

JUDICIAL REVIEW – OVERVIEW

Definition:

Judicial Review is the power of the judiciary to examine the constitutionality of legislative enactments and executive orders of both the Central and State governments. If a law is found to be inconsistent with the Constitution, the judiciary has the authority to declare it null and void.

Key Features of Judicial Review in India:

1. **Constitutional Supremacy:**

The Constitution of India is the supreme law of the land. Any law or order inconsistent with it can be struck down.

2. **Role of Judiciary:**

The Supreme Court and High Courts have the power to review laws and executive actions to ensure they conform to the Constitution.

3. **Threefold Review:**

Judicial Review in India applies to:

- Legislative actions
- Administrative actions
- Judicial decisions

4. **Article 13:**

This article lays the foundation of Judicial Review. It states that laws violating Fundamental Rights shall be void.

5. **Judicial Activism vs. Restraint:**

- **Judicial Activism:** Courts actively intervene in public interest matters.
- **Judicial Restraint:** Courts respect the separation of powers and act cautiously.

Landmark Cases:

1. **Kesavananda Bharati v. State of Kerala (1973):**

- Established the *Basic Structure Doctrine*.
- Parliament can amend the Constitution but not alter its basic structure.

2. **Minerva Mills v. Union of India (1980):**

- Reaffirmed the *Basic Structure Doctrine*.
- Judicial Review is a basic feature of the Constitution.

3. **Golaknath v. State of Punjab (1967):**

- Ruled that Parliament cannot amend Fundamental Rights.

Importance of Judicial Review:

- **Upholds Constitutionality:** Ensures laws and actions are in harmony with the Constitution.
- **Protects Fundamental Rights:** Acts as a guardian of citizens' rights.
- **Checks Arbitrary Power:** Limits the misuse of power by legislative or executive branches.
- **Strengthens Democracy:** Promotes accountability and the rule of law.

Limitations:

- Judicial Review is **reactive**, not proactive — courts act only when a case is brought before them.
- Cannot be used for **policy decisions** unless they violate constitutional provisions.
- **Doctrine of Separation of Powers** prevents judiciary from interfering unduly in legislative or executive functions.