

Judicial Review

Judicial review is a fundamental mechanism in the governance structure of India, aimed at maintaining the supremacy of the Constitution while safeguarding individual rights against governmental actions.

This concept has borrowed elements from both British and American legal traditions, uniquely tailored to fit India's constitutional ethos.

Article 13 and the Basis for Judicial Review

Central to the practice of judicial review is Article 13 of the Constitution, which nullifies all laws that infringe upon the freedoms guaranteed under the Constitution.

This provision enables the courts to assess the constitutionality of both legislative and executive acts, playing a crucial role in the protection of civil liberties.

individuals to approach the Supreme Court and the High Courts respectively if they believe their fundamental rights are being violated. These articles are critical in facilitating the judiciary's role in reviewing governmental actions directly.

Judicial Review of Administrative Action: Examples of Impact

Through numerous landmark cases, the judiciary has corrected executive actions that were unjust or illogical. Notable examples include *Tata Cellular v. Union of India*, where the Supreme Court scrutinised government tender processes, and *Union of India v. Ex. Lt. Selina John*, where the Court overturned a discriminatory policy against a female officer.

Vikash Kumar v. Union Public Service Commission: Extending Rights to the Disabled

The Supreme Court's decision to allow a

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Article 32 and 226: Ensuring Access to Justice

The Constitution provides mechanisms such as Article 32 and Article 226, which empower

writing-impaired candidate to use a scribe during examinations is a significant example of judicial intervention to ensure equality and non-discrimination for persons with disabilities, highlighting the court's proactive role in social justice.

Dialogical Judicial Review

The concept of dialogical judicial review involves a collaborative and transparent discussion between the judiciary, government, and affected individuals. This approach was particularly effective during the COVID-19 crisis, where it facilitated equitable decisions regarding healthcare resource distribution.

Ensuring Compliance with Constitutional Boundaries

Judicial review acts as a guardian to ensure that neither the central nor the state governments overstep their legislative and executive domains as outlined in the Constitution. The Constitution of India clearly demarcates the powers and responsibilities of the central and state governments through the Union, State, and Concurrent Lists. Each

list specifies the areas in which each government can legislate.



Facilitating Cooperative Federalism

Judicial review also promotes cooperative federalism by encouraging both levels of government to collaborate and negotiate the complexities of overlapping jurisdictions. By providing a legal framework within which both central and state governments operate, the judiciary facilitates a system where both entities can work together for the greater good, adhering to constitutional mandates and principles.

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