BLOGS

Judicial Review in India: Evolution, Significance, and Contemporary Challenges

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Introduction to Judicial Review

The verdict delivered by the Supreme Court of India in the **Central Vista case** signifies a profound milestone in the jurisprudential landscape, as it delves into the nuanced dimensions of judicial review with meticulous depth.

Central to this adjudication is the Central Vista project, an ambitious endeavor encompassing an array of historic landmarks in New Delhi, including the Rashtrapati Bhawan, Parliament House, the North and South Blocks, India Gate, and the National Archives.

In an unprecedented move, the Supreme Court's decision to abstain from categorizing the Central Vista project as a subject demanding an exceptional or heightened form of judicial review carries significant implications. The essence of this position emanates from the Court's assertion that the government retains the prerogative to exercise policy choices—whether culminating in success or lapses—within the confines of constitutional principles.

The following article shall delve into the various aspects of the judicial review process in India.

Need for Judicial Review in India

1. Custodian of the Constitution: Judicial review positions the judiciary as the guardian of the Constitution, responsible for upholding its core principles and values.

2. Checks and Balances: By reviewing legislative and executive actions, the judiciary prevents any branch of the government from overstepping its boundaries and maintains the system of checks and balances.
3. Fundamental Rights Safeguard: Judicial review protects citizens' fundamental rights, ensuring that arbitrary state actions do not infringe upon them.
4. Grievance Redressal: Citizens can seek recourse through judicial review when they feel aggrieved by unfair or unconstitutional decisions.
5. Living Constitution: The ability to amend the Constitution ensures its relevance over time, adapting to changing societal needs while maintaining its foundational principles.

Navigating the Core Tenets of Judicial Review

The crux of this legal discourse revolves around the fundamental doctrine of judicial review, which stands as the bedrock of the Indian constitutional framework. This intricate mechanism involves exhaustive scrutiny by the judiciary into the legality and constitutionality of decisions rendered by governmental entities.

Notably, the purview of judicial review surpasses mere appraisal of the substantive merits of conclusions; it extends to an intricate analysis of the procedural integrity of the decision-making process itself.

This complex structure is underpinned by two interwoven doctrines: "Procedure Established by Law" and "Due Process of Law. While the former emphasizes adherence to established legislative procedures, the latter elevates this concept by emphasizing that legality must be coupled with equity and justice in decision-making.

Significance of Judicial Review

The significance of judicial review reverberates through the intricate tapestry of a democratic society, engaging in multifaceted roles that extend beyond its legal manifestation.

Principally, it serves as a bastion of constitutional supremacy, ensuring meticulous scrutiny of governmental actions against the backdrop of the fundamental law of the land. Moreover, it functions as a vigilant guardian, preempting potential abuses of power by both the legislative and executive branches, thus preserving a delicate balance of authority.

Beyond this, judicial review operates as a shield, safeguarding the rights of citizens from undue encroachments. This doctrine also upholds the federal structure of governance envisioned in the Constitution. By preserving the independence of the judiciary and curtailing any inclination towards executive overreach, judicial review becomes the bedrock upon which democratic ideals are anchored.

Power of Judicial Review in India

The arena of judicial review is a rich mosaic encompassing diverse dimensions, spanning studies of legislative actions, administrative decisions, and even assessments of past judicial pronouncements.

In legislative measures, the judiciary rigorously examines the alignment of laws with constitutional principles. The Court assumes a custodial role within the administrative realm, ensuring that administrative bodies adhere scrupulously to constitutional tenets while exercising their powers.

Furthermore, the framework of judicial review extends to the realm of judicial decisions, providing latitude for recalibration or revision of prior verdicts that may no longer resonate with established legal precedents or constitutional fundamentals.

On the one hand, it acts as a shield against potential government overreach, preventing laws and policies from transgressing the sanctity of the Constitution. On the other hand, an excessively robust implementation could disrupt the seamless operation of governmental machinery and potentially supplant existing laws, thereby introducing a layer of governance-related challenges.

Categories of Judicial Review in the Indian Judiciary

Reviewing Legislative Actions

In this category, the Indian judiciary exercises its authority to check laws and decisions made by the Legislature. The goal is to ensure that these laws and decisions align with constitutional provisions. This review is crucial to maintaining the balance of power and preventing any overreach by the legislative branch.

Reviewing Administrative Actions

Under this category, the courts have the power to examine the actions of administrative authorities. This examination focuses on administrative decisions' legality, rationality, and legitimacy. Judicial review checks the executive branch's activities, ensuring they are within the law's bounds and in the public's best interest.

Reviewing Judicial Actions

Within this category, judicial review involves rectifying inconsistencies in past court judgments. This process aims to enhance the coherence of legal principles and minimize conflicting interpretations. By addressing discrepancies, the judiciary contributes to the stability and predictability of the legal system.

Reviewing Constitutional Amendments

Judicial review also extends to assessing the constitutionality of amendments made to the Constitution. If a constitutional amendment violates the fundamental principles or the basic structure of the Constitution, the judiciary has the authority to declare it null and void.

Constitutional Pillars and Legal Foundations of Judicial Review

Although the Indian Constitution does not explicitly bestow courts with the authority to invalidate laws, it unmistakably delineates specific boundaries for each branch of government.

Central articles, such as Article 13, which designates laws contravening fundamental rights as null and void, and Articles 32 and 226, which empower the Supreme Court and High Courts as guardians of fundamental rights, collectively form the bedrock upon which judicial review is erected.

Additionally, Article 251, Article 254, Article 246(3), and Article 245 contribute to the intricate scaffold that bolsters the structure of judicial review.

Explanation of the Constitutional Provisions Related to Judicial Review in India

Article 13

Article 13 establishes a fundamental principle that laws inconsistent with or in derogation of fundamental rights are void to the extent of the inconsistency. This provision empowers the Supreme Court to strike down laws that violate citizens' fundamental rights.

Article 32

Article 32 is often called the "Right to Constitutional Remedies. It enables individuals to approach the Supreme Court to enforce fundamental rights directly. This provision ensures that citizens have an accessible avenue to seek redress when their rights are violated.

Articles 131–137

These articles define the jurisdiction of the Supreme Court and empower it to hear disputes between the center and states and conflicts between states. The Supreme Court's role in reviewing judgments passed by other bodies underscores its role as the highest interpreter of the Constitution.

Article 143

Article 143 grants the President the power to seek the Supreme Court's advisory opinion on matters of public importance or legal issues. This provision establishes a mechanism for pursuing the judiciary's guidance on complex issues.

Articles 226 and 227

Articles 226 and 227 confer the High Courts with the power of judicial review. Article 226 allows the High Court to issue writs for enforcing fundamental rights and other purposes. Article 227 grants the High Courts the authority to exercise superintendence over subordinate courts and tribunals.

Articles 245 and 246

Articles 245 and 246 delineate the distribution of legislative powers between the centre and the states. These articles empower the judiciary to review laws passed by both levels of government to ensure they adhere to the constitutional division of powers.

Articles 251 and 254

These articles address situations where there are contradictions between state and union laws. The provision in Article 251 ensures that union laws prevail in inconsistencies, maintaining uniformity in some issues.

Article 372 (1)

Article 372 (1) extends the power of judicial review to laws that existed before the adoption of the Constitution, ensuring their continued scrutiny for constitutionality.

Landmark Cases on Judicial Review in India

As the protector of fundamental rights, the judiciary occupies a pivotal role, particularly in an era marked by the expanding realm of state functions. The augmented engagement of the Court in administrative decisions and their subsequent execution underscores the evolving nature of the judiciary's role.

However, a reasonable equilibrium must be maintained to preclude any unwarranted judicial activism that might infringe upon the separation of powers enshrined in the Constitution. Striking this optimal balance among the legislative, executive, and judicial branches becomes paramount for upholding constitutional ideals.

Golaknath vs. the State of Punjab (1967)

In this landmark case, the Supreme Court held that the Parliament couldn't curtail fundamental rights through amendments, establishing that certain basic rights are beyond the reach of amendments.

Kesavananda Bharati v. State of Kerala (1973)

This case marked a turning point in Indian constitutional history. The Supreme Court introduced the concept of the "basic structure" doctrine, stating that while Parliament can amend the Constitution, it cannot alter its fundamental structure.

Minerva Mills v. Union of India (1980)

The Supreme Court, in this case, struck a balance between parliamentary sovereignty and judicial review. It held that while Parliament has the power to amend the Constitution, it cannot destroy its essential features.

In these instances, the judiciary's exercise of judicial review ensured the Constitution's integrity, protected citizens' rights, and maintained a harmonious balance between the three branches of government.

Critique of the Judicial Review System in India

The judicial review system in India, while playing a vital role in upholding the principles of democracy, separation of powers, and protection of fundamental rights, has faced criticism on several fronts.

1. Overburdened Courts: The Indian judiciary is heavily burdened with many cases. This situation is exacerbated because many issues, including those related to public interest and policy matters, can be brought before the courts for review. As a result, the courts might need help to give each case the attention it deserves.
2. Subjectivity and Lack of Consistency: The judicial review process can sometimes lead to inconsistent decisions due to the subjective interpretation of laws and the need for a clear precedent. This can create confusion in the legal system and result in unequal treatment of similar cases.
3. Judicial Activism vs. Judicial Restraint: While judicial activism can be crucial in addressing societal issues and protecting fundamental rights, it can blur the line between the judiciary and the executive branch. Critics argue that excessive judicial activism can encroach upon the domain of elected officials and hinder the functioning of the democratic process.
4. Democratic Legitimacy: Some critics contend that unelected judges should not be able to strike down laws passed by the people's elected representatives. This raises questions about the democratic legitimacy of the judicial review system and whether it should have limits.
5. Lack of Accountability: Judges in India enjoy a high degree of independence, which is crucial for a fair and impartial judiciary. However, this independence also means there might be limited mechanisms for holding judges accountable for their decisions or conduct.
6. Complexity and Accessibility: The legal language and complexities involved in the judicial review process can make it difficult for ordinary citizens to navigate. This can result in a lack

of access to justice for marginalized and economically disadvantaged individuals.

7. Selective Activism: Some critics argue that the judiciary's focus on high-profile cases or issues can overshadow other vital matters requiring attention. This selective activism might lead to an imbalance in the problems addressed by the courts.
8. Influence of External Factors: The perception of political and societal impact on the judiciary can erode public trust in the judicial review system. Accusations of bias or decisions influenced by political considerations can undermine the credibility of the bar and bench.

While the judicial review system in India serves as a crucial check on executive and legislative powers and protects citizens' rights, legitimate concerns need to be addressed. Reforms aimed at improving efficiency, reducing delays, enhancing consistency, and maintaining a balance between judicial activism and restraint could strengthen the system and restore public confidence in the judiciary.

Conclusion

The recent pronouncement by the Supreme Court concerning the Central Vista project underscores the principle of reasonable restraint in cases where policy matters intersect with the constitutional realm.

Recognizing the Government's prerogative to wield its autonomy in policymaking, regardless of the outcome, while preserving the sanctity of constitutional values, the Court's intervention remains justifiable primarily to uphold the integrity of these principles.

Judicial review, as a pivotal facet of India's democratic edifice, sustains the equilibrium of powers, shields individual rights, and elevates the Constitution's supremacy. Striking this intricate equilibrium is imperative for preserving democratic principles and safeguarding the cornerstone of constitutional values within the ever-evolving landscape of the Indian legal framework.