



## THE BALANCE OF POWER: JUDICIAL SUPREMACY VS. PARLIAMENTARY SOVEREIGNTY IN INDIA

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### ABSTRACT

*India's constitutional framework establishes a dynamic equilibrium between judicial supremacy and administrative sovereignty, where neither institution holds absolute power. Judicial supremacy empowers courts as the ultimate practitioners of the Constitution, protectors of fundamental rights, and checks against legislative overreach. Administrative sovereignty subordinates the council's primary law-making authority. Still, India's unique conflation subjects both to constitutional supremacy; the Constitution remains the consummate legal authority. Administrative power is constrained by judicial review, fundamental rights protections, civil distribution of powers, and the unassailable 'basic structure' doctrine established in Kesavananda Bharati v. State of Kerala (1973). Landmark cases like Minerva Mills Ltd. v. Union of India corroborated these limitations, while conflicts similar to Mohd. Ahmed Khan v. Shah Bano Begum stressed the pressures when legislative conduct stamps judicial interpretations. This interplay necessitates collective adherence to constitutional boundaries to sustain popular governance.*

**Keywords:** Judicial Supremacy, Administrative Supremacy, Constitutional Balance, Separation of Powers, Indian Judiciary.

### INTRODUCTION

The Indian Constitution is a living document, designed to adapt to the evolving requirements of a different and vibrant republic. Central to its abidance and energy is the delicate balance it maintains between the legislative and judicial branches of government. The debate over whether Parliament or the judiciary holds ultimate authority has shaped India's legal and

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political geography since independence. This composition explores the literal elaboration, philosophical foundations, and practical counteraccusations of judicial supremacy and administrative sovereignty in India, pressing the constitutional mechanisms and corner judgments that have defined this relationship.

### **Theoretical Foundations: Judicial Supremacy and Parliamentary Sovereignty –**

**Judicial Supremacy:** It is the doctrine that courts, especially the Supreme Court, are the final interpreters of the Constitution. This means that their opinions are binding on all branches of government unless overturned by a constitutional correction or a subsequent judicial decision. The Judiciary acts as the guardian of fundamental rights and the ultimate check on legislative and administrative surpluses.

**Administrative Sovereignty:** In discrepancy, it is embedded in the British tradition, where Parliament is the supreme law-making body and its enactments cannot be challenged by any other institution. In such a system, the council can make, amend, or repeal any law, and there's no distinction between constitutional and ordinary law. Still, in India, this doctrine is modified by constitutional supremacy, meaning Parliament's powers are subject to the Constitution and judicial review.

### **CONSTITUTIONAL FRAMEWORK: THE INDIAN MODEL**

The framers of the Indian Constitution sought to synthesize the British principle of administrative sovereignty with the American idea of judicial supremacy. The result is a unique model of Constitutional supremacy, where the Constitution is the highest law and all state organs — the council, superintendent, and judiciary — are bound by its provisions. Crucial features of this frame include

**Written and Rigid Constitution:** The Indian Constitution is a written document, and its correction requires a special procedure, making it more rigid than the British system.

**Separation of Powers:** The powers and functions of Parliament and the judiciary are easily delineated, ensuring checks and balances.

**Judicial Review:** The judiciary has the power to review and strike down any law or administrative action that violates the Constitution.

**Basic Structure Doctrine:** The basic structure doctrine limits Parliament's power to amend the Constitution, proscribing amendments that alter its core principles.

## **HISTORICAL EVOLUTION: KEY CASES AND DEVELOPMENTS**

**Early Times Administrative Dominance:** In the original times after independence, the Supreme Court espoused a fairly respectful approach towards Parliament. **In Sri Sankari Prasad Singh Deo v. Union of India (1951)** and **Sajjan Singh v. State of Rajasthan (1965)**, the Court upheld Parliament's absolute power to amend the Constitution, including fundamental rights, under Article 368.

**Golak Nath Case Judicial Assertion:** The drift turned with **I.C. Golak Nath v. State of Punjab (1967)**, where the Supreme Court held that Parliament couldn't amend fundamental rights. This corner judgment marked the judiciary's assertion of its part in the protection of the Constitution and individual liberties.

**Kesavananda Bharati and the Basic Structure Doctrine:** The most significant turning point came in **Kesavananda Bharati v. State of Kerala (1973)**. The Supreme Court, by a narrow majority, ruled that while Parliament could amend any part of the Constitution, it couldn't alter its "Basic structure." This doctrine, though not completely defined, includes principles similar to republicanism, democracy, the rule of law, the separation of powers, and judicial review. The Parliament has wide powers of correction, but it cannot destroy or undo the basic rudiments or fundamental features of the Constitution, **Kesavananda Bharati Judgment**. This doctrine has since become the bedrock of constitutional interpretation in India, ensuring that certain core values remain unassailable.

**Minerva Mills and the Underpinning of Limits:** In **Minerva Mills Ltd. v. Union of India (1980)**, the Supreme Court reaffirmed the basic structure doctrine and struck down amendments that sought to dock judicial review and expand Parliament's amending power. The Court emphasised that a harmonious balance between Part III( Fundamental Rights) and IV( Directive Principles) of the Constitution is part of its Basic structure.

### **Shah Bano Case: Clash and Compromise –**

**Mohd. Ahmed Khan v. Shah Bano Begum (1985):** In this case stressed the pressure between judicial pronouncements and legislative action. The Supreme Court's decision to

grant conservation to a separated Muslim woman under secular law was overturned by Parliament through the Muslim Women (Protection of Rights on Divorce) Act, 1986, reflecting an assertion of legislative supremacy in response to social and political pressures.

### **The NJAC Case Judicial Independence –**

**The National Judicial Appointments Commission (NJAC) Case (2015)** is another corner. The Supreme Court struck down the constitutional correction that sought to change the process of appointing judges, holding that it violated the principle of judicial independence, a basic point of the Constitution.

**The Tamil Nadu Case: Judicial Intervention in Gubernatorial Deadlock:** A 2025 constitutional extremity surfaced when Tamil Nadu Governor R.N. Ravi withheld assent to 10 bills passed by the state council, some pending since 2020. The Tamil Nadu government solicited the Supreme Court, arguing that this inactivity paralysed governance and violated constitutional duties. Supreme Court's Ruling (April 8, 2025) declared the Governor's turndown to act on the bills "illegal and unconstitutional"

**Article 200 of the Constitution:** Governors must assent, withhold assent, return bills (non-money bills), or reserve them for presidential consideration within a reasonable timeframe, not indefinitely. Invoked Article 142 to suppose the bills "passed," bypassing the Governor's inhibition.

**Review and Counteraccusations:** Vice President Jagdeep Dhankhar and some parliamentarians labelled this "judicial overreach," arguing it converted courts into a "super-parliament". Still, the Court defended its part. Governors are constitutional functionaries, not autonomous authorities; their discretion is bounded by duty. Federalism requires state houses to be disencumbered by unelected officers. The ruling corroborated legislative supremacy within constitutional realms, not judicial supremacy over policy. This case exemplifies the judiciary's part in resolving gridlocks that hang constitutional ministry a check, icing neither the administrative nor legislative branches can paralyse governance.

### **CONSTITUTIONAL AMENDMENTS: PROCEDURES AND LIMITATIONS**

Parliament's correction power (Article 368) remains subject to judicial review and civil principles.

**Special Majority Requirement:** Amendments need the blessing of two-thirds of Parliament members present and voting.

**State Ratification:** Changes affecting federalism (e.g., state boundaries, representation) bear ratification by half of the state houses.

**Basic Structure Limit:** No amendment can alter core constitutional features like judicial review or Aboriginal rights. As of 2024, 106 amendments have been legislated, but none since 2025 have directly altered the judiciary-council balance. The 42nd Amendment (1976), which tried to dock judicial review, was incompletely abrogated in *Minerva Mills*, demonstrating the adaptability of these constraints.

## RELATIVE PERSPECTIVES: INDIA AND OTHER REPUBLICS

Encyclopedically, different countries have espoused varied approaches to the balance between legislative and judicial power.

**United Kingdom:** Administrative sovereignty is absolute; courts can not strike down legislation.

**United States Judicial Supremacy:** It prevails, with courts empowered to invalidate laws that violate the Constitution.

**Germany and Canada:** These countries have developed mongrel systems, incorporating constitutional supremacy with robust judicial review. India's model is unique in that it recognises the supremacy of the Constitution, limits administrative power through the basic structure doctrine, and entrusts the judiciary with the role of constitutional guardian.

## FACTORS LIMITING PARLIAMENTARY SOVEREIGNTY IN INDIA

Unlike the British Parliament, the Indian Parliament's powers are circumscribed by several constitutional provisions.

**Limited Governance:** Parliament can ordain only on subjects in the Union and Concurrent Lists, not the State List, except under special circumstances.

**Amendments Procedures:** Certain constitutional amendments bear ratification by at least half the states, and the procedure is more rigorous than that for ordinary laws.

**Fundamental Rights:** Article 13 prohibits the state from making laws that vacate or dock fundamental rights.

**Judicial Review:** The judiciary can declare any law or correction unconstitutional if it violates the basic structure or fundamental rights.

## **JUDICIAL REVIEW**

Judicial review is the power of the courts to examine the constitutionality of legislative and administrative conduct. It's an essential point of the Indian Constitution, deduced from the American model but adapted to Indian requirements.

**Scope:** Judicial review extends to all laws, superintendents' orders, and constitutional amendments.

**Process:** The Supreme Court and High Courts can exercise this power when a law or action is challenged before them.

**Significance:** Judicial review acts as a safeguard against arbitrary or unconstitutional conduct, guarding individual rights and upholding the rule of law.

## **THE DOCTRINE OF BASIC STRUCTURE: ELABORATION AND IMPACT**

The Basic Structure doctrine is the most significant judicial invention in Indian constitutional law. It ensures that certain fundamental principles, such as republicanism, democracy, federalism, and judicial independence, cannot be altered by Parliament, indeed, through constitutional amendments. Crucial principles of the basic structure doctrine include the following:

- Democracy
- Secularism
- Rule of law
- Judicial review
- Federalism

- Separation of powers

This doctrine allows for inflexibility and adaptation of the Constitution while conserving its core values. It has been invoked in multitudinous cases to strike down amendments and laws that hang these principles.

## CONTEMPORARY ISSUES AND ONGOING PRESSURES

Despite the constitutional safeguards, pressures between Parliament and the judiciary persist.

**Judicial Activism vs. Judicial Restraint:** The judiciary has occasionally been accused of overstepping its accreditation and encroaching on legislative functions through judicial activism.

**Legislative Responses:** Parliament has, on occasion, responded to judicial opinions by enacting new laws or constitutional amendments, which in turn have led to further judicial scrutiny.

**Appointments and Independence:** The process of appointing judges remains a contentious issue, with debates over translucency, responsibility, and independence, as seen in the NJAC case. These pressures aren't inescapably mischievous; rather, they reflect the dynamic nature of constitutional governance and the ongoing hunt for balance and responsibility.

## THE SYSTEM OF CHECKS AND BALANCES

The Indian constitutional framework is designed to help distribute power among the one branches of government. The interplay between administrative sovereignty and judicial supremacy is managed through a system of checks and balances.

**Legislation:** It makes laws and represents the will of the people.

**Judiciary:** It interprets the Constitution, protects fundamental rights, and checks legislative and administrative powers.

**The Constitution:** It serves as the supreme law, binding all organs of the state. This system ensures that the rights of citizens are defended, the rule of law is upheld, and the popular process functions easily.

## **CONCLUSION: CONSTITUTIONAL SUPREMACY AS THE ANCHORING PRINCIPLE**

India's system rejects rigid scales between Parliament and the judiciary. Rather, both derive authority from and remain inferior to the Constitution. The Tamil Nadu case reaffirmed that judicial intervention corrected superintendent overreach, restoring legislative agency without displacing it. Critically, this balance prevents administrative majoritarianism from undermining rights or federalism. Bars the judiciary from assuming legislative functions, as seen in its Article 142, used only to open governance, not craft policy. Recent rhetoric lamenting "judicial overreach" overlooks that the judiciary intervenes only when constitutional boundaries are transgressed. As the custodian of India's popular frame, the Supreme Court ensures no institution — the Governor, Parliament, or it transcends constitutional sovereignty. This dynamic, tested through decades of conflict and collaboration, remains essential to India's adaptability as the world's largest republic.

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