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FOUNDATIONS OF JUDICIAL REVIEW OF ADMINISTRATIVE ACTION

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Abstract

Judicial review in India is a constitutional safeguard that ensures administrative authorities act within the boundaries of law, delegated powers, and principles of natural justice. It functions as a mechanism to prevent abuse of discretion and arbitrariness while maintaining the supremacy of the Constitution. This paper explores the foundations, grounds, and jurisprudential evolution of judicial review, with particular attention to Indian and international case law. It analyzes doctrines such as illegality, irrationality, procedural impropriety, proportionality, and legitimate expectation, alongside their practical application. By tracing doctrinal milestones and comparative perspectives, the paper highlights the balance courts strike between governance efficiency and constitutional morality. The discussion also engages with criticisms of judicial review, such as judicial overreach and delays, and concludes by affirming its indispensable role in preserving the rule of law in India.

Keywords: Judicial Review, Grounds, Modes, Constitution, Articles, Administrative Authority

Introduction: Judicial Review and Administrative Action

Judicial review refers to the power of the judiciary to examine the legality of actions, decisions, and orders issued by administrative authorities. It ensures that state actors do not exceed the bounds of their authority and that their decisions comply with statutory mandates and constitutional values. In the Indian context, judicial review is anchored in the principle of separation of powers, functioning as a check against executive and legislative excesses. It acquires special significance because administrative decisions frequently affect the rights and liberties of individuals.¹

¹ Prashant Saurabh, *The Judicial Review of Administrative Action: An Analysis*, *Indian J. of Integrated Res. in Law*, Vol. II, Issue III, ISSN: 2583-0538, 2022, <https://ijirl.com/wp-content/uploads/2022/05/THE-JUDICIAL-REVIEW-OF-ADMINISTRATIVE-ACTION-AN-ANALYSIS-.pdf>.

Administrative action typically encompasses a broad range of functions carried out by governmental departments, statutory bodies, and public officials that do not fall within the strict categories of legislation or adjudication. These actions may directly or indirectly interfere with individual liberties, property rights, or socio-economic interests, thereby making them subject to judicial oversight. The courts have thus been entrusted with the responsibility of scrutinizing whether such actions are taken within the legal limits, are rational, and adhere to fair procedures.²

Judicial review in India occupies a foundational place within the constitutional architecture, serving as both a mechanism of accountability and a protector of fundamental rights. Its roots can be traced back to English common law principles, particularly those articulated in landmark cases such as *Marbury v. Madison* (1803), where Chief Justice John Marshall first established judicial review as a constitutional doctrine in the United States. In the Indian context, judicial review has been explicitly constitutionalized, thereby giving the judiciary a proactive role in monitoring executive and legislative action. This entrenched authority is not merely an institutional power but also a reflection of democratic philosophy, where public power must remain subject to legal and moral constraints.

The necessity of judicial review arises from the expanding role of the administrative state. With the proliferation of welfare functions, administrative agencies are vested with wide discretionary powers in areas such as taxation, licensing, environmental regulation, and labor relations. These functions, while indispensable to modern governance, carry the inherent risk of arbitrariness, discrimination, and overreach. Judicial review thus becomes a corrective mechanism, ensuring that discretion is not abused and that administrative authorities act consistently with constitutional values of equality, fairness, and due process.³

Moreover, judicial review in India performs a dual function: it safeguards the supremacy of the Constitution while simultaneously protecting individual liberties. Article 32, famously described by Dr. B.R. Ambedkar as the “heart and soul of the Constitution,” exemplifies this guarantee by empowering citizens to directly approach the Supreme Court for enforcement of fundamental rights. Similarly, Article 226 endows High Courts with even wider jurisdiction,

² Diksha Sobti, *The Scope and Extent of Judicial Review in Administrative Action*, 9 *Quest J. Res. Humanities & Soc. Sci.* 17 (2021), <https://www.questjournals.org/jrhss/papers/vol9-issue11/Ser-3/D09111722.pdf>.

³ A *Critical Analysis of Judicial Review of Administrative Actions in India: A Comparative Study with the United Kingdom*, 9 *Innovative Research Thoughts* 197 (2023), <https://irt.shodhsagar.com/index.php/j/article/view/717>.

covering not only fundamental rights but “any other purpose.” This dual-track mechanism strengthens access to justice and reinforces the judiciary’s role as a sentinel of rights.

From a comparative lens, judicial review in India is more expansive than in many other jurisdictions. While the United Kingdom traditionally relied on parliamentary sovereignty and limited grounds of review, Indian courts have blended common law principles with constitutional guarantees, producing a hybrid model that balances administrative efficiency with rights protection. The incorporation of doctrines such as proportionality and legitimate expectation demonstrates the dynamic and evolving nature of Indian judicial review.

The introduction of judicial review into Indian jurisprudence was not merely a legal transplant but a conscious constitutional choice. The Constituent Assembly, cognizant of colonial abuses of administrative power, deliberately designed a system where no authority could claim absolute discretion. As Justice Khanna famously noted in *ADM Jabalpur v. Shivkant Shukla* (1976), even during emergencies, the essence of judicial review cannot be extinguished without undermining the basic constitutional framework. Thus, judicial review stands as a cornerstone of Indian democracy, simultaneously enabling governance and restraining its excesses.

Constitutional Foundation and Doctrinal Evolution

The Constitution of India expressly recognizes judicial review through several provisions. Article 13 declares that laws inconsistent with fundamental rights shall be void, thereby empowering courts to strike down unconstitutional statutes. Article 32 vests in the Supreme Court the authority to issue writs for enforcement of rights, while Article 226 confers upon High Courts the power to issue writs “for the enforcement of any of the rights conferred by Part III and for any other purpose.” Articles 136 and 227 further strengthen appellate and supervisory jurisdiction.⁴

In *Kesavananda Bharati v. State of Kerala*, the Supreme Court held that judicial review is part of the “basic structure” of the Constitution and thus immune from legislative or executive erosion. This ensures that even constitutional amendments cannot abrogate the power of judicial review.⁵

⁴ Shyam Prakash Pandey, *Evolution and Development of the Concept of Judicial Review in India: An Evaluation*, 3 *Asian J. Advances in Res.* 315 (2020), <https://jasianresearch.com/index.php/AJOAIR/article/view/210>.

⁵ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225

Over the decades, several landmark cases have contributed to shaping the doctrine. In *I.C. Golaknath v. State of Punjab*, the Court limited Parliament's amending powers to safeguard judicial review.⁶ The scope of due process was later expanded in *Maneka Gandhi v. Union of India*, where the Court read fairness and reasonableness into Article 21.⁷ Similarly, in *Minerva Mills v. Union of India*, the Court emphasized that judicial review maintains the balance between fundamental rights and Directive Principles.⁸

The indispensability of judicial review was reaffirmed in *L. Chandra Kumar v. Union of India*, which held that judicial review of legislative and administrative action by the higher judiciary is part of the basic structure.⁹ Furthermore, in *Tata Cellular v. Union of India*, the Court clarified that while courts should not review the merits of administrative decisions, they must ensure that such decisions are legal and not arbitrary.¹⁰

Grounds for Judicial Review of Administrative Action

Judicial review is primarily concerned with ensuring that administrative actions meet standards of legality, rationality, fairness, and proportionality. The English case *Council of Civil Service Unions v. Minister for the Civil Service* identified three main grounds: illegality, irrationality, and procedural impropriety.¹¹ Indian courts have since expanded these doctrines, tailoring them to constitutional and statutory frameworks.

A. Illegality

Illegality occurs when an administrative authority acts outside the scope of its statutory power. Actions taken *ultra vires*, beyond jurisdiction or motivated by mala fides, misuse of power, or disregard of statutory requirements, fall under this category. For instance, if a licensing authority issues an order for purposes unconnected with the enabling statute, such action is liable to be struck down.

In *Delhi Development Authority v. UEE Electricals Engg. Pvt. Ltd.*, the Court reiterated that illegality constitutes a valid ground for judicial intervention.¹² Jurisdictional errors, where an authority acts without legal power or misinterpretation of statutory provisions are equally fatal.

⁶ *I.C. Golaknath v. State of Punjab*, AIR 1967 SC 1643

⁷ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

⁸ *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625

⁹ *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261

¹⁰ *Tata Cellular v. Union of India*, (1994) 6 SCC 651

¹¹ *Council of Civil Service Unions v. Minister for the Civil Service*, AC 374 (HL) (UK)

¹² *Delhi Development Authority v. UEE Electricals Engg. Pvt. Ltd.*, (2004) 11 SCC 213

B. Irrationality (Wednesbury Unreasonableness)

The principle of irrationality originated in *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*, where Lord Greene stated that a decision is irrational if no reasonable authority could ever have come to it.¹³ Indian courts have adopted this doctrine, defining irrationality as decisions that amount to “outrageous defiance of logic or moral standards.”

In *Laxmibai v. Collector, Nanded*, the Supreme Court observed that courts may intervene when administrative actions are so unreasonable that no reasonable authority would have taken them.¹⁴ The doctrine ensures that discretionary powers are not exercised arbitrarily.

C. Procedural Impropriety

Procedural impropriety encompasses violations of statutory procedure and breaches of natural justice. Two key principles under this ground are *audi alteram partem* (the right to be heard) and *nemo iudex in causa sua* (the rule against bias).

In *A.K. Kraipak v. Union of India*, the Court held that even administrative decisions must adhere to natural justice where civil consequences are involved.¹⁵ Earlier, in *Ridge v. Baldwin*, the House of Lords had emphasized that procedural fairness is central to administrative law.¹⁶

D. Proportionality

Proportionality is a doctrine requiring that administrative measures not be excessive in relation to the legitimate aim pursued. This standard is stricter than reasonableness and involves balancing rights against competing state interests.

In *Ranjit Thakur v. Union of India*, the Court observed that punishment must have a rational relationship to the gravity of the misconduct.¹⁷ The doctrine has since been applied in contexts involving fundamental rights, particularly where administrative action affects personal liberty or freedom of expression.

E. Legitimate Expectation

Legitimate expectation arises when public authorities, by consistent past conduct or express representations, create an expectation in citizens that their policies will continue. While it does

¹³ *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*, 1 K.B. 223 (C.A.) (Eng.)

¹⁴ *Laxmibai v. Collector, Nanded*, (2020)

¹⁵ *A.K. Kraipak v. Union of India*, (1969) 2 SCC 262

¹⁶ *Ridge v. Baldwin*, AC 40 (HL) (UK).

¹⁷ *Ranjit Thakur v. Union of India*, (1962) SCR (1) 41

not confer a substantive right, it obliges authorities to act fairly when departing from established practices.

In *Navjyoti Co,op. Group Housing Society v. Union of India*, the Court recognized the principle of legitimate expectation in administrative decision making.¹⁸ Similarly, *Tata Cellular v. Union of India* acknowledged that fairness in procedure is necessary when citizens' expectations are at stake.

The grounds of judicial review often overlap in practice. Jurisdictional errors, for example, are usually analyzed under the broader head of illegality. Likewise, irrationality frequently intertwines with procedural impropriety when unreasonable decisions are coupled with a lack of due process.

The doctrines of reasonableness and proportionality are also closely related but distinct. While reasonableness considers whether a decision could have been made by a reasonable authority, proportionality demands a stricter inquiry into whether the means adopted were necessary and balanced in relation to the objective pursued. This distinction is especially visible in cases of administrative punishment, where a decision may be technically reasonable yet disproportionate in its consequences.

Legitimate expectation remains limited in scope. Courts are cautious in enforcing substantive expectations, recognizing that policy flexibility is essential for governance. However, departures from established practices must be justified by compelling reasons and accompanied by fair procedures.

While the recognized grounds of judicial review, illegality, irrationality, procedural impropriety, proportionality, and legitimate expectation, appear distinct, their application in practice often reveals significant overlaps. For instance, when an authority acts beyond jurisdiction, the act is categorized as illegal; yet, such an ultra vires decision may simultaneously be irrational if no reasonable authority would have taken it, or procedurally improper if undertaken without observing statutory safeguards. This intersection illustrates the interdependent character of judicial review, where one ground reinforces the other.

¹⁸ *Navjyoti Coop. Group Housing Society v. Union of India*, (1992) 4 SCC 477

A critical tension in Indian jurisprudence lies between the doctrines of *reasonableness* and *proportionality*. While the *Wednesbury* test requires showing that a decision is so unreasonable that no rational body could have taken it, proportionality demands a deeper inquiry into whether the action strikes a fair balance between means and ends. Indian courts have gradually moved toward proportionality, particularly in cases involving fundamental rights. In *Om Kumar v. Union of India* (2001), the Supreme Court distinguished between administrative matters governed by *Wednesbury* reasonableness and rights-based cases requiring proportionality analysis. This shift reflects India's adaptation of European human rights jurisprudence into its constitutional framework.

The doctrine of legitimate expectation further demonstrates the judiciary's nuanced approach. While it does not confer enforceable rights, it serves as a principle of fairness, requiring that authorities respect procedural guarantees before altering established practices. In *Union of India v. Hindustan Development Corporation* (1993), the Court acknowledged legitimate expectation as a valuable tool to prevent arbitrary departures from consistent policy. However, courts remain cautious not to rigidly enforce such expectations, recognizing the need for policy flexibility in a dynamic socio-economic environment.

Practical application also reveals limitations. Judicial review is not intended to substitute the court's judgment for that of the administration. In *Tata Cellular v. Union of India* (1994), the Supreme Court clarified that the judiciary cannot act as an appellate authority over executive discretion. Instead, its function is supervisory, intervening only to check arbitrariness, *mala fides*, or violation of constitutional rights. This restrained approach maintains the delicate balance between accountability and functional autonomy of the executive.

Nevertheless, judicial review has often been criticized for delays and inefficiency. Administrative decisions, such as those relating to environmental clearances or service matters, often lose relevance if judicial remedies are not timely. Moreover, allegations of judicial overreach emerge when courts encroach upon the policy domain, as seen in instances where the judiciary has issued detailed administrative directions beyond the scope of adjudication. Yet, despite these challenges, judicial review remains indispensable, its flexibility ensuring that courts adapt to evolving notions of justice and governance.

Modes of Exercising Judicial Review

The modes of exercising judicial review in India are primarily manifested through the writ jurisdiction of the Supreme Court and High Courts, which form the cornerstone of this constitutional safeguard. The higher judiciary is empowered to issue writs such as *certiorari* to quash unlawful administrative orders, *mandamus* to compel the performance of statutory duties, *prohibition* to prevent authorities from acting beyond their jurisdiction, *habeas corpus* to secure personal liberty against unlawful detention, and *quo warranto* to challenge the legitimacy of an individual holding public office. Alongside writ remedies, judicial review is also exercised through statutory appeals and specialized tribunals established under various enactments. For instance, the Central Administrative Tribunal adjudicates service-related disputes, providing a forum for administrative redressal. However, as clarified in *L. Chandra Kumar v. Union of India*, the decisions of such tribunals remain subject to the supervisory jurisdiction of High Courts under Articles 226 and 227, thereby ensuring that judicial review continues to operate as an inalienable feature of the constitutional framework.¹⁹

The procedural vehicles for exercising judicial review in India are diverse, reflecting both constitutional design and judicial innovation. The most prominent mode is the writ jurisdiction under Articles 32 and 226. Each writ carries a distinct function: *habeas corpus* safeguards personal liberty; *mandamus* compels performance of statutory duties; *certiorari* quashes ultra vires decisions; *prohibition* prevents authorities from exceeding jurisdiction; and *quo warranto* ensures that only legally qualified persons occupy public offices. These writs embody centuries of common law tradition, transplanted into the Indian system with constitutional force.

Beyond writs, judicial review also manifests through appellate and supervisory jurisdiction. Articles 136 and 227 equip the Supreme Court and High Courts with overarching authority to correct errors of law, ensuring consistency in administrative jurisprudence. This layered structure prevents administrative actions from escaping scrutiny, regardless of whether they originate from tribunals or executive bodies.

Tribunals, established under Articles 323A and 323B, further highlight the institutionalization of administrative justice. Bodies like the Central Administrative Tribunal (CAT) handle

¹⁹ Kajal Gupta & Deepak Kumar, *Understanding Judicial Review of Administrative Actions With Special Reference to Fundamental Rights in India*, SSRN Working Paper, June 2024, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4857700.

specialized disputes efficiently. Yet, as clarified in *L. Chandra Kumar v. Union of India* (1997), tribunal decisions remain subject to judicial review by High Courts, reaffirming that no statutory mechanism can oust constitutional oversight. This hierarchical model ensures accountability while promoting functional expertise in administrative adjudication.

Judicial review also extends to preventive and structural remedies. Public Interest Litigation (PIL), pioneered in cases such as *S.P. Gupta v. Union of India* (1981), broadened access to justice by relaxing procedural rules of locus standi. Through PILs, courts have reviewed executive inaction, compelled administrative reforms, and safeguarded collective rights such as environmental protection and labor welfare. While some criticize PILs for encouraging judicial activism, they have undeniably become a powerful mode of judicial review in India.

In recent years, digital governance has introduced new dimensions to judicial review. The judiciary has scrutinized state surveillance, data privacy, and algorithmic decision-making, extending traditional writs to the realm of technology. In *Justice K.S. Puttaswamy v. Union of India* (2017), the Court recognized privacy as a fundamental right, subjecting state surveillance and Aadhaar-linked schemes to proportionality review. This evolution underscores the adaptability of judicial review to emerging challenges in governance.

In sum, the modes of judicial review are not confined to rigid categories but evolve with changing needs. From classical writs to modern PILs and digital rights adjudication, Indian judicial review demonstrates remarkable elasticity, maintaining its role as the “constitutional conscience” of the nation.

Comparative Perspective: Judicial Review Beyond India

Judicial review in India draws heavily from English common law but has been expanded by constitutional provisions. The English system, grounded in cases like *Council of Civil Service Unions* and *Ridge v. Baldwin*, emphasizes legality, fairness, and reasonableness but lacks a written constitution.

In contrast, the United States relies on constitutional and statutory interpretation, with courts applying standards such as the “arbitrary and capricious” test under the Administrative Procedure Act. While American courts often defer to administrative expertise, Indian courts have adopted a more expansive approach, integrating fundamental rights into judicial review.

Landmark Cases

The expansion of judicial review in India is vividly reflected in landmark Supreme Court decisions that have fundamentally shaped constitutional law and administrative jurisprudence.

In *Maneka Gandhi v. Union of India* (1978), the Supreme Court radically transformed the interpretation of Article 21, which guarantees the right to life and personal liberty. Prior to this case, a restrictive reading allowed the State to deprive individuals of liberty simply through any “procedure established by law,” even if that procedure was arbitrary or oppressive. The Court, however, held that such deprivation must be preceded by a process that is “just, fair, and reasonable,” thus embedding procedural fairness and substantive justice as prerequisites for state action. Furthermore, the Court famously articulated the ‘golden triangle’ doctrine, interlinking Articles 14, 19, and 21. It declared that a law must meet the requirements of all three provisions, fostering an integrated approach to the protection of fundamental rights. In doing so, the Court overruled the earlier *A.K. Gopalan* precedent and advanced a dynamic and rights enhancing model of judicial review that has since become the bedrock of Indian constitutional law.²⁰

Building on *Maneka Gandhi*, *Minerva Mills v. Union of India* (1980) reinforced judicial review as a counterbalance to governmental power, reiterating that it acts as a “balance wheel” within the constitutional machinery. The Supreme Court underscored judicial review’s role in maintaining the equilibrium between the three branches of government, legislature, executive, and judiciary by preventing the exercise of arbitrary power and ensuring fidelity to constitutional principles. This case highlighted that the powers of Parliament to amend the Constitution are not unlimited, cementing the principle that judicial review protects the essential features of the Constitution and prevents any single branch from usurping unchecked authority.

In *Tata Cellular v. Union of India* (1994), the Supreme Court addressed the scope of judicial review in the context of administrative discretion, notably in government contracts. The Court clarified that judicial review in such contexts is not meant to evaluate the merits or correctness of administrative decisions themselves, but to ensure legality, rationality, and procedural propriety. The judiciary will interfere only when administrative decisions are vitiated by

²⁰ *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27

arbitrariness, irrationality, or bad faith. This judgment thus delineated the proper boundaries of judicial intervention, respecting administrative autonomy while holding decision makers accountable for misuse of discretion.

Lastly, *L. Chandra Kumar v. Union of India* (1997) reaffirmed the centrality of judicial review by declaring it an immutable part of the “basic structure” of the Constitution. The Supreme Court held that the powers of judicial review conferred upon High Courts and the Supreme Court under Articles 226 and 32 cannot be ousted by constitutional amendment or legislative acts. Judicial review was recognized as the essential mechanism by which constitutional supremacy and the fundamental rights of citizens are protected, preserving its status as an indispensable safeguard in the Indian legal system.

Collectively, these landmark decisions exemplify how Indian judicial review has evolved from a tool of restricted oversight to an expansive, principled guarantor of constitutional order, justice, and the protection of individual rights.

Despite its significance, judicial review has faced criticisms. First, the charge of judicial overreach arises when courts substitute their discretion for that of the executive, potentially undermining separation of powers. Second, delays in judicial proceedings weaken the efficacy of remedies, particularly when administrative processes are time sensitive. Third, access to judicial review is often restricted by financial and procedural barriers, limiting the ability of marginalized citizens to seek redress.

Conclusion

Judicial review of administrative action in India is not merely a constitutional doctrine but a living embodiment of the judiciary’s responsibility to safeguard the principles of rule of law, constitutional supremacy, and the rights of citizens. By empowering the courts to scrutinize the legality, rationality, and procedural fairness of administrative decisions, the Constitution ensures that no public authority is above the law. This reflects the deeper democratic philosophy that power is held in trust for the people and must always be exercised in accordance with law and justice. Judicial review, therefore, operates as a critical check against arbitrariness, malafide intentions, and misuse of discretion, keeping governance within constitutional bounds.

The significance of judicial review extends beyond mere correction of unlawful acts; it also has a preventive and deterrent dimension. By holding the executive accountable, courts reinforce institutional responsibility and instill confidence in citizens that administrative action will not be unchecked or oppressive.

Nevertheless, the mechanism faces persistent criticisms. Judicial overreach risks upsetting the delicate balance of powers, while delays in adjudication often undermine the timely enforcement of rights. Moreover, the high cost of litigation and the complexity of judicial procedures limit access for marginalized citizens. Despite these challenges, the doctrine retains its vitality precisely because of its flexibility. By incorporating doctrines like proportionality and legitimate expectation, Indian jurisprudence has aligned itself with global trends while retaining its unique constitutional identity.

Ultimately, judicial review remains indispensable to democratic governance. It not only preserves the equilibrium between legislature, executive, and judiciary but also embodies the promise of constitutional morality, ensuring that governance is efficient yet accountable, powerful yet just, and authoritative yet restrained. As India continues to evolve in the twenty-first century, judicial review will remain the bedrock upon which the ideals of justice, fairness, and constitutional supremacy stand secure.

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