become one of the most potent weapons of the judiciary. The Court has helped keep our Constitution robust and alive by examining the constitutionality of laws and executive actions. The landmark decisions including *Kesavananda Bharati*, *Minerva Mills*, and *I.R. Coelho* have also explored the importance of keeping the basic structure of the Constitution unalterable — no branch of government can obliterate its underlying principles.

The Supreme Court's dedication to preserving rudimentary rights has remained steady. Its sweeping interpretation of Part III of the Constitution, in particular its reading of Article 21, has broadened the realm of human rights in the country. By announcing rights to privacy, livelihood, education and a clean environment, the court has infused the text of the Constitution with life. Public interest litigation has contributed to this expansion of justice, allowing the Court to address the concerns of the marginalized and unrepresented.²⁷

²⁷ M.P. Jain, *Indian Constitutional Law*, LexisNexis, 8th ed.
D.D. Basu, *Introduction to the Constitution of India*, LexisNexis, 25th ed.

Meanwhile, the judiciary's interventions in social and political matters have raised critical questions around how much power the judiciary should have. Indeed, the Court has acted to uphold justice in the face of both legislative and executive failure, but, simultaneously, criticized for exceeding its mandate. Judiciary overreach, delays in the dispensing of justice and lack of transparency in judicial appointments are still causing concern.

These critiques highlight an essential truth that judicial power needs recalibrating to restore the delicate balance between power and accountability. The Court, in its role as the interpreter and shaper of constitutional doctrines, moreover has implications that reach far beyond democratic governance. Judicial reasoning has also honed and congealed concepts such as the separation of powers, federalism, secularism and constitutional morality. And the juzgados' place in this intellectual enterprise shapes governance but also educates and empowers citizens in knowing their rights and responsibilities."

But India is evolving into a more digital, complex and interconnected society and the challenges ahead for the judiciary too are changing. The proliferation of surveillance technologies, the weakening of privacy, environmental destruction, digital misinformation and social inequities raise new legal frontiers. To meet these challenges, the Court must continue to adapt and respond with the same resolve and fidelity to the Constitution that has defined its legacy.

However, some reforms are necessary to reinforce the Court's functioning as the guardian of the Constitution going forward. Some key steps would be a more transparent judicial appointments process with a reformed collegium system, performance audits, adoption of technology to address backlog and increasing public engagement with simplified legal language. Continued judicial education and research on Constitutional law will colour interpretation of the Constitution.

Abstract: The Supreme Court of India is become guardian and protector of Indian Constitution which is both foundational as well as futuristic role. It straddles the fragile line that separates style from transformation, tradition from evolution. Because it is the final arbiter of constitutional meaning, the Court must not just enforce the Constitution but also represent its values. It needs to act not only forcefully, but wisely, humbly and with a sense of deep responsibility to the country.

To uphold the democratic spirit and constitutional identity of India, the judiciary needs to be watchful, independent and dynamic. The challenge thereon calls for the Supreme Court to renew its vow towards justice, equality and rule of law, restating the need for the Constitution to remain a living document, the promise of hope, rights and dignity for all Indians."

Summary of Key Findings

The research paper on the Supreme Court's role as the keeper and defender of the Constitution of India brings out several important aspects relating to its unfolding and multidimensional role regarding constitutional governance:

Constitutional Mandate: The Supreme Court is empowered to exercise its jurisdiction under Articles 32, 131, 136, 141 and 142 of the Constitution. These articles endow the Court with powers to enforce fundamental rights, adjudicate disputes between governments and issue binding interpretations of the law.

Judicial Review as Icing on the Cake: While not used as a formal part of the Court's powers, judicial review is implied in the words of the court. Through Article 13, along with the line of phenomenal judgments, the Court has adopted an aggressive posture to review and strike down laws and executive actions that contravene provisions of our Constitution.

The imagination of rights (like the extension of Article 21 in Maneka Gandhi), and the judicial invention of constitutional doctrines (emblematic of the same would be the circularity between rights and the "Basic Structure Doctrine" in Kesavananda Bharati) speak of the Court proactively helping to construct, protect and ensure the continuity of constitutional identity and democratic undertakings.

Judicial Activism: The Court has actively interpreted and safeguarded the rights enshrined in Part III of the Constitution. It has ensured that they are not only the rights granted by a paper law by making them enforceable against the State through writ petitions, public interest litigation and suo motu cognizance.

Maintaining Balance of Justice: The Court maintains the equal balance of three organs of state (Legislative, Executive and Judiciary) by adjudicating disputes between the states and the Union, also, by reviewing legislation and executive actions. It serves as a check and balance on abuses of legislative and executive power and as a stabilizing force in the constitutional order.²⁸

²⁸ <https://www.livelaw.in/>
<https://www.manupatrafast.com/>

Innovative Jurisprudence: The aid of PIL has broadened entry to justice by introducing judicial interference. Historically, we have seen the Court adapt itself according to socio-political contexts and intervene where other organs have floundered in delivering justice.

For Disobedience and Pushback: The Court's activism has raised alarms about judicial overreach, especially when the Court seems to legislate from the bench or intrude unduly on policy matters. Such concerns underscore the need for transparency, judicial accountability and clear limitations.

What Lies Ahead: With the advent of new age challenges — digital privacy, environmental sustainability, electoral transparency — the role of the Supreme Court would remain critical. Rebuilding the integrity of institutions, addressing backlog of cases, strengthening internal accountability mechanisms etc will be critical for the institution in the coming years.

Judiciary has now become the central institution to safeguard the constitutional democracy in the country. Its unique role as the guardian and protector of the Constitution is not only instituted in the law but re-invented by the supreme court's dynamic jurisprudence. The greater challenge is ensuring that such power is actually exercised prudently, in a way that can be held accountable, and in a way that reflects democratic values.

Implications for Constitutional Law and Indian Democracy

- **Constitutional Law: Maintenance and Expansion**

The substantive development of constitutional law in India is heavily reliant on the practices of the Supreme Court. The scope of civil liberties and human rights has been greatly expanded by its interpretations of Articles 14, 19 and 21. The expansion of the right to life to encompass the right to live with dignity, right to privacy, and right to a clean environment, for example, demonstrates how dynamically the Court has engaged with the values of the Constitution. This evolution speaks to the Constitution as a living document that is capable of adapting to the challenges that define our time.

Doctrines like the basic structure doctrine, essential features of federalism, or judicial independence have evolved, underscoring how the Court has been integral to defining the core principles of the Constitution. By affirming the primacy of these principles that cannot be compromised, the judiciary has ensured protection for the democratic spirit and institutional balance introduced into the Constitution by the framers.

- **Democracy: Balance, Justice, and Inclusion**

Seen through the prism of democracy, the Court's assertive judicial review and extension of rights have contributed to the formation of a culture of accountability and transparency. Judicial review of legislative and executive actions has served as a check against arbitrary governance. The constitutional boon of Article 32 in approaching the Supreme Court for the primary method of remedy against violation of fundamental rights has become an instrument of empowerment for the common citizen, thereby cementing the pace of participatory democracy.

Public Interest Litigation, one of the most important innovations of Indian judicial activism, has democratized justice. The Supreme Court has used PILs to tackle systemic problems — from bonded labour, and environmental degradation to electoral malpractices and women's rights. This has turned the judiciary from an insipid adjudicator into a catalyst for social change.

But that same judicial activism also prompts questions of democratic legitimacy. As an unelected body, the judiciary can exercise power in fields traditionally left to the legislature or executive. Although this may be required in specific circumstances, the excessive reliance on these measures threatens the basic notion of separation of powers and may diminish the authority of democratically elected institutions.

- **Federalism & Centre-State relations**

The Supreme Court has played a very important role in resolving Centre- State/Government conflict, which has given strength to the cooperative federal structure of the country. Its neutrality in finding solutions for conflicts has averted the breakdown of constitutional machinery and ensured adherence to democratic norms. Landmark pronouncements like *S.R. Bommai v. Union of India* have formulated crucial guidelines to avoid the abuse and misuse of constitutional provisions like Article 356, which deal with President's Rule.

In doing so, the judiciary has reinforced federal principles, ensuring that states' rights are maintained within a larger constitutional scheme. These decisions reinforce the democratic ethos of decentralization and diversity, which is critical in a pluralistic society like India.

- **Progressive Interpretation and Constitutional Morality**

The other implication of the functioning of the Supreme Court is its insistence on constitutional morality — the idea that one must uphold the spirit of the Constitution over narrow, populist interpretations. Exploit prescriptions rooted in history that can play a huge role on this approach leading to great yardsticks in favor of LGBTQ+ rights, Segment 377 decriminalization, adultery decriminalization and negating triple talaq and so forth.

Estas interpretaciones progresistas así van torciendo la historia hacia una sociedad más justa e inclusiva. They indicate the judiciary's function as a moral compass that guides governance in accordance with the transformative vision enshrined in the Constitution.

- **Challenges to Institutional Integrity**

While new members of the Supreme Court of the United States enjoy high institutional credibility, their growing influence carries with it issues of transparency, impartiality and internal accountability as well. For example, the collegium system has been criticised for opacity. Public confidence in the judiciary is undermined by delays in case disposal and the increasing pendency of cases.

And the questions of judicial overreach and politicization go to the heart of the Court's own legitimacy. An independent judiciary is a prerequisite for a well- functioning democracy. Maintaining accountability on the judicial level through rigorous ethical standards, transparent appointment processes, and periodic performance evaluations will be crucial.

- **Future Directions**

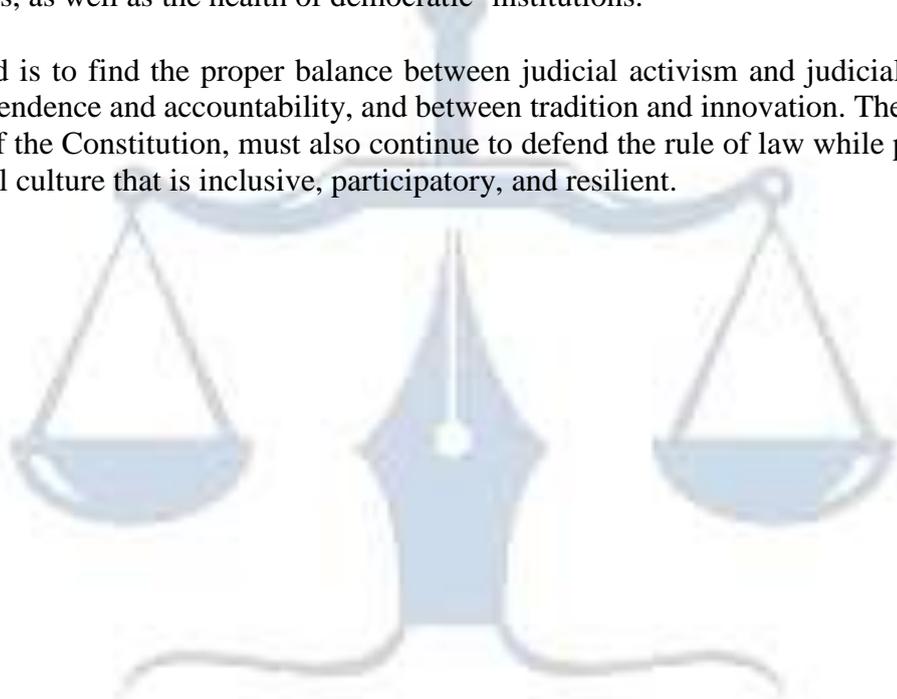
As India enters an age of accelerated technological, social, environmental change, the judiciary's role must be proactive, yet restrained. Some of these, like data privacy, algorithmic governance, artificial intelligence, climate change, require complex and knowledgeable judicial engagement.

Now, in order to broaden its wings, for the proper functioning of the Court, for the faster, easy delivery of justice and for making the Court more transparent, technology has to be adopted by the Court. So, while the constitutional jurisprudence needs to adapt to the new challenges of the day, it cannot stray too far from the scripture of liberty, equality, fraternity and justice.

Conclusion

The Indian Supreme Court is not just a dispute-resolution institution — it is a cornerstone of democracy and a guardian of the constitutional ethos. Its evolution so far reflects a profound investment in justice, rights and the integrity of institutions. But, with greater power comes greater responsibility. The impact of the Court's decisions extends far and wide, touching the lives of citizens, as well as the health of democratic institutions.

The task ahead is to find the proper balance between judicial activism and judicial restraint, between independence and accountability, and between tradition and innovation. The Court, as the guardian of the Constitution, must also continue to defend the rule of law while promoting a constitutional culture that is inclusive, participatory, and resilient.



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COMPLETION CERTIFICATE

This is to certify that **Mr ANIRUDDHA GUPTA** with Enrollment Number **A0342624016**, a student of Programme **LLM (Constitutional Law)** Batch **2024-2025** Semester at **Amity Institute of Advanced Legal Studies** has pursued **Dissertation LWDS600** on topic **SUPREME COURT AS THE GUARDIAN AND PROTECTOR OF CONSTITUTION: A CRITICAL ANALYSIS OF ITS POWERS & DUTIES** under my guidance from **07/01/2025** to **07/04/2025**. The Student has submitted **13** out of total **13** Weekly Progress Reports. **Mr ANIRUDDHA GUPTA** has completed the project-related work and the work done is satisfactory.

Date of Issue: **06/05/2025**

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