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# JUDICIAL REVIEW IN INDIA AND THE USA: ANALYSING THE ROLE OF COURTS IN PROTECTING CONSTITUTIONAL INTEGRITY

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## ABSTRACT

The concept of judicial review in India and the USA (United States of America) are compared in this paper. As a fundamental component of constitutional government, judicial review is important for maintaining the values of justice, rule of law and equity. This research looks at the historical development, legal frameworks, and effects on the two nations' legal systems in an effort to clarify the similarities and contrasts between the two countries' judicial review mechanisms' structures, powers, and functions.

This paper takes a multidimensional approach in understanding the concept of judicial review in two countries that is India and the USA. The ability for a court of law to examine the decisions made by the executive, legislature and judiciary also is called as judicial review. Constitution is supreme and powers of the government is limited where the Ordinary Law abides by these principles are the foundations of judicial review. The concept of Judicial review in UK was invented by Lord Coke.

This paper also deals with the advantages and disadvantages of the judicial review in the USA and India. The study seeks to add to the larger conversation on constitutional law by offering a comprehensive understanding of the function and purpose of judicial review in various legal and cultural situations by using insights from the comparative analysis.

**Keywords:** Judicial Review, USA, India, Constitution, Rule of Law

## INTRODUCTION

Judiciary plays a key role in providing justice to citizens, it resolves disputes between citizens and state and issues between the citizens. Court will interpret the law and apply it to situations and circumstances to give justice. Judiciary also has another important task that is to safeguard the constitution if a country has a written constitution and for this reason the Apex court/ Supreme Court in the country is called the watchdog of the constitution. Executive, Legislature and Judiciary are three main organs of the government.

Judicial Review is a method or technique employed by the courts to keep a check on the other two organs of the government; it is part of the checks and balances system. Judicial Review will help the courts go beyond their traditional duty of providing justice. It welcomes legal executives to participate in continuous discussions on protected translation among courts and legislative bodies, as opposed to transcribing. The majority criteria are not the same as a majority vote and may trample upon minority rights.

When the law making body that is the legislature does not conduct discussions and evaluations properly and involves only limited individuals to discuss which leads to very less understanding of problems, court can intervene to protect the fundamental rights of citizens by way of judicial review.

Constitutional supremacy, which the ordinary laws should abide by and limited government are cornerstones of judicial review. Three important criteria for judicial review and limited government that should be met are- One, a country should have a written constitution which indicates the jurisdiction of different organs of the government. Second, constitution has to be supreme where other organs get their power from it. Third, there has to be a check like the judicial review that will prevent the supreme law, the constitution from being violated.

The term Judicial Review is explained by Smith & Zurcher<sup>1</sup> as, “The examination or review by the Courts, in cases actually before them, of legislative statutes and executive or administrative acts to determine whether or not they are prohibited by a written Constitution or are in excess of powers granted by it, and if so, to declare them void and of no effect.” Legislature which is the law making organ should work within limits as mentioned in the

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<sup>1</sup> Edward Conard Smith & Arnold Jhon Zurcher Dictionary of America Politics Barnes and Noble (1959) 212.

constitution even though it has the great power to make laws. It is the duty of the court to protect the constitution as it is the ultimate law of land. Court has to explain it so that other branches do not violate its provisions, articles and schedules which may violate individual's fundamental rights if they do so.

Judicial Review is the duty as well as the power of the court to not allow any act- whether legislative or executive, if it violates the constitution as defined by Edward S. Corwin<sup>2</sup>.

Professor Wade defines judicial review as "a mechanism adopted to uphold the rule of law and keep public authorities within bounds." In England, the idea of judicial review originated in 1610 with Lord Coke's ruling in the *Dr. Bonham v. Cambridge University* case<sup>3</sup>.

The judicial review concept came to be known very well by the famous case of U.S. Supreme Court in *Marbury vs. Madison*<sup>4</sup>. This provision of judicial review is there in India and also in USA. Supreme court in India exercises this power under Article 32 of Indian constitution and High courts exercise the review power under Articles 226 and 227 whereas in the USA, the Supreme Court exercises review power according to Article III and Article IV. The comparison between the review powers in India and USA is the main agenda of this paper. Origin of the review in both the countries and the manner in which they operate are also discussed. It points out about the similarities in review power operation and dissimilarities in both countries.

## **HOW JUDICIAL REVIEW HAS EMERGED IN USA**

United States of America (USA) has federal government which has the Congress and the President, if any of the rules, decisions of the court, legislations are in contrary with any one of the sections of the constitutions then the courts can look at it, they have that the power to examine them and quash them if they are in conflict with the provisions of the constitution<sup>5</sup>. This kind of review system is important so that state can function smoothly and law and order will be maintained in the state otherwise the government becomes a dictatorship, the power examine the conflicting laws forms part of checks and balances. certain checks and balances are

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<sup>2</sup> Edward S. Corwin, *A Constitution of Powers in a Secular State*, 46 *American Political Science Review*, 898–898 (1952).

<sup>3</sup> (1610) 8 Co Rep 114.

<sup>4</sup> 5 U.S. 137 (1803).

<sup>5</sup> 5 U.S.(1 Cranch)137(1803).

necessary for smooth functioning in the state and to maintain law and order so that government become dictatorship. Legislative and executive actions should be under check.

Emergence of the concept of judicial review is attributed mostly to John Marshall, one of the chief justice of USA Supreme court who was powerful, by most of the commentators and researchers. It came into limelight through landmark case Marbury v. Madison. Judicial review was also explained clearly by Edward Corwin, a famous historian as it is the power and duty of the Courts to disallow all legislature or Executive acts of either Central or the State Government.

***The facts of the case is as follows:***

Thomas Jefferson was elected as president after President John Adams. During John Adams tenure as president 82 appointments of federal judges was made. This was done just before Adams left the office of President. After Jefferson assumed office, he declared all the appointments as null by reversing an act. This was the first time an act that was made by the Congress was declared as void by the Supreme Court. Supreme Court used its review power.

The judicial appointments made by Adams were an overnight appointment, for this reason the appointed judges were called "midnight judges". President is a democrat and a republican head in USA so such appointments became a big problem to Jefferson. He was worried that the judges who are appointed will be serving as judges for twenty years and federalists will take advantage of this to pass legislations that will finally become laws. William Marbury was one of the judges so appointed who was not given his official documents that confirmed his appointment as a judge. James Madison, the Secretary of state was instructed by Jefferson to do so. Marbury was agitated by this act and approached the Supreme Court. He filed a Writ of Mandamus asking the Supreme Court to act on the problem, according to Judiciary Act, 1801.

Chief Justice John Marshall was the judge for the case who also felt that it is right to order Madison to give appointment papers to Marbury which is a just move. But things were different, since the orders would go against the orders of president Jefferson and if they are not complied it would lead to image of the court getting weakened. Hence, Marshall held that Marbury should not have approached the Supreme Court for the claim directly, such a move was unconstitutional according to Judiciary Act, 1801. This became a landmark judgement and also a remarkable one for Judicial review discussion.

No other law can conflict any provisions of the constitution which is the ultimate law. Chief Justice Marshall pronounced his judgment based on some assumptions like below:

- All legislative acts are sub-ordinate to the constitution which is the supreme law of land.
- Any act which is made by the legislature that contradicts the provisions of the constitution can be declared null and void.
- He stated that the powers of the government are mentioned in the written constitution clearly and also the limits within which the government needs to act.
- Judges take a oath in which its mentioned that they will uphold the constitution so any laws which is violative of it, judges can declare it as unconstitutional.

A strong foundation for the concept of judicial review was laid down in this case. It is clearly expressed in the constitution. It also highlighted that judicial review is an inseparable concept in the American system. Supreme Court clearly has the power to struck down laws that are made without authority. It applies to both state and federal laws.

In 1857, Dred Scott case judicial review concept was used after 1803, which is gap of 50 years almost. Courts do not encourage application of judicial review concept in political questions. If there is any confusion with respect to judicial review involved in a particular question then that has to be questioned based on unconstitutionality angle before the court only then court will apply its principles like review and decide upon them. The Supreme Court declared nearly 100 laws made by the congress as unconstitutional.

### **RESTRICTIONS ON SUPREME COURT WITH RESPECT TO JUDICIAL REVIEW**

There are two entities in the USA, one is the congress and other is the President who keep a check on each other and both of them should face people or voters from time to time during elections, whereas on the other hand judges are not elected but appointed, they serve till certain age and retire. They have the power overrule actions of legislature and President. They cannot be removed from their position other than by impeachment.

Lincoln had made a statement on judicial review in this regard as “The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is

to be irrevocably fixed by decisions of the Supreme Court.... the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal”, Jefferson also had stated about judicial review as “a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please”<sup>6</sup>.

Therefore, it is necessary to put restrictions on the Supreme Court on Judicial review.

- 1) Review over political issues is not conducted by the court.
- 2) Court should give reasons while declaring any law to be unconstitutional and it should also specify which provisions are violated. By this one can be sure that the court does not declare a law as void unnecessarily or arbitrarily or to bring in a new law.
- 3) Supreme Court cannot review a case on its own; it has to be brought before the court for it to review.
- 4) When a law is declared void, only that law becomes void and not the work that is done under it.
- 5) The question of law being unconstitutional should be proved beyond doubt for it to be declared unconstitutional.

## **JUDICIAL REVIEW UNDER INDIAN CONSTITUTION**

Supreme Court held that the High Courts and Supreme Court have the Judicial review power under Article 226 and Article 32 respectively according to Indian Constitution. It also held that it forms part of basic structure in *L. Chandra Kumar v. Union of India*<sup>7</sup>.

Constitution is the ultimate law of the land. India follows Rule of Law and it is the basic principle that forms the foundations of our society. Supreme Court and High Courts have the authority based on the principle ‘Supremacy of law’. Constitution grants rights to its citizens which should not be violated by legislative actions. Hence the courts protect it by using the review doctrine effectively. It forms part of basic structure of the constitution so it cannot be

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<sup>6</sup>Ryan Cooper, *The Case Against Judicial Review*, The Prospect, July 11, 2022, <https://prospect.org/justice/the-case-against-judicial-review/>.

<sup>7</sup> *Vishaka v. State of Rajasthan*, (1997) 2 S.C.R. 1186 (India).

struck down by amendment. Some of the articles in the Indian Constitution that deal with the review power are Articles 32, 141, 13, 131-136, 227, 226, 246, 372 and 245.

Judicial review concept is very old in India. Some of them argue that it existed even before the constitution was enacted. India was following the judicial review mechanism even before it got independence. Several judgments of the High Courts and Privy Councils are relied upon for proof of the same as there is no specific clause that talks about it.

Privy Council in *Emperor vs. Burah*<sup>8</sup> held that Imperial Parliament gives certain powers to the Governor General who should act within its limitations, if he acts beyond that then the person who is affected can approach the court for exercise of its review power. In another case *Secretary of State vs. Moment*<sup>9</sup>, Court said that the government cannot take away the rights given by the Act of Parliament that is by Government of India Act, 1858. Imperial Parliament gives powers to Indian Legislature to make laws which is delegated power so if any law it makes violates its jurisdiction then it can be declared void<sup>10</sup>.

Once the constitution came into existence, it explicitly had mentioned judicial review in the constitution. The chairperson of the Drafting committee Dr B.R Ambedkar, rightly called the judicial review mechanism in the constitution as the “heart of Indian constitution”.

Judicial review importance has been stressed upon time and again by many judges in many judgments and statements. For instance, in *S.S. Bola v B.D.Sharma*<sup>11</sup>, Justice Ramaswami J stressed upon the importance of Review that it was incorporated wisely into the constitution by the founding fathers to balance federalism, fundamental freedom and fundamental rights that are given to Indian citizens. It should act as a weapon to let people freely enjoy their liberty, availability that will help in creating a healthy nation. Judicial review forms part of Constitutional interpretation and it will try to meet new conditions and new changes with time.<sup>12</sup>

Even in the land mark judgment of *Kesavananda Bharti*<sup>13</sup>, Justice Khanna. J held that the

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<sup>8</sup> [1877] 3 I.L.R 63 (Cal.).

<sup>9</sup> [1913 ]40 I.L.R 391 (Cal.).

<sup>10</sup> *Annie Besant v. Government of Madras* [1913] 40 I.L.R 391 (Cal.).

<sup>11</sup> A.I.R. 1997 S.C. 3127, 3170.

<sup>12</sup> AIR 1997 SC 3127, 3170

<sup>13</sup> *Kesavananda Bharti v. Union of India* A.I.R 1973 S.C. 1461.

review power should be used to protect the rights of people. So judicial review is become an integral part of our system. C.J Chandrachud in *Minerva Mills v Union of India*<sup>14</sup> observed that judges have the duty to talk on validity of laws. If the courts cannot have review power, it is like writ under water. People who have fundamental rights cannot approach the court if they are violated. It is just like formally having a right but no remedy if its violated. "A controlled constitution will then become uncontrolled."

According to Justice Syed Shah Mohammed Quadri, Judicial Review, under Indian constitution can be classified under three heads<sup>15</sup>:

1. Judicial Review of Constitutional Amendments.- Supreme court has many cases in which this matter is under consideration.
2. Judicial Review of legislation of Parliament, State Legislatures as well as subordinate legislation.- here the review is for checking if the legislature is competent to enact, whether any fundamental rights are violated etc.,
3. Judicial Review of administrative action:- It applies to both state as well as Union governments and its authorities who fall under the definition of state according to Article 13 of the constitution.

## **HOW JUDICIAL REVIEW IS EXERCISED IN INDIA**

Judicial review is mentioned in Indian constitution under Articles 246 and 245. According to Article 245(1)<sup>16</sup>, "a State Legislature may make a law for the whole of the state and any part thereof, and the Parliament may make any law for the whole and any part of the territory of India." The line "subject to the provision of the constitution" puts restrictions on the powers granted to the Parliament and State Legislatures. The underlying principle for judicial review is this that it gives the judges the authority to review, interpret and intervene.

Doctrine of Precedent is mentioned in Article 141<sup>17</sup> which reconfirms the review power of the Supreme Court. All the decisions that Supreme Court makes will be binding on the lower courts

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<sup>14</sup> A.I.R. 1980 S.C. 1789.

<sup>15</sup> Justice Syed Shah Mohammed Quadri, *Judicial Review of Administrative Action*, 6 SCC (Jour) 1 (2001).

<sup>16</sup> The Constitution of India, 1949, art. 245(1).

<sup>17</sup> The Constitution of India, 1949.

throughout the country. Any law made by the legislature before the constitution came into force and also after will be declared void if it is violative of Part III. Its mentioned in Art 13(1)<sup>18</sup> and Art 13(2). Kania C.J. in *Gopalan v. State of Madras*<sup>19</sup> held, “the inclusion of Art. 13(1) and (2) in Constitution appears to be a matter of abundant caution. Even in their absence, if any of the fundamental rights was infringed by any legislative enactment, to the extent it transgresses the limits, is invalid.” Court exercises the review under the above said provisions of the constitution. Court will first see which government enacted the legislation that is if it is State legislature or Union legislature before reviewing it. After that it will look into the authority of that legislative body to see if it is competent to enact it.

Overall it means that it will check into which list the subject matter falls into, whether it's the state list, union list or the concurrent list as mentioned in Schedule VII. In case the state government is making the law then it will also taken into consideration the territory to see that the enactment is not outside the state boundary i.e., extra territorial. After this the court will check if the constitution itself has any restriction to bring in an enactment. The impugned law has to pass all these tests to be declared constitution and hence enforceable<sup>20</sup>.

In *L Chandra vs. Union of India*<sup>21</sup>, Article 323-B clause 3(d) and Article 323-A clause 2(d) were challenged in this case that the jurisdiction of High courts was taken away in service cases. Supreme Court held that Review is part of basic structure and so it cannot be done away.

Court observed that, Article 226 or 227 and Article 32 are unconstitutional because they do not include the jurisdiction of Supreme Court and High Courts and cause damage to the review power of the courts. These articles give the great power of review that vest with Supreme Court and High Courts. They are very much part of basic structure and cannot be challenged. This was discussed in *I.R. Coelho v. State of Tamil Nadu*<sup>22</sup>. In this case Ninth schedule that contains the State laws and Central laws were challenged.

The Apex Court stated that any law that becomes part of Ninth schedule is open to review after 1973 judgment in *Keshavananda Bharathi* case. If there are any provisions that violate the

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<sup>18</sup> Ibid.

<sup>19</sup> (1950) SCR 88 (100).

<sup>20</sup> *State of Bombay v Chamarbaugwala*, [1957] S.C.J 607.

<sup>21</sup> A.I.R. 1997 S.C. 1125.

<sup>22</sup> *I R Coelho v. State of Tamil Nadu* AIR 2007 SC 861.

fundamental rights in Part IV can be challenged to be reviewed. Court also ruled that Fundamentals of constitution also include the reviewing of legislative acts and activities.

## **REVIEW OF JUDICIAL ACTION**

Supreme court is the Apex court which means it is the highest court of appeal in the country. It carries out the judicial review function, which is its appellate authority according to Article 132(1), 133(1), or 134 of the Indian Constitution. In both civil and criminal matters that involve interpretation of the provisions of the constitution, Supreme Court has the power to entertain appeals about final orders, Decree or judgment of the High courts. Article 136 that deals with the Special Leave Petition (SPL) gives Supreme Court vast appellate jurisdiction powers. In *Shafin Jahan v. Ashokan K.M.*<sup>23</sup>, the Supreme Court reversed the decision of the Kerala High Court that declared the marriage of a young woman as invalid.

In *Joseph Shine v. Union of India*<sup>24</sup> it can be seen that the Supreme Court can overrule the decisions of the Supreme Court itself that consisted of smaller bench, the constitutional bench of the Supreme Court ruled that Section 497 of the Indian Penal Code, 1860 as unconstitutional thereby overruling its earlier judgments that is -*Yusuf Abdul Aziz*<sup>25</sup>, *Sowmithri Vishnu*<sup>26</sup> and *V. Revathi*<sup>27</sup>.

The five-judge bench of Supreme Court in *Navtej Singh Johar vs. UOI*<sup>28</sup> struck down Section 377 of the Indian Penal Code, 1860 unanimously, it went up to a extent that criminalized same-sex relations even though both adults give consent. By doing so the Supreme court overruled its own decision in *Suresh Kumar Koushal & Anr vs Naz Foundation & Ors* where the court had upheld the constitutionality of the said law.

## **LIMITATIONS ON EXERCISE OF JUDICIAL REVIEW IN INDIA**

An extra ordinary power like review needs to have restrictions otherwise it becomes adventurism. One of the limitation is present in the constitution only which is Article 100(2) and in Article 189, which says that the courts have no jurisdiction to declare the proceedings

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<sup>23</sup> (2018) 16 S.C.C. 368.

<sup>24</sup> (2019) 3 S.C.C. 39.

<sup>25</sup> *Yusuf Abdul Aziz v. State of Bombay*, 1954 SCR 930.

<sup>26</sup> *Sowmithri Vishnu v. Union of India*, A.I.R. 1985 S.C. 1618.

<sup>27</sup> *V. Revathi v. Union of India*, A.I.R 1988 S.C. 835.

<sup>28</sup> (2018) 1 S.C.C. 79.1.

of legislature as invalid because procedure was properly followed. But the other way round of this is not present that proceedings that do not comply with constitutional provisions has no immunity.

The next limitation is also in constitution in Part IV under Directive Principles of State Policy, it is non-justiciable. A person cannot go to the court to get DPSP enforced like fundamental rights. But there are certain instances where they have been enforced if they are in-line with fundamental rights and support it. Example is the *Maneka Gandhi v. Union of India* case where Article 21, that deals with personal liberty and to move freely across was interpreted liberally keeping in mind the Directive Principles of State Policy.

Next is, Courts cannot enquire about delimitations of constituencies provisions mentioned in the constitution. This can be found in Article 329(a).

Next one is about the President and Vice-President elections. According to Article 71(4) no question can be asked about the grounds of any existing vacancy for the two positions in Electoral College. Article 74(2) says that no enquiry can be done by any court if any questions arise about the advice that is given by the minister to President. It could be related to any matter whether about a policy or appointment or a political question.

Judiciary has put certain restrictions on itself in using the judicial review power.

The Judiciary also has imposed certain restraints on itself while exercising the power of Judicial Review. They are as follows-

- Court follows the 'Stare decisis' doctrine which means that courts will have to look at previous cases while deciding a case which has similar facts.
- Court will carefully scrutinize and make sure that it will not recommend anything malafide to the law making body.
- Any person who is getting a benefit from law cannot question its validity, court places firm emphasis on this.
- Court can simply turn down questions that relate to political questions or are political issues and refrain from reviewing it.

- If there is any question just due to assumption, court will not apply its review power. Any act should have a practical issue that will cause some effect.
- When judicial review is the only remedy then the courts will look into it, if there is any other alternate solution then review question does not arise.
- Court will always give priority to constitution so any part that is unconstitutional will be declared as void instead of declaring the whole law as unconstitutional. In this case, court will apply the severability doctrine.

### **CRITICAL ANALYSIS**

- USA has broader scope for judicial review than India so judges in the US apply the concept aggressively and quash any laws that they dislike and make a new law in its place even though it's not the duty of judges to make laws. One can observe many such laws made by court in USA. This is not the case in India, a law here can be rejected only if it is unconstitutional and judges leave the law making process to the legislators which if exercised by themselves will be known as 'Judicial Activism'. The judicial review concept is not explicitly mentioned in any constitutional of the provisions in USA.
- American Constitution provides for 'Due Process of Law' which gives more powers to the Supreme Court to declare a law as unconstitutional, i.e., it can be declared void on both substantive criteria and procedural criteria whereas Indian constitution contains 'Procedure Established by Law' wherein a law can be declared void only on substantive grounds. Thorough analysis about reasonability or policy implications is not done. Though some features in legal system can be seen to be like in USA, we do not strictly follow that model and due to the various restrictions on the part of parliament including those that are mentioned in the constitution, we do not entirely follow the England model of parliamentary quality either. India has a mix of both of the models.
- Fundamental rights are not broadly described in our constitution, limitations are mentioned and it is not left to the courts to decide. This liberal interpretation power to interpret the provisions of the constitution and going beyond just the interpretation and making the laws by the US Supreme court, it is commonly come to be called as 'Third chamber of legislature' or 'Super judiciary', it is a common jargon and not mentioned in the

constitution. However, Supreme court in India cannot make laws and for this reason it cannot be called as the third chamber.

## **CONCLUSION**

Judicial review is a strong tool in preventing the legislative and executive organs from acting in an unlawful manner. Social and economic justice is considered in the judicial review procedure. Only limitation on the exercise of judicial review power of the courts is the self imposed limitation where the courts by themselves decide not to act. Just because court intervenes into a matter with a different view point or an opposite view point, it does not mean intervention.

Courts will not interfere until they find uncertainty, violation of rights or deficiency. It should also be proved and placed on record that certain violation occurred, uncertainty exists or deficiency has arisen, only assumption as to one of it exists is not enough. Certain immunity in some cases that deal with deployment of troops, signing an international treaty etc., and also in policy related matters where the concerned authority needs to be satisfied, in such cases courts will not interfere till the conclusions or decisions involved are completely wrong and violative of the text in the constitution.

If legislature is diligent in the law making process and executive is careful in making administrative decisions and both of them act in best interest of the public, courts will not interfere. This reduces the courts work and also builds more confidence and security in people about the legislature and executive which are signs of good governance practices that will help in building a welfare state. When judicial review goes one step further it becomes judicial activism which is on the rise lately.

Courts give opportunity to people who usually cannot approach the court to get justice. PIL is a mechanism in India that serves this purpose. To people who are not aware about the legal system, who do not have money to pay legal expenses, who do not have easy access to legal system applying locus-standi principle is not fair. In such situations, people who care for the public can fight for justice on their behalf by way of PIL in India, discussion of which is beyond the scope of this paper.

For people who are socially and economically backward, it is not correct to ask to follow

complex legal procedures, they are not aware of their rights, they are not aware even when their right is violated. They cannot approach the court to file a case on their own due to lack of resource and legal knowledge. Press reports were considered by courts suo-motto as writ petitions and justice was given. Different letters that were addressed to the courts were also considered as petitions and relief was given. Courts cannot examine everything as there are restrictions on the court as well in exercising its power. When judicial activism crosses certain boundaries it becomes judicial adventurism which shows that the other organs of the government are not doing their duty well.

A very good example for Judicial adventurism is the Rafael review petition where an issue was brought before the court by the petitioners but the court did not order anything to the investigative agencies as the issue was between two countries and the municipal court had no jurisdiction to deal with the matter.

To conclude, judicial review helps in determining the acts of the legislature, executive and other organs of the government are correct or not. In this manner, courts safeguard the rights of people. An excellent tool one can use while his/her rights are violated is the judicial review.

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