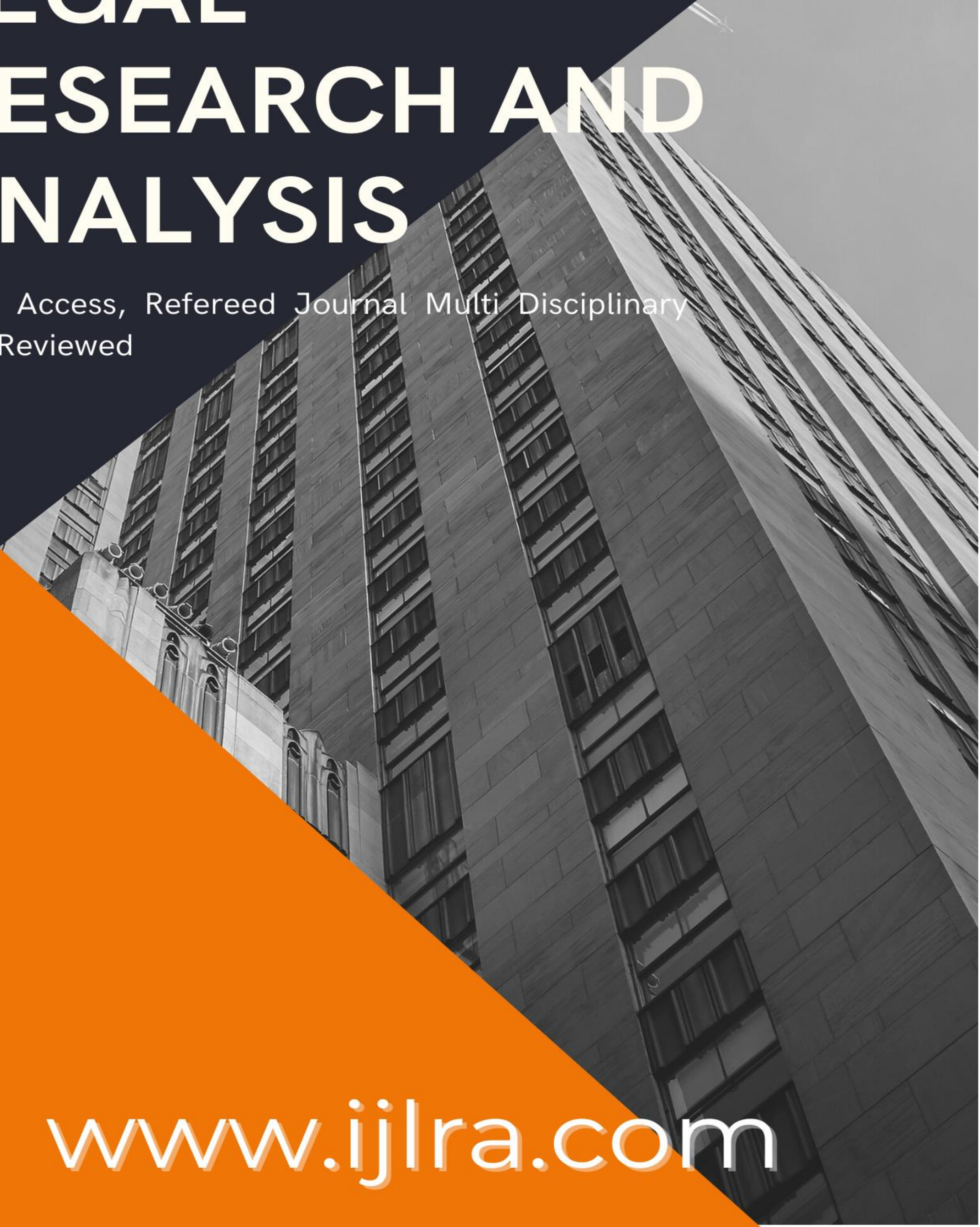
INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary Peer Reviewed



www.ijlra.com

ISSN: 2582-6433

DISCLAIMER

ISSN: 2582-6433

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

ISSN: 2582-6433

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

THE SCOPE OF JUDICIAL REVIEW IN INDIA: AN ANALYTICAL STUDY

AUTHORED BY - SAMRIDHI SHARMA
Advocate

ABSTRACT

The power of judicial review is the mechanism by which the judiciary tests the validity of legislative and executive action against the touchstone of the Constitution. Rooted in the idea that governmental authority is held in trust and must remain accountable to law, judicial review in India draws inspiration from the American doctrine of Marbury v. Madison while acquiring a distinct character through Articles 13, 32, 226 and 136 of the Constitution of India. This paper traces the constitutional basis and historical evolution of judicial review, culminating in the basic structure doctrine laid down in Kesavananda Bharati v. State of Kerala. It examines the scope, grounds, classification and procedure of judicial review, along with its acknowledged limitations, and concludes with an overview of recent developments that continue to shape its contours.

Keywords: Judicial Review; Basic Structure Doctrine; Kesavananda Bharati; Constitution of India; Separation of Powers.

I. INTRODUCTION

Judicial review is the power of the judiciary to examine the actions of the legislature and the executive and to test their conformity with the Constitution. It ensures that laws and executive action do not transgress the fundamental rights guaranteed to citizens and that every organ of the State functions within the limits set by the Constitution. In India, judicial review is not merely a procedural safeguard; it is regarded as part of the basic structure of the Constitution and, consequently, immune from abrogation even by a constitutional amendment. This paper examines the constitutional foundations, historical development, scope, grounds, classification and limitations of judicial review in India, and briefly surveys recent judicial developments in the area.

ISSN: 2582-6433

II. HISTORICAL AND CONSTITUTIONAL BACKGROUND

The concept of judicial review owes its origin to the United States Supreme Court's decision in Marbury v. Madison (1803), which established that courts have the authority to invalidate legislation inconsistent with the Constitution. The Constituent Assembly drew upon this experience while framing Articles 13, 32, 226 and 136, which together vest the power of judicial review in the Supreme Court and the High Courts. Article 13 declares that any law inconsistent with, or in derogation of, the fundamental rights shall, to the extent of such inconsistency, be void.[1]

III. EVOLUTION OF JUDICIAL REVIEW: THE BASIC STRUCTURE DOCTRINE

The scope of judicial review over constitutional amendments has been shaped over two decades of litigation arising principally out of land-reform legislation and its interaction with the fundamental right to property, then guaranteed under Article 31. The sequence of cases set out below illustrates how the doctrine evolved.

A. Shankari Prasad to Golak Nath

In Shankari Prasad v. Union of India (1951), a zamindar challenged the First Amendment, which inserted the Ninth Schedule and immunised specified land-reform laws from challenge on the ground that they violated fundamental rights. The Supreme Court held that the word "law" in Article 13(2) meant ordinary legislative law and not a constitutional amendment made under Article 368; the First Amendment was accordingly upheld.[2]

The Seventeenth Amendment (1964) added further State enactments to the Ninth Schedule. In Sajjan Singh v. State of Rajasthan (1965), the Supreme Court reaffirmed Shankari Prasad and held that Parliament could amend fundamental rights under Article 368 without attracting judicial review, though two judges on the bench expressed reservations that would later prove significant.[3]

In I.C. Golak Nath v. State of Punjab (1967), an eleven-judge bench, by a narrow 6:5 majority, reversed this position. It held that a constitutional amendment is "law" within the meaning of Article 13(2) and that Parliament cannot abridge or take away fundamental rights through the

[1] INDIA CONST. art. 13.
[2] Shankari Prasad Singh Deo v. Union of India, AIR 1951 SC 458.
[3] Sajjan Singh v. State of Rajasthan, AIR 1965 SC 845.

ISSN: 2582-6433

amending process. To avoid unsettling amendments already made, the Court applied the doctrine of prospective overruling, so that its ruling operated only in respect of future amendments.[4]

B. The Twenty-Fourth, Twenty-Fifth and Twenty-Ninth Amendments

Parliament responded to Golak Nath through the Twenty-Fourth Amendment (1971), which restored its power to amend any part of the Constitution, including Part III, and clarified that such amendments do not constitute "law" for the purposes of Article 13.[5] The Twenty-Fifth Amendment (1971) inserted Article 31C, giving primacy to the Directive Principles under Articles 39(b) and (c) over the fundamental rights in Articles 14, 19 and 31, and sought to exclude judicial review of laws enacted to give effect to those Directive Principles.[6] The Twenty-Ninth Amendment (1972) placed certain Kerala land-reform statutes in the Ninth Schedule.[7]

C. Kesavananda Bharati v. State of Kerala (1973)

Swami Kesavananda Bharati, head of the Edneer Mutt in Kerala, challenged the Kerala Land Reforms (Amendment) Act, 1969 and, in the course of the proceedings, the validity of the Twenty-Fourth, Twenty-Fifth and Twenty-Ninth Amendments, contending that they violated his rights under Articles 25, 26, 14, 19(1)(f) and 31. A specially constituted thirteen-judge bench, the largest in the Court's history, decided the matter by a wafer-thin majority of 7:6. The Court held that while Parliament has wide power under Article 368 to amend any provision of the Constitution, that power does not extend to altering or destroying its "basic structure" or essential features, which include, among others, the supremacy of the Constitution, the rule of law, the separation of powers, and judicial review itself. The Twenty-Fourth Amendment was upheld; the Twenty-Fifth Amendment was upheld in part; and the Twenty-Ninth Amendment was left open to be examined on ordinary grounds.[8]

D. The Forty-Second Amendment and Minerva Mills

The Forty-Second Amendment (1976), enacted during the Emergency, inserted clauses (4) and

[4] I.C. Golak Nath v. State of Punjab, AIR 1967 SC 1643.
[5] The Constitution (Twenty-Fourth Amendment) Act, 1971.
[6] The Constitution (Twenty-Fifth Amendment) Act, 1971.
[7] The Constitution (Twenty-Ninth Amendment) Act, 1972.
[8] Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225; see also M.P. JAIN, INDIAN CONSTITUTIONAL LAW 1673-1700 (8th ed. 2018).

ISSN: 2582-6433

(5) into Article 368 to declare that no constitutional amendment could be questioned in any court on any ground whatsoever.[9] In Minerva Mills Ltd. v. Union of India (1980), the Supreme Court struck down these clauses as violative of the basic structure, holding that a limited amending power is itself a basic feature and that judicial review cannot be ousted. The Court emphasised that a balance between fundamental rights and Directive Principles is part of the basic structure.[10]

In Waman Rao v. Union of India (1981), the Court held that amendments inserting laws into the Ninth Schedule prior to the Kesavananda judgment (24 April 1973) would continue to enjoy immunity from challenge, while those made thereafter would be tested against the basic structure. This principle was reaffirmed and clarified in I.R. Coelho v. State of Tamil Nadu (2007), where a nine-judge bench held that any law inserted into the Ninth Schedule after 24 April 1973 is open to challenge if it damages the basic structure, including the "golden triangle" of Articles 14, 19 and 21.[11]

IV. SCOPE OF JUDICIAL REVIEW

The scope of judicial review in India may be broadly grouped under three heads.

- Legislative action: Courts may examine whether a statute enacted by Parliament or a State Legislature is consistent with the Constitution, including the distribution of legislative powers and fundamental rights.

Executive action: Executive orders, notifications and administrative decisions may be reviewed for constitutionality and for compliance with the principles of natural justice, as illustrated in Maneka Gandhi v. Union of India (1978), where the impounding of a citizen's passport without a hearing was held to be unconstitutional and where the Court read the requirement of a "fair, just and reasonable" procedure into Article 21.[12]

Constitutional amendments: As discussed above, amendments that damage the basic structure are liable to be struck down. In Indira Nehru Gandhi v. Raj Narain (1975), the Supreme Court struck down a clause inserted by the Thirty-Ninth Amendment that sought to place the election of the Prime Minister beyond judicial scrutiny, holding that free and fair elections and judicial review are themselves part of the basic structure.[13]

[9] The Constitution (Forty-Second Amendment) Act, 1976, § 55 (inserting cls. (4)-(5) into art. 368).
[10] Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.
[11] I.R. Coelho v. State of Tamil Nadu, (2007) 2 SCC 1.
[12] Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
[13] Indira Nehru Gandhi v. Raj Narain, 1975 Supp SCC 1.

ISSN: 2582-6433

Key statutory and constitutional principles governing the scope of review

Judicial review extends to laws made by both Parliament and the State Legislatures; Article 13(3) brings within its sweep ordinances, orders, bye-laws, rules, regulations, notifications and other instruments having the force of law.[14]

The exercise of judicial review is not automatic. Courts do not undertake a review suo motu; the question of constitutionality must arise for adjudication in a properly instituted proceeding before a competent court.

Under Article 21, no person may be deprived of life or personal liberty except according to the "procedure established by law", and that procedure must itself be fair, just and reasonable for the underlying law to withstand judicial scrutiny.[15]

V. AUTHORITIES COMPETENT TO EXERCISE JUDICIAL REVIEW

The power of judicial review is vested in both the Supreme Court and the High Courts. Article 226 empowers a High Court to issue writs for the enforcement of fundamental rights and for any other purpose.[16] Article 32 confers on individuals the right to move the Supreme Court directly for enforcement of fundamental rights, and Article 136 empowers the Supreme Court to grant special leave to appeal from any judgment, decree or order passed by any court or tribunal in India.[17][18] The Supreme Court's pronouncements on constitutional questions bind all courts within the territory of India.

VI. JUDICIAL REVIEW OF ORDINANCES AND MONEY BILLS

A. Ordinances

Article 123 empowers the President, and Article 213 empowers a State Governor, to promulgate an ordinance when the relevant legislature is not in session and immediate action is considered necessary. An ordinance has the same force and effect as an Act of the legislature and is subject to the same constitutional limitations.

The satisfaction of the President or Governor as to the necessity of promulgating an ordinance was traditionally treated as non-justiciable, as held in A.K. Roy v. Union of India (1982).[19] However, subsequent decisions have clarified that this immunity is not absolute: an ordinance

---

[14] INDIA CONST. art. 13, cl. 3.
[15] INDIA CONST. art. 21.
[16] INDIA CONST. art. 226.
[17] INDIA CONST. art. 32.
[18] INDIA CONST. art. 136.
[19] A.K. Roy v. Union of India, (1982) 1 SCC 271.

ISSN: 2582-6433

issued mala fide, on grounds wholly irrelevant, or without any application of mind may still be questioned, as observed in T. Venkata Reddy v. State of Andhra Pradesh (1985).[20]

B. Money Bills

Article 110(3) provides that if a question arises whether a Bill is a Money Bill, the decision of the Speaker of the Lok Sabha is final.[21] Article 212 provides that the validity of proceedings in a State Legislature cannot be called into question on the ground of an alleged procedural irregularity, and Article 255 treats the requirement of prior recommendation or previous sanction for certain Bills as a matter of procedure only, not going to validity.[22][23] In Mangalore Ganesh Beedi Works v. State of Mysore (1963), the Supreme Court held that a taxing measure enacted under an amending Act was not vitiated merely because it was argued that it ought to have been passed as a Money Bill; the Court found no additional tax had in fact been imposed.[24] It should be noted that the Speaker's certification of a Bill as a Money Bill has more recently been the subject of considerable judicial debate, including a pending reference before a larger bench of the Supreme Court, and the position summarised here should be read subject to that ongoing development.

VII. GROUNDS FOR JUDICIAL REVIEW

A. Unconstitutionality of an Amendment

A constitutional amendment that damages or destroys the basic structure of the Constitution is liable to be struck down, as demonstrated by the line of cases discussed in Part III above: Shankari Prasad, Sajjan Singh, Golak Nath, Kesavananda Bharati and I.R. Coelho.

B. Illegality

An administrative action is illegal where the authority acts without jurisdiction, exceeds its jurisdiction, or misuses the discretion conferred on it. This ground includes several distinct situations:

Want of jurisdiction: an order made by an authority that lacks the legal power to make it is a nullity. In Anisminic Ltd. v. Foreign Compensation Commission (1969), the House of Lords held that a determination made by a tribunal acting outside its jurisdiction, including as a result

[20] T. Venkata Reddy v. State of Andhra Pradesh, (1985) 3 SCC 198.
[21] INDIA CONST. art. 110, cl. 3.
[22] INDIA CONST. art. 212.
[23] INDIA CONST. art. 255.
[24] Mangalore Ganesh Beedi Works v. State of Mysore, AIR 1963 SC 589.

of an error of law that goes to jurisdiction, is void even where a statute purports to make that determination final.[25] Similarly, in Rafiq Khan v. State of U.P., it was held that a Sub-Divisional Magistrate lacked jurisdiction under the U.P. Panchayat Raj Act, 1947 to alter an order of conviction passed by a Panchayat Adalat; the Allahabad High Court accordingly quashed the order by a writ of certiorari.[26]

Excess of jurisdiction: an authority may act beyond the powers conferred on it, rendering the action ultra vires. In London County Council v. Attorney General (1902), a local authority empowered to run tramways was restrained from operating a bus service, as this fell outside its statutory authority.[27]

Abuse of jurisdiction: discretionary power must be exercised in good faith, for the purpose for which it was conferred. In Attorney-General v. Fulham Corporation, a local authority empowered to provide wash-houses for residents was restrained from running a commercial laundering business, which fell outside the scope of its statutory purpose.[28] In Pratap Singh v. State of Punjab (1964), the Supreme Court set aside an order of suspension and inquiry against a civil surgeon on a finding that it had been passed mala fide, at the instance of a minister acting out of personal vendetta.[29]

Abuse of discretion is also found where the authority takes irrelevant considerations into account, acts for an improper purpose, exercises bad faith, or fetters its own discretion by mechanically applying a policy or by acting under the dictation of another authority without independently applying its mind.

In R. v. Somerset County Council, ex parte Fewings (1995), a local council resolved to ban stag hunting on land it owned, relying solely on the moral objection that hunting was cruel. The Court of Appeal held, by majority, that the council was not entitled to rely on that consideration alone to the exclusion of the purposes for which it held the land, and upheld the quashing of the resolution.[30] In R. v. Derbyshire County Council, ex parte Times Supplements Ltd. (1991), a local education authority's decision to stop advertising job vacancies in a particular newspaper was quashed on the ground that it was motivated by a desire for

[25]Anisminic Ltd. v. Foreign Compensation Commission, [1969] 2 AC 147 (HL) (an authority acting without or in excess of jurisdiction renders its determination a nullity).
[26]Rafiq Khan v. State of U.P. (Allahabad High Court, 1954) (Sub-Divisional Magistrate held to lack jurisdiction under the U.P. Panchayat Raj Act, 1947 to alter a Panchayat Adalat's order).
[27]London County Council v. Attorney General, [1902] AC 165.
[28]Attorney-General v. Fulham Corporation, [1921] 1 Ch 440.
[29]Pratap Singh v. State of Punjab, AIR 1964 SC 72.
[30]R. v. Somerset County Council, ex parte Fewings, [1995] 1 WLR 1037 (CA).

ISSN: 2582-6433

retribution rather than by any educational consideration, amounting to bad faith.[31] In H. Lavender & Son Ltd. v. Minister of Housing and Local Government (1970), the Minister of Housing was held to have unlawfully fettered his discretion by rejecting an application to extract sand and gravel from agricultural land solely on the basis of an objection from the Minister of Agriculture, without independently weighing the matter.[32]

C. Failure to Exercise Discretion

Where a statute confers discretionary power on an authority, that authority must exercise the discretion itself. A failure to do so may arise through unauthorised delegation, excessive rigidity in applying a self-created policy (or self-imposed "rules"), acting under the dictation of a superior authority, or through a failure to apply an independent mind to the matter.

D. Irrationality: The Wednesbury Principle

In Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation (1948), the Court of Appeal held that a decision may be quashed as unreasonable where it is one that no reasonable authority could ever have come to, where it disregards relevant matters or takes irrelevant matters into account, or where it is otherwise so absurd that no sensible person could arrive at it. This has come to be known as "Wednesbury unreasonableness" and continues to inform judicial review in India, alongside the more structured proportionality standard.[33]

E. Procedural Impropriety

Administrative action must conform to the principles of natural justice. These include the rule against bias (nemo judex in causa sua — no one should be a judge in their own cause) and the right to a fair hearing (audi alteram partem — no one should be condemned unheard). Procedural impropriety also extends to non-compliance with mandatory statutory procedures.
In Ridge v. Baldwin (1964), the House of Lords held that a Chief Constable who was dismissed without being given an opportunity to be heard on the specific charge against him was entitled to a declaration that the dismissal was void, establishing that the duty to act fairly attaches to administrative as well as quasi-judicial decisions and is not confined to bodies expressly required by statute to act judicially.[34]

[31] R. v. Derbyshire County Council, ex parte Times Supplements Ltd., (1991) 3 Admin LR 241 (QB).
[32] H. Lavender & Son Ltd. v. Minister of Housing and Local Government, [1970] 1 WLR 1231.
[33] Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation, [1948] 1 KB 223 (CA).
[34] Ridge v. Baldwin, [1964] AC 40 (HL).

ISSN: 2582-6433

F. Proportionality

The doctrine of proportionality requires that an administrative measure go no further than is necessary to achieve its legitimate object; a restriction on rights should not be disproportionate to the mischief it seeks to address. The Supreme Court of India has applied this "least injurious means" or "minimal impairment" test in several cases, including Chairman, All India Railway Recruitment Board v. K. Shyam Kumar (2010), where the Court examined whether an order directing a re-test for recruitment, following large-scale irregularities in an earlier examination, was a proportionate response.[35][36] In Sardar Singh v. Union of India (1991), the Supreme Court set aside a Court Martial sentence of imprisonment imposed on an army jawan for carrying a modest quantity of liquor in excess of his authorised quota, holding the punishment to be excessive and disproportionate to the offence.[37]

VIII. CLASSIFICATION OF JUDICIAL REVIEW

Justice Syed Shah Mohammed Quadri has classified judicial review in India into three broad categories.[38]

- Review of legislative action, examining whether statutes conform to the Constitution — illustrated by the Shankari Prasad, Sajjan Singh, Golak Nath, Kesavananda Bharati, Indira Nehru Gandhi and Minerva Mills line of cases discussed in Parts III and IV above.

Review of administrative action, through which constitutional discipline is enforced on the exercise of power by administrative and executive authorities of the Union and the States, examined under the grounds set out in Part VII above.

Review of judicial pronouncements, whereby earlier decisions of the Court may themselves be reconsidered or clarified by a larger bench, as occurred when Golak Nath was reconsidered and effectively overruled in Kesavananda Bharati, and when the scope of Minerva Mills was elaborated in later decisions. The recognition of the right to compensation on compulsory acquisition of property in Rustom Cavasjee Cooper v. Union of India (the Bank Nationalisation case, 1970) is a further illustration of the Court revisiting and refining its own constitutional jurisprudence.[39]

---

[35]Chairman, All India Railway Recruitment Board v. K. Shyam Kumar, (2010) 6 SCC 614.
[36]See generally Om Kumar v. Union of India, (2001) 2 SCC 386.
[37]Sardar Singh v. Union of India (Supreme Court of India, 1991) (sentence of a Court Martial set aside as disproportionate).
[38]Justice Syed Shah Mohammed Quadri, Judicial Review of Administrative Action, (2001) 6 SCC (Jour) 1.
[39]Rustom Cavasjee Cooper v. Union of India, (1970) 1 SCC 248 (Bank Nationalisation case).

IX. ALLIED PRINCIPLES OF JUDICIAL REVIEW

- Supremacy of the Constitution: all laws and executive action must conform to the Constitution, and the judiciary is its guardian.
- Separation of powers: the judiciary interprets the law and determines the constitutionality of legislative and executive action, without itself legislating or administering.
- Rule of law: no person, including the government, is above the law.
- Judicial independence: security of tenure and insulation from external pressure enable courts to review government action impartially.
- Doctrine of legitimate expectation: where the State's conduct or representations create a reasonable expectation, it must act fairly before defeating that expectation.
- Public interest litigation: the relaxation of the traditional rule of standing has allowed courts to entertain petitions filed on behalf of those unable to approach the court themselves, considerably expanding the practical reach of judicial review.

X. PROCEDURE FOR JUDICIAL REVIEW IN INDIA

- Filing of petition: a person whose fundamental rights are violated, or who seeks to challenge the constitutionality of a law or executive action, may file a writ petition before the High Court under Article 226 or before the Supreme Court under Article 32.
- Admission: the Court examines whether the petition raises a substantial question and, if satisfied, admits it and issues notice to the respondents.
- Counter-affidavit: the respondents, typically the Union or State Government or their agencies, file a reply within the time allowed by the Court.
- Hearing: the Court hears both sides and may, in appropriate cases, appoint an amicus curiae or seek expert assistance.
- Judgment: the Court may declare the impugned law or action unconstitutional, or issue appropriate directions.
- Appeal: an aggrieved party may appeal a High Court judgment to the Supreme Court, generally under Article 136.
- Enforcement: once a judgment attains finality, the Court issues appropriate orders to secure compliance.

ISSN: 2582-6433

XI. LIMITATIONS OF JUDICIAL REVIEW IN INDIA

- Institutional pressures on independence: although judicial independence is constitutionally guaranteed, the process of appointment and transfer of judges has periodically been the subject of political and institutional contestation.
- Limited jurisdiction: courts do not sit in appeal over the wisdom or policy underlying legislative or executive action; review is confined to questions of constitutionality, legality and, in administrative matters, procedural fairness and rationality.
- Delay and pendency: a substantial backlog of cases before Indian courts means that constitutional questions can take years to be finally resolved, diluting the practical value of the remedy.
- Resource constraints: shortages of judges and infrastructure contribute to delay and limit the depth of scrutiny that can be brought to bear on any single matter.
- Access to justice: the cost and complexity of constitutional litigation can place judicial review beyond the practical reach of economically weaker litigants, notwithstanding the relaxation of standing rules through public interest litigation.

XII. RECENT DEVELOPMENTS

The scope of judicial review continues to evolve through the Supreme Court's recent constitutional jurisprudence. In In Re: Article 370 of the Constitution (2023), a five-judge Constitution Bench upheld the President's order abrogating the special status previously accorded to Jammu and Kashmir, while reaffirming that such an exercise of executive power remains amenable to judicial review, even though the Court ultimately declined to strike down the impugned action.[40] In Association for Democratic Reforms v. Union of India (2024), the Supreme Court unanimously struck down the Electoral Bond Scheme as unconstitutional, holding that it violated the citizen's right to information under Article 19(1)(a) by permitting anonymous corporate and individual funding of political parties — a significant instance of judicial review being exercised over an economic and electoral policy measure.[41] In State of Punjab v. Davinder Singh (2024), a seven-judge bench held that States may sub-classify Scheduled Castes and Scheduled Tribes for the purpose of reservation, overruling the earlier position in E.V. Chinnaiah v. State of Andhra Pradesh, and illustrating the continuing role of larger benches in revisiting and refining constitutional doctrine.[42]

[40]In Re: Article 370 of the Constitution, 2023 SCC OnLine SC 1647.
[41]Association for Democratic Reforms v. Union of India, (2024) 5 SCC 1 (Electoral Bonds case).
[42]State of Punjab v. Davinder Singh, (2024) SCC OnLine SC 1860 (permitting sub-classification within

XIII. CONCLUSION

The scope of judicial review in India has been shaped, case by case, into one of the most significant checks on the exercise of public power under the Constitution. From the narrow reading of Article 13 in Shankari Prasad to the entrenchment of the basic structure doctrine in Kesavananda Bharati and its reaffirmation in Minerva Mills and I.R. Coelho, the judiciary has consistently guarded its own power to test legislative, executive and constituent action against the Constitution. At the same time, the doctrine operates within self-imposed limits — it is not exercised suo motu, it does not extend to a review of policy on its merits, and it must contend with institutional constraints of delay, resources and access. As the Article 370, Electoral Bonds and sub-classification decisions illustrate, judicial review remains a living and evolving doctrine, and its future development will continue to depend on how the judiciary balances restraint with its constitutional duty to protect the supremacy of the Constitution and the fundamental rights of citizens.

REFERENCES

Books and Articles

- M.P. JAIN, INDIAN CONSTITUTIONAL LAW (8th ed. 2018).
- H.M. SEERVAI, CONSTITUTIONAL LAW OF INDIA (4th ed. 2015).
- Justice Syed Shah Mohammed Quadri, Judicial Review of Administrative Action, (2001) 6 SCC (Jour) 1.
- H.W.R. WADE & C.F. FORSYTH, ADMINISTRATIVE LAW (11th ed. 2014).

Table of Cases

- A.K. Roy v. Union of India, (1982) 1 SCC 271.
- Anisminic Ltd. v. Foreign Compensation Commission, [1969] 2 AC 147.
- Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation, [1948] 1 KB 223.
- Association for Democratic Reforms v. Union of India, (2024) 5 SCC 1.
- Attorney-General v. Fulham Corporation, [1921] 1 Ch 440.
- Chairman, All India Railway Recruitment Board v. K. Shyam Kumar, (2010) 6 SCC 614.

Scheduled Castes/Scheduled Tribes for reservation).

- H. Lavender & Son Ltd. v. Minister of Housing and Local Government, [1970] 1 WLR 1231.
- I.C. Golak Nath v. State of Punjab, AIR 1967 SC 1643.
- I.R. Coelho v. State of Tamil Nadu, (2007) 2 SCC 1.
- In Re: Article 370 of the Constitution, 2023 SCC OnLine SC 1647.
- Indira Nehru Gandhi v. Raj Narain, 1975 Supp SCC 1.
- Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.
- London County Council v. Attorney General, [1902] AC 165.
- Mangalore Ganesh Beedi Works v. State of Mysore, AIR 1963 SC 589.
- Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
- Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.
- Om Kumar v. Union of India, (2001) 2 SCC 386.
- Pratap Singh v. State of Punjab, AIR 1964 SC 72.
- R. v. Derbyshire County Council, ex parte Times Supplements Ltd., (1991) 3 Admin LR 241.
- R. v. Somerset County Council, ex parte Fewings, [1995] 1 WLR 1037.
- Ridge v. Baldwin, [1964] AC 40.
- Rustom Cavasjee Cooper v. Union of India, (1970) 1 SCC 248.
- Sajjan Singh v. State of Rajasthan, AIR 1965 SC 845.
- Shankari Prasad Singh Deo v. Union of India, AIR 1951 SC 458.
- State of Punjab v. Davinder Singh, (2024) SCC OnLine SC 1860.
- Syed Yakoob v. K.S. Radhakrishnan, AIR 1964 SC 477.
- T. Venkata Reddy v. State of Andhra Pradesh, (1985) 3 SCC 198.
- Waman Rao v. Union of India, (1981) 2 SCC 362.

Statutes and Constitutional Provisions

- Constitution of India, 1950, arts. 13, 21, 32, 110, 123, 136, 212, 213, 226, 255, 368.
- The Constitution (Twenty-Fourth Amendment) Act, 1971.
- The Constitution (Twenty-Fifth Amendment) Act, 1971.
- The Constitution (Twenty-Ninth Amendment) Act, 1972.
- The Constitution (Forty-Second Amendment) Act, 1976.
- The Constitution (Forty-Fourth Amendment) Act, 1978.