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A COMPARATIVE STUDY OF JUDICIAL REVIEW IN THE UNITED STATES AND INDIA

Likhitha Landa
LLM (International Law), School of Law
GITAM (Deemed to be University)

ABSTRACT

The Constitution is the most important statute in the country. According to Hans Kelson, it is the state's "basic framework." The law gives power and legitimacy to all other norms; hence a state's Constitution serves as a normative framework, validating all other laws and activities. The Indian Constitution has also accepted the notion of the rule of law, making it the ultimate law of the land. Any law that contradicts this highest law is declared null and invalid. Our Constitution provides for judicial review of such acts to check this inconsistency or any other arbitrary steps, rules, regulations, laws or by-laws, or any other actions of legislative or administration. The power of the Court to evaluate the legislative, executive, and judiciary activities is known as judicial review. It is a fundamental characteristic of the Constitution and an essential aspect of constitutionalism. The Court plays a critical role in determining the impact of the constitutionality of both the federal and state government's legislative enactments and executive directives. On a comparative note, this study describes the analysis of judicial review in the United States of America (U.S.A.) and India. This research is meant to provide a thorough picture of the extent to which the United States and India adhere to judicial review in practice, as well as their disparities. This study discusses the origins of judicial review, as well as its character, functioning, features, importance, scope, and specialised tasks. As a result, the primary concept of this research paper is to provide an overview and related aspects of judicial review and its current state, using the United States of America and India as examples. The evolution, evaluation, and conclusions drawn from this work have all been heavily emphasised. Criticism, like admiration, plays a significant role, and this component has been addressed whenever it was judged to be relevant.

Keywords: India; U.S.A; judicial review; basic structure

INTRODUCTION

Judicial Review is the authority of the Supreme Court or a High Court to examine and nullify an executive or legislative Act if it violates constitutional principles. This ability is enshrined in the Constitution and cannot be removed because it is a fundamental aspect of the document. Many governments' administrative decisions have been overturned in recent years, either on the grounds that they are void due to illegality or procedural irregularities or on other grounds that could have been legitimately avoided.

It is a fundamental aspect of the Indian Constitution that cannot be changed, even if it is amended. Articles 32,13,143, 131-136, 226, 145, 246, 251, 254 and 372 of the Constitution guarantee judicial review of legislation. It is enshrined in Articles 226 and 227 of the Constitution in relation to High Courts. The notion of judicial review is embodied in the Supreme Court by Articles 32 and 136 of the Constitution. Part III includes Article 32 as a basic right that can be used to enforce the fundamental rights granted under Part III. In general, judicial review of any administrative action can be sought on four grounds:

Articles 32,13,143, 131-136,226, 145, 246, 251, 254 and 372 of the Constitution guarantee judicial review of legislation. It is enshrined in Articles 226 and 227 of the Constitution in relation to High Courts. The notion of judicial review is embodied in the Supreme Court by Articles 32 & 136 of the Constitution. Part III includes Article 32 as a basic right that can be used to enforce the fundamental rights granted under Part III. In general, judicial review of any administrative action can be sought on four grounds:

1. The legitimacy of Expectation
2. Impropriety of Procedure
3. Irrationality
4. Error of Jurisdiction
5. Proportionality

Though these judicial review grounds are not exhaustive and cannot be compartmentalised, they provide a solid foundation for courts to exercise their review jurisdiction over administrative action in the interests of efficiency, fairness, and accountability.

The judiciary's power to evaluate whether legislation passed by parliament, any law enacted by a state legislature, any provision of the Constitution, or any other public regulation with the force of law is in accordance with the Constitution is referred to as judicial review. If it isn't, the Court will refuse to grant the state in question effect. The Court is unconcerned by the legislation's wisdom, expertise, or policy while deciding its constitutionality. ***"It neither favours nor opposes any legislative policy," Chief Justice Marshall said. Its sensitive and complex job is to determine and declare whether legislation is in accordance with or in violation of the Constitution's provisions; once that is done, its job is done."*** Even though the Court

believes the Act is imprudent and injurious to both public and private interests, it is required to uphold it if it is within the delegated power.

The Constitution, as we all know, is a vast document that requires a great deal of interpretation to comprehend its meaningfully. However, it does grant the executive and legislative branches of government some authority. They lend their own meaning to the terms of the Constitution while acting in the exercise of their powers. If a person believes that the legislature has exceeded its constitutional authority in making a law, he or she may sue to have the law declared unconstitutional. The Court interprets the Constitution in order to determine the constitutionality of the challenged statute. Judicial review has the ability to interpret the Constitution and decide the legality of a statute.

The notion of judicial review was approved by the American Constitution, making the Supreme Court the most powerful judicial tribunal in the world, and India has taken this feature from here. Judicial review is not limited to federal and state statutes in the United States. It has a broader scope. It has jurisdiction over state constitutions, federal treaties, and orders issued by federal and state executive agencies. Political issues, on the other hand, are not within their purview. The public's trust in the Supreme Court has been restored due to this. The ability to judicially examine any decision is a unique function granted to a superior court to review the use of power by public bodies, whether constitutional, quasi-judicial, or governmental. It can only be used if a person who a decision has wronged brings it to the Court's attention. The power of the judiciary to evaluate and decide the legitimacy of legislation or order is known as judicial review. The Constitution is the state's ultimate law, and any statute that opposes it is considered void by judicial review.

The Origin of Judicial Review

In the United States, courts have the power to examine statutes, administrative rules, and judicial decisions to see if they violate existing laws or the state or federal constitutions. A court with judicial review powers, such as the United States Supreme Court, might opt to quash or invalidate statutes, laws, or judgements that contradict higher authority. Judicial review is a component of the checks and balances system, in which the government's court branch supervises the legislative and executive branches. According to researchers and commentators, John Marshall, one of the most prominent Chief Justices of the United States Supreme Court, was responsible for forming the authority of Judicial Review. Judicial Review was meant to be established by Marshall's decision in *Marbury v. Madison*.[1] However, famous Historian Edward Corwin gave a clear definition of "Judicial Review" as the Courts' ability and obligation to overturn all legislative or executive acts of the federal or state governments.[2] Facts: The issue developed from political squabbling in the weeks leading up to President John Adams' departure for Thomas Jefferson. The incoming President and Congress reversed

[1](5 U.S(1 Cranch)137(1803)
[2]The Origins of Judicial Review, or How the Marshall Court made more out of Less, Washington and lee Law Review (Volume 56/Issue 3, Gordon S. Word)

several of Adams' judicial nominations at the end of his term and a Congressional measure that raised the number of Presidential judicial appointments. The Supreme Court declared the Act of Congress is unlawful for the first time in the fledgling republic's history. The Court solidified its position and power over judicial review by firmly emphasising that it is the judicial branch's province to state and clarify the law. Outgoing President John Adams, a Federalist, names 82 Federalist justices on the eve of his last day in office. These "midnight judges," as they were dubbed, posed a challenge to Democrat-Republican President Thomas Jefferson. For the following 20 years, Jefferson feared Federalist interpretation of the law, a concern that came true. One of the Midnight Judges was Mr William Marbury. James Madison, Jefferson's Secretary of State, did not transmit the official documentation confirming Marbury's appointment. Marbury filed a direct appeal to the Supreme Court, requesting a "writ of mandamus," or an order to act, under the Judiciary Act of 1801. Chief Justice John Marshall knew that ordering Madison to produce the papers would be correct, but he feared that the Court's image would be tarnished if President Jefferson refused. According to Chief Justice Marshall, the supreme law of the land is the Constitution, which must take precedence over any provision that contradicts it. The following assumptions guided his decision:

(i) The Constitution is a written document that defines and restricts the government's powers. The Constitution is a fundamental law that supersedes all other laws;

(ii) Legislative acts that violate the fundamental law are null and void and cannot be enforced by the courts.

(iii) The subject power, combined with judges' oaths to preserve the Constitution, requires the courts to proclaim when they believe congressional acts violate the Constitution.

(iv) The subject authority, combined with judges' oaths to protect the Constitution, requires the courts to proclaim when they consider that acts of Congress violate the Constitution. The notion of judicial review was firmly enshrined in the American form of governance after this decision. It is now as clearly established as if the Constitution had specifically stated it.

"The supreme court of the United States is using the powers of judicial review when it invalidates an act of Congress or a state legislature on the ground that it is not in conformity with the constitutional powers and requirements," Dimock and Dimock wrote. As a result, it is now common knowledge that the Supreme Court assesses the constitutional legitimacy of federal and state laws when they are legally challenged. The Supreme Court has the jurisdiction to strike down legislation that is deemed to be ultra vires.

Constitutional Basis for Judicial Review in U.S.A.

The Supreme Court lacks the authority to make such a decision of Judicial Review under the American Constitution. Some writers have questioned the Court's authority to exercise it. President Jefferson declared that the founding fathers' plan to create three independent government departments and give the judiciary the power to review Congress and President acts were not only a violation of the doctrines of separation of powers and limited government but also a betrayal of the Constitution's framers' goals. However, most of the Philadelphia Convention members favoured judicial review, according to evidence. They did not add a particular provision because they considered the power was implied in the text of Articles III and VI.

Article VI Section 2 states, "This constitution and the laws of the United States adopted in pursuance thereof, as well as any treaties formed under the authority of the United States, shall be the supreme law of the land."

"The judicial power shall extend to all situations, in law and equity, arising under this Constitution, the United States' laws, as well as the, and the treaties made or to be formed, under this authority," says Article III section 2.

Constitutional Basis for Judicial Review in India

The essential thought of Judicial Review is that law ought to be the generator of harmony, joy and amicability; the ruler has no lawful power to incur torment, torment and oppression on the administered and to usurp the fundamental privileges of opportunity and freedom of individuals which are established in the antiquated Indian development and culture. The primary object of Judicial Review is to guarantee the assurance of privileges, evasion of their infringement, financial inspires and to make the council aware of being in similarity with the Constitution. In India, such a soul was predominant.[3]

The old Indian idea of law is that law is the lord of rulers, and nothing can be higher than law by whose help even the feeble beat the solid. The Vedic idea of sway was that the state was a trust, and the ruler was the legal administrator of individuals. The location of individuals to the ruler at the hour of crowning ordinances and the answer of the blessed lord to his kin on the event of Abhisheka (royal celebration) typified in the Yajur Veda uncovers the idea of ideal, sovereignty and the majority rule idea of the rule of law which revered in the principle of Legal Review. Consequently, the soul of Judicial Review can be drawn from the key idea of law and administration, which required old India.11 In all set of experiences, no republic had an as rich legacy of the arrangement of Judicial Review as in India.

The foundations of Judicial Review go long once more into antiquated India, old archaic Europe, pre-Upheaval England and into provincial and Post-Constitution systems in the United States of America and for specific different nations which had a legacy of Judicial Review from the United States, for example, Canada,

[3]Jha, Chkradhar, op.cit., p.113

Australia, Ireland, Japan and so forth. In antiquated India, the Rule of Law had a firm stand which implied that the law was over the ruler furthermore that the public authority had no sacred power to authorise any discretionary or overbearing law against the public authority. Consequently, individuals of antiquated India envisioned and appreciated the incomparability of law and not the incomparability of the lord. In the frontier courts, the lawfulness of law in a few occurrences was passionately tested based on the rule articulated by Chief Justice Coke. Consequently, the United States of America not by a particular and clear arrangement in the Constitution however by legal points of reference made before the world another example of a vote-based system and showed to the world that Judicial Review could go about as an artist and strong mind a majority rule government against declining into despotism and submitting to a standard of oppression. India was more astute in consolidating into the actual Constitution the arrangement of Judicial Review.

By this technique, India has set up a Constitution which has its singularity and uniqueness to the extent that it sets down new principles of established rule in the cutting edge world. Boss equity Patanjali Shastri of the Supreme Court of India commented, "while the court normally appends an extraordinary load to the administrative judgment, it can't abandon its obligation to decide at last legality of a criticised resolution".[4]

The Emergence of Judicial Review in India

The Indian Constitution is a hybrid of American and British law. The Indian Parliament, unlike its English counterpart, is not a sovereign law-making body. Our religious framework "brilliantly embraces them through media between the American arrangement of legal incomparability and the English standards of peerless legislative quality" as a result of this.[5]

The most important aspect of the Indian Constitution is the right to judicial review. India has built and restricted a vote-based system that places restrictions on the use of force by governmental authorities and, for the most part, allows them to avoid tyranny and intervention.

The Indian Constitution's Preamble ensures that all Indian citizens are treated fairly and equally and that the country's laws are subject to judicial scrutiny. The majority rules, but the most effective rule is seen as reliant on oppression.[6] To this purpose, the presence of an independent body is critical for the success of a majority rule system. India's Constitution is the unrivalled norm that everyone must follow, and all other laws are based on it. No provision of the Indian Constitution declares the Constitution to be the supreme law that everyone must follow because they trusted that when all of the government's organs, administrative and State, owe their origins to the Constitution and derive powers from it, and the Constitution can't be changed except in the ways explicitly laid out in the Constitution. The framers of the Constitution were well aware of Judicial Review's

[4]The State of Madras v. V.G. Row, AIR 1952, SC 196, para13.
[5]Basu, D.D., Commentary on the Constitution of India, Calcutta, 1955, p.412.
[6]Jha, Chkradhar, Judicial Review of Administrative Acts, B.M. Tripathi Private Limited, Bombay 1974, p.95.

inherent flaws; as a result, they attempted to limit its extension and embraced a few gimmicks to prevent courts from misusing their authority and acting as "super assembly" or long-term "third loads."[7]

The Indian Constitution's authors carefully integrated the Judicial Review provisions into the real Constitution in order to maintain federalism's balance, protect residents' major privileges, and provide a useful weapon for uniformity, freedom, and opportunity. As Justice Patanjali Sastri pointed out in State of Madras v. V.G. Rao, Justice Khanna, a former Supreme Court of India judge, wrote in his book "Judicial Review or Conflict"[8] that "Judicial Review has protected framework, and an authority has indeed been vested in the High Court and the Apex Court to choose about the sacred legitimacy of the arrangement of the rules."

In a few articles, such as 13, 32, 131, 136, 143, 226 and 246 of the Indian Constitution, the teaching of judicial review is specifically stated.

"The State will not make any law that removes or compresses the right given by this part," states Article 13(2), "and any law made in the inconsistency of this condition will be void to the degree of the break." Sovereign v. Burah[9] was the principal case in which the Judicial Review of India was distributed. The Calcutta High Court and the Privy Council concurred that Indian courts had Judicial Review power, however, just under indicated conditions. Before the Government of India Act of 1935 produced results, this perspective was emphasized in a few different cases. League was made by the Indian Government Act of 1935, and the test in Judicial Review went in a different direction under the Constitution of 1950.

Legal Review currently assumes a fundamental part in the Indian majority rules system. Under the current Indian Constitution, its activity is a genuine defence of individuals' privileges and opportunities. In India, residuary power is vested in the Union Parliament, and thus, there is an elevated fear of association inclusion. While considering the legality of a rule that abuses the Constitution's requests with respect to driving circulation, the Indian legal executive should remember this. To comprehend the development, working, and down to earth activity of the Judicial Review, a chronicled translation of the protected advancement of India, England, the United States of America, Canada, and Australia is required. The legal survey framework showed up out of the blue; all things considered, it advanced steadily over the long haul, basically founded on sacred perspectives and thoughts during different periods of its established development. The United States of America's sacred advancement exhibits that authoritative powers were dependent upon protected constraints and limitations at each phase of the nation's turn of events. Since the entry of the Government of India Act in 1858, the Indian council has been dependent upon the English Parliament. Any administrative Acts passed in India disregarding parliamentary orders and disallowances have been announced invalid and void. Federalism was presented through the Indian Government Act of 1935, which prompted the growing thought of the

[7]Sarkar, R.C.S., op.cit., p.353.
[8](1952) SCR 597 (1952) SCJ 253, AIR 1952 SC196.
[9]Emperor v. Burah, ILR, Calcutta, 63 (1877).

Judicial Review in India. There were determined and strong disturbances for the development of federalism and state affirmation of central privileges from 1885, when the Indian National Congress was established, through the initiation of the Indian Republic. India, which had a long custom of law and order tracing all the way back to antiquated India, endeavoured to build up legal management over administrative power. Subsequently, legal arrangements were written in the actual Constitution.[10]

Features of Judicial Review in India:

1. **The Supreme Court and the High Courts exercise Judicial Review Power:** Judicial Review is practised by the Apex Court and the High Courts. The Apex Court of India, then again, has the last say on whether a law is naturally legitimate.
2. **Legal Review of Central and State Laws:** Judicial Review can be utilised to challenge all government and state laws, just as chief orders and statutes and established corrections.
3. **It just relates to lawful issues, not political ones:** Judicial Review just connects with legitimate problems. It can't be utilised to address political issues.
4. **Judicial Review:** is not automatic: The Supreme Court does not exercise its own judicial review authority. It can only utilise it when a law or rule is directly challenged before it or when the validity of a statute is contested during a case hearing.
5. **Judicial Review Case Decisions:** The Supreme Court can rule on whether or not the law is constitutional. In this instance, either.

- the law continues to operate as before, or
- the statute is declared to be unconstitutional. In this situation, the legislation no longer applies as of the date of the ruling.
- The law is only partially or entirely invalid. Only invalid parts or parts become non-operational, whereas other portions remain operational.

[10]Jha, Chakradhar, op.cit., p.423

Continue to operate the operation. However, if the invalidated part/part is so crucial to the law that other portions of the law cannot function without it, the entire statute is rejected.

6. **Appellate Review:** When a statute is declared unconstitutional, it is no longer in effect as of the date of the ruling. All actions taken in reliance on the law before the date of the judgement pronouncing it invalid are still valid.
7. **The Procedure Established by Law:** In India, judicial review is regulated by the notion of 'Procedure Established by Law.' The court uses it to determine whether a law has been made in line with the powers provided to the law-making body by the Constitution and follows the required method or not. When it is shown to violate legal procedure, it is rejected.
8. **Clarification of Provisions Violated by a Rejected Statute:** When ruling a law invalid, the Supreme Court must cite the constitutional provisions it violates. The court must prove the laws or any component of their ineffectiveness.

Judicial Review Cases: (U.S.A)

The Supreme Court has made various critical decisions on social liberties, privileges of those blamed for wrongdoings, oversight, the opportunity of religion, and other fundamental common freedoms throughout the long term. The following are a couple of vital models.

Plessey v. Ferguson[11]

Homer Plessey spoke to the Supreme Court after being captured and condemned for breaking the rule expecting "Blacks" to sit in isolated train vehicles. He guaranteed the alleged "Jim Crow" laws abused his Fourteenth Amendment right to "equivalent security under the law." During the legal audit, the state assured that Plessey and different Blacks were being dealt with similarly, however in various ways. The Court kept up with Plessey's conviction, deciding that the fourteenth Amendment gives "equivalent offices," not "indistinguishable offices." The Supreme Court set up "separate however equivalent" in this choice.

Miranda v. Arizona (1966)[12]

The Miranda freedoms development started in 1963 when Ernesto Miranda was confined and grilled in Phoenix, Arizona, for the assault of an 18-year-elderly person. Miranda, who had never mentioned counsel, admitted during the extended meeting and was eventually indicted for assault and condemned to jail. Afterwards, a lawyer documented an allure with the Supreme Court, saying that Ernesto Miranda's freedoms had encroached because he had no clue he didn't need to talk with the cops by any means. The Supreme Court

[11]Plessy v. Ferguson, 163 U.S. 537 (1896)
[12]Miranda v. Arizona, 384 U.S. 436(1966).

upset Miranda's conviction in 1966. The Court reasoned that all suspects ought to be taught concerning their right to an attorney and the choice to remain silent while being tended to by law subject matter experts. As demonstrated by the judgment, any attestation, affirmation, or confirmation collected preceding enlightening the individual with respect to their opportunities would be illegal in Court. While Miranda was retried and condemned a resulting time, this important Supreme Court decision provoked the now-prestigious "Miranda Rights" being given to suspects by cops around the country.

United States v. Nixon ("Watergate") (1974)[13]

The Democratic work environments at the Watergate complex were broken into during the 1972 political race between Republican President Nixon and Democratic Senator McGovern. Archibald Cox, a novel government agent, was mentioned to investigate the case, yet Nixon ended him before he could finish it. Nixon was mentioned to surrender explicit reports and tape accounts by the new examiner, which unquestionably included evidence against him in every way that really matters. Nixon conveyed impressively changed records of 43 taped conversations, ensuring "through and through pioneer honour" over any correspondences between high government specialists and individuals who help and urge them, while simultaneously asking that the call be overturned and the records are dismissed. At first, the Supreme Court resolved that the indictment had introduced adequate proof to get the summon, then, at that point, resolved the issue of chief honour exhaustively. Nixon's declaration of an "inadequate, outright Presidential honour of insusceptibility from official actions in all conditions" was dismissed. Nixon left office 15 days after the fact, on August 9, 1974, amid the "Watergate issue.

Cases on Judicial Review: India

The essential capacity of the courts is settling disputes among people and the state or among states and the association. At the same time, the courts might be needed to decipher the arrangements of the Constitution and laws, and the Supreme Court's translation turns into the law that all courts of the land should observe. It is basically impossible to pursue the Supreme Court's choice.

Shankari Prasad vs. Union of India[14]:

The Supreme Court considered the issue wherein the First Amendment Act of 1951 was tested on the grounds the right to property was limited and that it wasn't possible on account of a limitation on the alteration of Fundamental Rights under Article 13 of the Constitution (2). The contention was excused by the Supreme Court, which administered collectively. "The expressions of Article 368 are totally wide and grant parliament

[13]United States v. Nixon, 418 U.S. 683
[14]AIR 1951 SC 458

to adjust the constitution without any special cases." In the language of Article 13, regulation alludes to rules or guidelines sanctioned under standard administrative power and alterations to the Constitution instituted under constituent power. Article 13 (2) makes little difference to changes passed under Article 368.

Vishakha v. State of Rajasthan[15]:

For this situation, the Supreme Court set up exhaustive guidelines for all businesses and people accountable for work environments out in the open and private areas to follow to forestall lewd behaviour of working ladies in the working environment until regulation is carried out to resolve the issue. Subsequently, managers were needed to protect ladies' essential privileges under Art 14, 19, and 21.

Keshavananda Bharti case[16]:

The Supreme Court settled the Keshavananda Bharti case, regularly known as the Fundamental Rights case, on April 24, 1973. The current theme was: how much in all actuality does Article 368 of the Constitution award changing power? In the interest of Union of India, it was attested that the altering authority is boundless and that any change can be made without cancelling the Constitution. Then again, the applicant contended that the revising power was wide however not endless. Parliament is restricted from cancelling the Constitution's "fundamental element" under Article 368. An extraordinary seat of judges was shaped to hear the case. 11 of the 13 adjudicators had a troublesome and questionable essential design precept. The Supreme Court's ability to correct the Constitution under Article 368 didn't stretch out to repealing or obliterating the Constitution's essential highlights or system, as indicated by the court. Nonetheless, what the Supreme Court considered "fundamental" highlights were not spelt out or listed reliably in the different assessments given for this situation. Indeed, even before the Twenty-fourth Amendment, the larger part concluded that Article 368 included the option to change and the technique for doing as such.

Comparative Evaluation of Judicial Review in India and U.S.A

India

Points of criticism:

1. Undemocratic: Judicial Review is seen as an undemocratic technique by pundits. It gives the Court the position to settle on the destiny of regulation passed by the council, which addresses individuals' sovereign will.

[15]Vishakha and others v. State of Rajasthan and others (1997) 6 SCC 241, AIR 1997 SC 3011, (1998) BHRC 261, (1997)3 LRC, (1997)2 CHRLD 202.
[16]AIR 1973 SC 1461.

2. Absence of Clarity: The Indian Constitution doesn't expressly characterize the legal survey framework. It is established on various articles of the United States Constitution.

3. Authoritative Issues: When the Supreme Court strikes down a law as unlawful, the decision produces results on its given date. When an issue of a law's lawfulness emerges for a situation under the steady gaze of the Supreme Court, may it be exposed to Judicial Review? Following five or ten years, or more, after the law's execution, a claim like this can be brought under the gaze of the Supreme Court. Accordingly, assuming the Court rules it illegal, it causes managerial issues. A judicial review can cause a bigger number of issues than it addresses.

4. Traditionalist: The Judicial Review framework is seen as a traditionalist by specific analysts. They contend that the Supreme Court adopts a legalistic and moderate strategy when concluding whether a law is established. It can upset moderate regulation passed by the council.

5. Wasteful System: Judicial Review is a wellspring of shortcomings and postponement. As a general rule, individuals and law implementation associations specifically, in some cases, decide to take things gradually or cross their fingers while executing a law. They would prefer to stand by and let the Supreme Court conclude the bill's lawfulness for a situation that could precede it whenever.

6. Makes the Parliament less capable: Critics accept that Judicial Review can make Parliament untrustworthy by permitting it to depend on the Supreme Court to decide the defend ability /sensibility of a charge it has endorsed.

7. Fear toward Judicial Tyranny: A legal survey matter is heard by a Supreme Court seat (3, 5, or 9 appointed authorities). It takes a straightforward greater part vote to settle on a choice. Most of a solitary appointed authority often determines the destiny of a rule. In this sense, the fate of a law passed by a greater part of the sovereign individuals' chosen agents can be chosen by a solitary appointed authority's thinking.

8. The Supreme Court's inversion of its own choices: The Supreme Court has turned around its previous decisions on different events. The Golaknath case brought about the first decisions being upset, and the Keshavnanda Bharati case brought about the Golaknath case being toppled. A similar demonstration has been proclaimed substantial, invalid, and legitimate once more. The component of subjectivity in the appraisals is reflected in such inversions. On these grounds, pundits are brutally disparaging India's legal audit framework.

U.S.A

Although the Supreme Court's pre-eminence in the American constitutional system is widely acknowledged, its judicial review power has been regularly criticised. In this regard, the following criticisms should be noted:

1. It has become a non-elective legislature:

The first point of criticism is that it has constituted the Supreme Court as a non-elected super legislative. It's referred to as the "third chamber" by Laski. While deciding cases, the Court acts as a quasi-political body, determining not only the constitutionality of legislation but also their propriety and justice. Many laws have been deemed unconstitutional by the Supreme Court because they were not fair, just, or reasonable, according to the Court. And, because the concept of justice and fairness is influenced by "due process of law," what is just and fair is a political rather than a legal concern.

The Judges "can hardly fail to be persuaded consciously or unconsciously by their social philosophies and general attitude on matters by their social philosophies and general outlook on affairs." Between 1888 and 1937, the Supreme Court turned into "a robed oligarchy that twisted the due process clause into a moat around all types of private property." It condemned all communist legislation, ensuring that the right to private property and economic liberty was protected. Without hesitation, it vetoed popular initiatives, including the Rail Road Pension Act and a state minimum wage law. In one instance, the Supreme Court viewed income taxation as a direct attack on the capital, arguing that "it will be simply a stepping stone to others, larger and more sweeping, until our political battles will become a war of the poor against the rich, a conflict continuously escalating in intensity and fury."

The Ultimate Court assumes the role of supreme legislative when it strikes down a statute by imposing on the nation its own judgement of what the social and economic order should be. In Polters words, "to strike down a natural law is to put a pebble in the legislative pool, creating a disturbance that ripples out from the point of contact across a vast surface of potential legislation."[17]

2. Judges act as politicians:

Judges have acted like politicians in the past, as evidenced by the Supreme Court's history. Roosevelt's attempt to load the Supreme Court with his own men was defeated thanks to Chief Justice Hughes and his associates. When judges enter politics, the judiciary's prestige is harmed, and it loses its function as keeper of the constitution.

[17]Hindustan Times, December 14,2000.

3. It has clogged social progress:

The critics claim that judicial review has slowed progress and hampered the implementation of social and economic changes. On this issue, some American presidents, including Jefferson, Jackson, Lincoln, and Roosevelt, have publicly opposed the Court.

4. One man tyranny:

A majority vote reached the Court's decisions. This has frequently resulted in a one-man rule. The statutes have been deemed unconstitutional by "five to four rulings," that is, judgements in which five of the judges hold it to be unlawful. In other words, a single judge's decision can overturn the actions of the legally elected Congress and the President. Detractors describe it as "one-man tyranny and so an undemocratic structure." Because five out of nine judges can cause havoc, the Court is labelled an "archaic" and aristocratic political institution.

The Supreme Court's 5-4 judgment overturned the Florida Supreme Court's ruling on a recount of ballots in the Bush vs Gore presidential election exhibited 'one-man dictatorship.' It is apparent that the Supreme Court is as split as the rest of the country in the aftermath of the closest presidential election in 100 years."In this sense, a single justice who holds office for life and is not accountable to the public may set aside the actions of the congress and the President, both of whom are representatives of the people," Dr Munro correctly observes.

CONCLUSION

A judicial review is a potent tool for limiting the legislature's and executive's unconstitutional exercise of power. The concept of social and economic justice has been incorporated into the widening purview of judicial review. The only check on our own use of power is the self-imposed discipline of judicial restraint. While the official and legislative are dependent upon judicial restriction, the main exercise of power is our own activity of force and deliberate discipline of judicial limitation. The mere possibility of another point of view is insufficient to justify the intrusion. As a result, courts will not intervene unless the decision is unconstitutional, illogical, procedurally improper, or lacks proportionality. It isn't to the point of essentially guaranteeing these grounds; everyone should be upheld by proof on the record. The court emphasised the power of judicial review, asserting that the doctrine of immunity from the judicial review is limited to cases or classes of cases involving the deployment of troops, the signing of international treaties, and other policy matters in which the authority's subjective satisfaction is required. If a court is involved, the court will not intervene unless the decision is completely irrational and breaches any constitutional provisions. There will be little room for dissatisfaction and seeking the courts' jurisdiction if sufficient care is used when making administrative

decisions. This will relieve the strain on the courts and provide people with a sense of security and fulfilment. People are the cornerstone of a welfare state and the core of good government.

There has been a rise in judicial activism across the country in recent years. The judiciary's doors are maintained open to address the grievances of those who would otherwise be denied access to justice. The rigorous application of the old norm of locus standi will be unfair to those people who lack the financial means, education, and resources to seek a court. In such circumstances, if a public figure intervenes on their behalf, the rules are relaxed, and the issue is adjudicated. Thus, complex and stringent procedural formalities are not required in the case of socially and economically disadvantaged groups or individuals who are unaware of their rights or incapable of pursuing their case in court. At this level, there have been instances where press stories have been misinterpreted as written applications, and reliefs have been granted. Letters to the courts were recognised as petitions as well. It is impossible to review every part of the law since this would prevent the court from exercising its authority and jurisdiction. When courts aim to enjoy the element of judicial adventurism, the technique of functioning evolves in a number of ways. The concept of judicial activism has been portrayed as playing a leading part in maintaining the check and balance of the workings, which the state may or may not be able to look into warmly and work for. The Rafael review petition case is a good example of judicial adventurism because, despite the fact that petitioners brought the case, the court refused to issue any direction to the investigative agencies because the deal or case is related to a deal between two nations, which is outside of the municipal court's jurisdiction.

As a result, Judicial Review is one of the key procedures through which the courts review the legislature's activities, the administration, and other governmental institutions to determine whether or not they are lawful and within the Constitution's bounds. As a result, the courts serve as custodians of fundamental rights through the power of judicial review. As a result, Judicial Review is an excellent tool that should be used and implemented whenever people's legal rights are violated, acting as a protector for them.

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