
JUDICIAL ACTIVISM VS. JUDICIAL RESTRAINTS: A COMPARATIVE STUDY BETWEEN INDIA AND USA

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ABSTRACT

Judicial activism or judicial restraint by itself is neither a virtue nor a vice. Judicial activism is one of the few recent trends in India's superior courts that has elicited both excitement and scepticism. The courts have the authority to perform judicial review, and they do so through the courts. Even though a court is an institution, its members have the power to shape its future since they represent a range of viewpoints, talents and experiences. When it comes to upholding the law, judges are more likely than monarchs to do so because of the appellate procedure. For those whose rulings are not open to appellate review and modification, what about the judicial summit? "We are not final because we are infallible, but we are infallible because we are final." Justice Jackson's significant statement cannot be overlooked. Law, even constitutional law, cannot and does not address all of human nature's inconsistencies and irrational tendencies. It's open ended a lot of the time.

Keywords: Judicial Review, Judicial Enforcement, Complete Justice, Power of the Courts.

Introduction

In India, the judiciary plays a crucial role since it has the authority to investigate the legal validity, execution, and interpretation of legislation. It is expected that the judicial system would work in such a way as to protect the rights and liberties of all individuals while also providing justice that is both fair and equal. As India's socio economic and political landscape constantly changes, residents demand a shift in the judiciary's performance and obligations in line with the shifting viewpoints, which presents a challenge to delivering justice. Judiciary activism and judicial restraint enter the picture in this case.

Judiciary decisions are upheld using this ideology, which is the complete antithesis of what these notions describe. Judges are described in detail. In contrast to the dynamic idea of social change, which takes into account society's evolving views, the latter is based on the rigid interpretation of the law. As we'll see, each of these ideas are intertwined with a variety of other ideas and theories.

Judicial Restraint

The Judiciary's theory of interpretation is known as "judicial restraint." To put it another way, that is a belief that judges should employ their powers in a manner consistent with the constitutional and legislative mandates rather than their personal preferences or viewpoints. Until and unless the laws are unconstitutional, judges should not strike them down. Judicial restraint advocates say that courts should rely on legislative purpose, stare decisis, and rigorous application of judicial interpretation since they lack policy-making authority.

"A jurist (judge or justice) who adheres to something like a philosophy of restraint can be characterized as one who believes that democracy has intrinsic, not just instrumental, value; that now the judiciary is really the least powerful of both the three branches of government; and reveres the values of stability and predictability in lawmaking," says Eastern Michigan University in the Fundamentals of Judicial Philosophy.

In situations involving constitutional problems, courts are obligated to provide great respect and only negate their acts where there is a clear breach of fundamental norms, according to this procedure. Judicial review should be limited by the courts so that new policies can be introduced. As a result, the judicial branch must concentrate on the following issues:

1. The intention of the makers of the Constitution
2. Precedents
3. Not indulge in policy-making

The Supreme Court's decision in the case of *State of Rajasthan versus Union of India (1977)* was a landmark one because it was based on the idea of judicial restraint. It was also decided by the Supreme Court of India that perhaps the case included political investigation and that courts should therefore not interfere in it (*S.R. Bommai vs Union of India*). If courts were to scrutinize political decisions, they would be entering the political fray and analysing people's political understanding, according to Justice Ahmadi, who argued that it was difficult to establish judicially appropriate norms. If there is a clear infringement, the Supreme Court of India stated in the case *Almitra H. Patel vs Union of India* that it was not the job of the court to guide the Municipality on how to fulfill its functions. The court is only able to tell the authorities what they may and cannot do in accordance with the law.

Judicial Activism

To put it differently: Judicial activism seems to be a belief that the judges should be aware of the changing social context in which they are operating. Legal activism, according to Black's Law Dictionary, refers to judges' willingness to deviate from precedent in favor of innovative and progressive social policies. By virtue of their constitutional authority, judges are able to intervene in cases when the executive branch fails to act in favor of the public. The notion of judicial activism, which emphasizes social welfare, was born out of this. In certain cases, judges choose to interpret the law in a way that is consistent with the current ideology rather than the one that was developed when the Constitution was written. Courtroom activists make choices by exerting their own will and responding to legal concerns in the context of today's society.

Legal interpretations should be based on current values and situations since they vary throughout time with society, according to those who accept this idea. These modifications must thus be reflected in the decisions. When the other parts of the government fail to act in accordance with expectations, the courts should use their authority to correct injustice.

However, in recent years, the legal community has questioned the idea of judicial activism since it interferes in the spheres of other government organs, which goes against the theory of separation of powers. As a result, it encourages the judges to deviate from a rigid reading of the Indian Constitution, which diminishes its sacredness and conflicts with the original goal of its authors. “Maneka Gandhi versus Union of India seems to be an exemplary example of judicial activism, where the Supreme Court inserted 'the method established by law' into Article 21 and renamed it 'due process of law' or 'justice, equity and good conscience'. There in Second Judges Case, also known as Advocate on Record versus Union of India, the court used judicial activism by interpreting the phrases 'concurrence' and 'consultation' under Article 124 of the Constitution.”

Separation of powers and Judicial restraint

If a judicial and legislative authorities are combined, Montesquieu argues, the lives and liberties of the population would be put at risk because the judge will be acting as a legislator. Even if the judicial and executive branches were combined, the judge would still function as an oppressor, which might also lead to arbitrary decisions. Thus, he contends that the idea of separation of powers is fundamental to the current democratic system. A thorough explanation of the theory of separation of powers by Professor D.D.Basu may be found here:

1. All three branches of government are prohibited from doing anything that falls beyond their respective areas of responsibility.
2. Legislative authority cannot be delegated.

Despite the fact that this was not explicitly stated in the Indian Constitution, this system is used to administer the country. There are a few Articles in the Constitution that appear to support this theory, although not explicitly stated. In the case of both the State of Bihar versus Bal Mukund Shah, the notion of separation of powers was determined to be one of the fundamental aspects of the Constitution.

In India, this idea is not implemented in the strictest meaning. By vesting each organ with defined duties, the Constitution has endeavoured to follow it. Article 121, for example, prohibits the Parliament from discussing the behaviour of any Supreme Court or High Court judge. Article 212 limits the jurisdiction of the courts to inquiries into legislative actions. Thus,

it really is obvious that the Constitution does not consider the judiciary as a substitute for the legislative or executive branches of government when they fail in any way. The judiciary must define its own limits. The judicial restraint comes into play here.

For example, as researchers covered previously, a case involving the State of Rajasthan and India's Union is an excellent example of the separation of powers doctrine's application for the purpose of reining in the judiciary. According to former CJI and Supreme Court of India Justice A.S.Anand, judges must exercise self-discipline when doing their judicial duties, since failing to do so may end in anarchy as each judge makes his or her own law. For this reason, in order to keep judges from acting according to their own personal preferences, judicial restraint is essential.

“In *J.P.Unnikrishnan vs. State of Andhra Pradesh*, the courts read Article 37 when interpreting Article 21 of the Constitution, which is also an example of the judiciary abusing its authority. Article 37 seems to be a Directive principle of State Policy, which is a socio-economic ideal that cannot be enforced by legislation. This fact should not be overlooked. Article 21 on the other hand is a fundamental right. As a result, the concept of judicial activism compelled the court to choose a different route than what the constitution's framers intended.”

Judges may only obey and apply legislation issued by the legislature due to the concept of separation of powers previously established by law. Those who believe in judicial restraint argue that judges must enforce the law no matter how unfair it is to the public interest. But strict implementation might have unintended consequences, regardless of the goal of any policy. Judiciary evaluations have revealed that a judge's responsibilities include those of a lawmaker as well. There are unlimited possibilities for happenings outside of a certain realm of law, which cannot be accounted for in legislation. In most cases, a law can't account for all of the conceivable outcomes of a situation and yet provide for the situation's mandate, correction, or remedy.

As a result of the high probability of success, any legislation will inevitably miss some of the most intriguing alternatives. Some facts are impossible to imagine under a pre-existing law. For purposes of determining how the law should be interpreted, judges are required to delve into legislators' thoughts. In order to make a decision, a judge takes on the role of the legislator.

Strict adherence to the doctrines of judicial restraint and separation of powers would render this decision moot or, at the very least, infeasible.

Trends in Judicial Activism

There's really no mention of judicial activism in the Indian Constitution. Interpretation in the courts is now impossible now without. "The idea of judicial activism has grown as locus standi, judicial review, amendments, and Public Interest Litigation (PIL), also known as Social Action Litigation, have all been introduced and liberalized (SAL)." The active engagement of society in general and against arbitrary public acts has expanded due to the growth of public-spirited people and groups, thereby enhancing the role of access to justice.

Supreme Court decision in *Kesavananda Bharati v. Kerala* ruled that any constitutional change that alters the fundamental aspects of the Constitution, such as democracy, rule of law, federalism, secularism and independence of judiciary, is invalid.. The basic structural philosophy was born out of this. While the Constitution does not explicitly express the idea of basic structure, the court has established it. Because the court found that the government agencies' policies were being abused, this case represents one of the finest examples of Indian judicial activism. He also added that judicial activism is the key component of any democratic system which gives the free and independent court adjudicatory powers, Justice Bhagwati stated.

Judicial Activism Vs Judicial Restraint- A Brief Comparison

In a country, both judicial activism and judicial restraint were challenging and contrasting philosophies, which have been commonly stated as judicial activism vs judicial restraint. Judicial activism and judicial restraint are related to preventing constitutional entities and the government from abusing their authority.

Instead of following the constitution, judicial activism is a philosophy of judicial decision-making that encourages judges to support current values and situations while allowing judges to express their own personal views on public policy issues.

It is in contrast to this that judges are encouraged to refrain from making judgements that are against the law and restrict their powers through judicial restraint.

Let's look at some examples of judicial restraint and judicial activism to better appreciate the differences between the two approaches.

Judicial Review in India and USA: Comparison

the American Constitution does not directly address the notion of judicial review, India's judicial review is more limited than the USA's.

Judges in the United States are notorious for their zealous use of judicial review. The court may reject a statute if the judges believe it is not in line with their ideology. In India, however, such a thing never occurs. Judges in India only consider a statute unconstitutional while making their decisions.

In addition, the Supreme Court of the United States has demonstrated that if a law is overturned, the court will create a new one in its stead. Despite the fact that the court is not responsible for establishing laws, the judiciary does so. In the United States, judge-made laws are commonplace. If the Supreme Court of India strikes down a law, however, the legislature is left in charge of enacting new legislation. According to some constitutional scholars, this is a kind of Judicial Activism.

'Procedure established by law' is found in the Indian Constitution, whereas 'due process of law' is found in the American Constitution. The 'due process of law,' on the other hand, allows the Supreme Court broad latitude in granting protection to individuals' rights. It has the authority to nullify legislation that violate fundamental rights on the basis of their substance illegality as well as their procedural unreasonableness. But our Supreme Court simply looks at the substance of a law, i.e. whether or not the legislation is within the authority's powers, when assessing whether or not it is constitutional. Whether it is acceptable, appropriate, or has policy ramifications is not anticipated to be discussed in detail.

“Our constitutional structure acknowledges the American concept of judicial supremacy, but only to a limited extent. Furthermore, we don't entirely adhere to the British Principle of parliamentary primacy. In our nation, the written constitution, federalism with separation of powers, the Fundamental Rights, and the Judicial Review limit the Parliament's power. In practice, India is a blend of the American ideal of judicial supremacy and the British principle of legislative supremacy, resulting in a hybrid system.”

There is less latitude for judicial review in India than the United States. It is not up to judges in India to interpret the basic rights, which are less generally defined than they are in the United States. This technique was used by the constitution-makers because they feared that the courts would have a difficult time determining the limits on fundamental rights, so they decided to include them in the constitution. Constitution authors also thought that courts shouldn't be elevated to a "Super Legislature" status. However justified their technique may be, the end consequence has been to limit India's scope of judicial review.

The American Supreme Court, on the other hand, appears to have squandered its authority to interpret the Constitution and used the due process of law clause so extensively that it has become more than just an interpreter of the law. According to some, it is now being described as the "third chamber of a legislature," or even "the super-legislative body." Of course, the Supreme Court of the United States has taken this view; that's not a constitutionally mandated one.

The Indian constitution's writers took great care not to include the due process of law provision. The Indian constitution, on either hand, refers to it as "process established by law". Legislation can be invalidated if it violates constitutional requirements, but not when it is deemed to be a poor law. India's judiciary, including the Supreme Court, does not hold itself up as a third chamber claiming to be able to overrule legislative policy.

Distinct political systems make use of judicial review in different ways. It is possible for the courts to find an act of parliament incompatible with the constitution but not to invalidate a legislation because the constitution is mostly unwritten and unitary in nature and parliament is sovereign. Only the constitution may be interpreted by the judiciary.

Ordinary legislation as well as constitutional amendments can be struck down by Germany's Constitutional Court for being incompatible with the document's basic essence. When a written and federal constitution restricts the power of parliament, the situation is different. Supreme Court decisions overturning laws passed by Congress are not unheard of in the United States, for example.

For a long time now, parliament and the Supreme Court in India have been squabbling over the scope and limits of judicial review. Twenty-fourth Amendment to the Constitution enacted in 1971 gave parliament the authority to alter any provision of the Constitution. Although

Parliament has the power to change the constitution, the Supreme Court ruled that any amendments must adhere to the essential structure of the constitution.

Thus, Prime Minister Indra Gandhi's administration introduced the forty-second Constitutional Amendment when an emergency was declared, stripping the Supreme Court of its authority to evaluate a Constitutional Amendment. However, the provisions of the forty-second amendment respecting the Supreme Court's authority to determine the legitimacy of constitutional changes were undone by the forty-third and forty-fourth amendments.

As a result, we might conclude that the scope of Judicial Review in India is a bit smaller than in the United States.

It is not up to the courts to interpret India's constitution, which has restrictions on basic rights, to interpret them as liberally as it does in the United States. This technique was used by the constitution-makers because they feared that the courts would have a difficult time enforcing the limits on fundamental rights, so they decided to include them in the constitution.

Whatever the rationale for using the methodological approach selected by India's constitution architects, judicial scrutiny has been restricted as a consequence.

There is little doubt that the Supreme Court of the United States is now more than just a law-enforcement agency because of its extensive use of the Due Process of Law Clause to read the Constitution broadly.

Since its creation, it has risen to become the legislature's third chamber, and has been referred to as "a super legislature." However, this is not a constitutionally mandated role for the Supreme Court; rather, it is a stance that the court has adopted.

Judiciary Review' is an important part of India's constitution, and the Supreme Court of India is able to exercise it. However, it has less authority than the U.S. Supreme Court to conduct "judicial review" of legislation.

As a result, "Alexandrowicz is not seen as an extra constitution creator but as a body to administer express law," the Indian constitution's writers took great care not to include the due process of law article. Instead, the Indian constitution refers to "procedure established by law."

Legislation can be declared unconstitutional if it violates constitutional requirements, but not if it is merely bad legislation. There are no Third Chambers in India's Judiciary, including the Supreme Court, who are claiming jurisdiction over laws approved by Parliament.

Judicial Activism Vs Judicial Restraint

Judiciary restraint is the proper course of action when the appropriate federal and constitutional authorities fail to perform their obligations, while judicial activism is the wrong course of action when the appropriate federal and constitutional entities are not. As a result, the judicial activism method enables judges to develop policies that actively safeguard people's legal rights, social rights, public rights, and more, all while guaranteeing political equity.

Restraint and activity in the judiciary, executive, and legislative branches of government work together to preserve a delicate degree of authority. When it comes to judicial activism, judges and the court are required to analyze and revise current laws and their amendments as necessary.

This means that the Supreme Court or an Appellate Court can overturn a bad ruling. Instead of giving the legislative branch disproportionate authority, the active judicial system ensures that all three branches (judiciary, executive, and legislative) are kept under check.

Conclusion on Judicial Activism vs Judicial Restraint:

- Justice activism is a new way of looking at the Constitution to settle legal disputes that supports contemporary ideals and realities. Nevertheless, judicial constraint restricts judges' authority and prevents them from striking down legislation, transferring this duty to legislators.
- A judge seems to have the power to ensure justice through judicial activism if any individual has already been harmed due to the negligence or incompetence of relevant agencies. Judgment protects all legislative and Congressional choices that do not violate the Constitution, as contrast to judicial restraint, which does not.
- Judicial activism defends citizen rights and formulates social policies, shields citizens from political injustice, and secures justice even when the competent federal bodies fail to exercise their obligations.

- Judicial restraint avoids resolving disputes between opposing parties that require striking down a law.
- Judicial activism differs from judicial restraint in that judges in judicial activism have the authority to overturn past decisions or acts if they believe they was unfair. Appellate courts have the ability to overturn prior judgements, laws, and acts if they are deemed to be erroneous.

Parameters of Comparison	Judicial Activism	Judicial Restraint
Definition	Involves judiciary decision while keeping about the social implications in mind.	Refers to the judicial decision taken by the judge which is purely based on the framework of the constitution.
Function	Emerging social dynamics is taken into account while a decision is made.	Decisions purely based on statutory and constitutional mandates.
Dependent on	Personal and social interpretation by the judicial body.	Purely on the constitution and the rules laid.
Advantage	Ensures that the decision covers the need for the various aspects of the dynamically changing society.	Make sure that the decisions taken follow the protocols strictly laid by the constitution.
Drawbacks	Excess judicial activism might turn the judiciary body into a legislative body.	Excess judicial restraint might fail to consider the emerging dynamics in society.

Main Differences Between Judicial Activism and Judicial Restraint

1. When it comes to making judgments, judicial restraint adheres strictly to the constitution's norms and regulations, while judicial activism considers the requirements of society as a whole.
2. In contrast to judicial restraint, that doesn't have to take society as a whole into consideration, judicial activism considers how society is developing.
3. Judicial restraint does not interfere with legislative decisions unless there is a clear constitutional violation. However, judicial activism is not like this.
4. Justice activism prioritizes social issues, whereas justice restraint adheres strictly to the rules set forth by the constitution.
5. In contrast to judicial restraint, judicial activism encourages the judges' own thinking and inventiveness in making judgements.

JUDICIAL REVIEW IN INDIA AND USA

Scope of Judicial Review in India and the USA

Legal audit in India becomes less widespread than those in the United States, although the American Constitution does not explicitly forbid it from being included in any of its programs.

In the United States, legal auditing is carried out by a team of experts. The genuine leader may pardon a law if adjudicators concur that specific laws and its viewpoint aren't comprehended either by chosen specialists. It's not something that happens in India, on the other hand. Judgments based primarily on lawlessness are condemned by Indian judges.

According to the Supreme Court, when a law is overturned, it's also replaced with a new one. This was witnessed in the United States. While the legitimate chief's oath is true, the true leader would be the one who sets the rules. Delegated authority is frequently used to pass laws in the United States. If the Supreme Court strikes down a law in India, however, the Court defers to the lawful responsibility of creating new laws. Judicial Activism has also been dubbed by some of the most competent specialists in the field.

The American Constitution mandates "reasonable treatment of law," in contrast to the Indian Constitution's approach, which was defined by legislation. The Supreme Court is able to defend its inhabitants' opportunities because of the reasonable treatment of the law.' It will have the power to invalidate legislation that breaches basic rights even though it is unlawful, as well as because it is improbable. Our Supreme Court only analyzes the most crucial question when establishing the legality of legislation: whether or not the law is within the authority's jurisdiction. It doesn't rely on whether or if it's logical, appropriate, or a good match for the system.

Legal inimitable perfection is an American guideline that we follow in some aspects. It is also true that we do not adhere to the British concept of parliamentary unrivaled perfection in all aspects. Individualization of the Constitution, federalism with capacity divisions, fundamental rights and judicial review are only few of the issues that need to be addressed in our country's parliament. A mix of American legal incomparable quality and British Parliamentary distinctiveness has resulted in India.

Degree of Legal Review

Laws in India are more thoroughly analyzed than in the United States. Unlike in the United States, India does not frequently codify significant advantages. In addition, limitations on such benefits have been stated in the real constitution, which has not been made available to the judiciary in India. Because they felt that the courts would have difficulty resolving barriers to fundamental rights, the drafters of the constitution took this method.

Whatever the case may be, the Supreme Court of the United States has cemented its role as a go-between for the law by exhausting its ability to liberally unravel the Constitution and treating legal arrangements with such caution. Even while it doesn't really create laws, it has taken on the role of a lawmaker and has effectively been characterized as a super law-making body.' The Supreme Court of the United States of America anticipated this stance; the constitution did not expressly mandate it.

Despite their efforts, the Indian constitution's authors were unable to accurately portray its equitable approach to law. Contrary to common opinion, the Indian constitution implies "procedure established by law." It has the power to overturn any legislation that violates the constitution's stated goals, not only those that are poor laws. "This means that the Indian court,

including the Supreme Court, is everything except a Third Chamber capable of casting judgment on the method demonstrated by the gathering's consent.”

Framework Adopted by both the country

There was a lengthy battle in India between parliament as well as the Supreme Court about the scope and cut-off points of legal surveys, in any case. The twenty-fourth amendment to the constitution, passed in 1971, gave parliament the authority to modify the document when it saw right. In any event, the Supreme Court ruled that, although parliament has the power to alter the constitution's game plan, it must do so in accordance with the constitution's fundamental design. While under a state of emergency, Prime Minister Indira Gandhi took it upon himself during his time in office to learn about the constitution's forty-second amendment, that prohibits India's Supreme Court from considering a proposed modification. As a result, the forty-second amendment was designed with the Supreme Court in mind, fearing that the forty-third and forty-fourth amendments would be ruled unconstitutional by the court.

Indian Judicial Review appears to be a bit restricted in comparison to that of the United States.

As a result, the actual constitution has cut-off lines in it, and this attempt has not been offered to the courts in India, where significant prospects are not meditatively coded. As a result of their belief that the courts would have difficulty enforcing basic rights, the writers of the constitution included this structure in the actual constitution.

Additionally, the drafters of the constitution felt that the court should not be given "Super law-making body" status. There is little doubt that the process logies selected by India's constitution-makers have limited the scope of legal auditing in India.

Regardless, the Supreme Court of the United States has cemented its place as the law's intermediary by applying the reasonable treatment of law condition with such care and thoroughness.

Like the Supreme Court of the United States, India's Supreme Court engages in the constitutionally acknowledged authority of judicial review. No matter how you look at it, the American Supreme Court's legal judgement of authorisation is far more authoritative.

The Indian constitution's writers made an astonishing decision not to incorporate appropriate

law restrictions in the document. There hasn't been any progress in India because the constitution suggests a "plan set by legislation." As a body to implement express law, Alexanderwicz isn't envisioned as a new constitution writer.

If a statute is found to be unconstitutional, the Supreme Court can overturn it, but it cannot do so on the premise that the measure in question is obnoxious. Consequently, India's judicial system is a chamber attesting to the competency to pass judgment on system illustrated by law-making body's order, which includes the Supreme Court.

Objectives

- There must be judicial activity and restraint in order to ensure that legislation passed are constitutional.
- To review lower court decisions, the higher courts need judicial activity and judicial restraint.
- Maintaining federal equilibrium, i.e., ensuring that the center and the states are equal in terms of power.
- In order to uphold the people' basic freedoms.

Scope and purpose of the study

Either judicial activism and judicial restraint are still targets for criticism. In today's culture, the court may need to use both caution and activity in making judgements, notwithstanding the dichotomy between the two. As each situation is unique, it is impossible to predetermine the amount to which principles should be put into practice.

Significance of the study

It really is true that even if judges take up the functions of the administration and legislative in their own hands then some challenges were sure to develop such as lack of experience and distorting the idea of separation of powers. And then the Indian situation also necessitates the innovation and application of creative brains of the judges during interpreting owing to the intricacy of instances in the contemporary times.

Statement of the problem

This as necessary consequence, judicial activity and judicial restraint are diametrically opposed concepts. A court judgment can be described using the words "judicial activism" and "judicial restraint." Court activism refers to a theory of judgment that takes into consideration the spirit of law or changing times, whereas judicial restraint depends on rigid interpretation of the law and the significance of legal precedent.

Limitation

Court activism is using the constitution's interpretation to support current beliefs and situations. Judicial restraint, on the other hand, restricts the courts' ability to overturn a statute.

Even if the actions of Congress and state legislatures violate the United States constitution, the court should uphold them all as part of its judicial restraint.

Restraint of the judiciary is that courts often defer to congressional or other constitutional bodies' interpretations of the constitution.

Expected outcome

India's Supreme Court also possesses a judicial review power that has been explicitly recognized in the constitution, like that of the American Supreme Court. However, researchers can see that its 'judicial review' of legislative powers are more limited than those of the American Supreme Court. This is a significant difference.

While judges have the authority to conduct judicial review, they cannot do so arbitrarily. It follows that the courts' authority to examine legislation approved by parliament is limited, just as Parliament's capacity to make laws is. The judiciary, like other branches of the government, is subject to the constitution, and judges are no exception. They have the power to interpret and invalidate legislation, but they are unable to take on the role of lawmaker themselves or delegate this authority to anybody other than the legislatures at the federal and provincial levels. The courts, on the other hand, are unable to overturn laws that are clearly unlawful. Sovereignty is found in the constitution, not in parliament or the court.

Despite its flaws, judicial review having played an important part in maintaining the country's

constitutional governance by keeping the federal government and the states separate. As a result, the Constitution has been able to adapt to changing circumstances by giving it new meaning. The Supreme Court's use of this authority has safeguarded people's freedoms and their fundamental rights against the legislative and executive branches of government's encroachment.

A person's use of a product is what determines whether it is a good or a terrible product. In the same way, this review system has the same problem. If the Supreme Court utilizes it only for the benefit of the nation, that is excellent; but, if the Supreme Court uses it while also considering its own interests, it is detrimental to the country and its citizens.

The Supreme Court has never used the idea of judicial care in a way that was contrary to the nation's best interests, and the judiciary as a whole places the welfare of the country ahead of personal benefit or dispute.

In other words, it's a win-win situation for both the United States and India.

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