

## CONSTITUTIONALISM AND JUDICIAL REVIEW IN INDIA: SAFEGUARDING FUNDAMENTAL RIGHTS

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### Abstract

A constitution without effective oversight is like a declaration without enforcement; fundamental rights without institutional guardianship may remain mere ideals. In modern constitutional democracies, judicial review and the protection of fundamental rights serve as essential safeguards, ensuring that laws protect individuals rather than leaving them at the mercy of unchecked state authority. This paper examines how constitutionalism the idea that government is bound by law and accountable to citizens is realized in India through judicial review and rights protection. It explores the historical and conceptual foundations of judicial review, analyzes landmark cases that have shaped its scope, and reflects on its practical impact in safeguarding liberties of the citizens. The study also considers contemporary challenges, such as judicial overreach and systemic delays, while suggesting pathways for strengthening these mechanisms. Ultimately, judicial review is not merely a legal procedure but a vital bridge that translates constitutional promises into lived realities, making democracy meaningful and accountable.

### 1. Introduction

#### 1.1 Understanding the Constitution Beyond a Legal Document

**1.1.1** A constitution is commonly understood as a comprehensive legal document that delineates the powers of the executive, the functions of the legislature, procedural norms, and the rights of citizens. The constitution embodies the principle of constitutionalism<sup>200</sup>, the notion that the state, including its executive and legislative branches, operates under the authority of law rather than placing law at the mercy of those in power. While these components are undoubtedly important, viewing the constitution merely as a collection of rules obscures its fundamental purpose.

**1.1.2** Constitutionalism elevates the constitution from a symbolic text to an active framework that directs governance, safeguards citizens, and limits arbitrary authority. The genuine

importance of a constitution becomes apparent when it is swept into the broader legal and social fabric, when its provisions can be enforced through courts and when its guarantees shape everyday life. This integration ensures that government actions are guided not by discretion alone but by principles of transparency, accountability, and respect for human dignity.

#### 1.2 The Central Role of Fundamental Rights

**1.2.1** Core principles such as the separation of powers, checks and balances, judicial independence, and protected fundamental rights provide the foundation that upholds this framework. Fundamental rights occupy the centre of this structure. They are not favours given by the state but legal entitlements that obligate the state to protect and uphold them. These rights reorient governance from exercising authority over citizens to accepting responsibility toward them.

<sup>200</sup> M.P. Jain, *Indian Constitutional Law*, 8th ed. (LexisNexis, 2021).

**1.2.2** However, rights by themselves prove inadequate if the state remains unrestrained, if laws violate rights without consequence, or if avenues for redress do not exist. The doctrine of judicial review addresses this gap. Judicial review empowers the judiciary to scrutinise state actions, whether legislative, executive, or administrative and strike down those that are ultra vires to the constitution, thereby ensuring that rights become enforceable rather than abstract way.

### 1.3 Judicial Review in the Indian Context

**1.3.1** In India, though the phrase "judicial review" does not appear explicitly throughout the Constitution, the text and judicial interpretation establish it firmly. Judicial review thus connects constitutional guarantees with accountability mechanisms, ensuring that constitutional promises translate into concrete protections for citizens. Provisions such as Article 13, which renders laws inconsistent with fundamental rights void, Articles 32 and 226<sup>201</sup>, which offer remedies for rights violations, and the doctrine of the "basic structure" collectively demonstrate the judiciary's role as guardian of the Constitution. In essence, judicial review converts constitutionalism<sup>2</sup> from theory into practice, making democracy meaningful, accountable, and just.

## 2. Constitution<sup>3</sup> and Constitutionalism

### 2.1 Evolution of Constitutional Meaning

**2.1.1** In its previous usage, the term "constitution" simply described the structure or condition of a political entity as part of it, the arrangement of its laws, institutions, people, and territory. It served a descriptive function, capturing how a society was organised rather than prescribing how it ought to function. Over time, the meaning of a constitution transformed into something considerably more significant and continuous to be modern. A modern constitution operates as a normative charter: it derives legitimacy from the people, defines the purpose of

government, allocates powers, and imposes constraints making the people its guardian. It does more than organise the machinery of the state; it legitimises it. Through its words and principles, a constitution says what the state exists to complete, what it may do, and crucially, what it cannot do.

### 2.2 The Essence of Constitutionalism

**2.2.1** Possessing a written constitution does not automatically guarantee justice, accountability, or protection of citizens' dignity. That responsibility belongs to the realm of constitutionalism. Constitutionalism represents both a philosophical ideal and a practical commitment: it aims to ensure that the exercise of governmental power remains constrained by law, guided by fairness, and answerable to the people. It raises essential questions about governance. How can institutions be designed to function effectively without becoming oppressive? How can laws serve citizens rather than control them? How can the rights and freedoms declared on paper materialise as genuine protections for every individual? These questions extend beyond theoretical concerns they support the daily functioning of democracy.

### 2.3 Fundamental Rights<sup>202</sup> as the Core of Constitutionalism

**2.3.1** Fundamental rights lie at the heart of constitution Legalism. Rights are not merely hopeful statements; they constitute legal entitlements that define what the state owes to its citizens. They affirm the dignity, liberty, and equality of individuals and serve as a constant reminder that governance concerns respecting human beings rather than wielding power<sup>4</sup>. Nevertheless, rights alone cannot fulfil this promise. Without institutional support, a culture of accountability, and enforceable mechanisms, even the most progressive rights remain fragile, prone to infringement, and meaningless in practice. A constitution without functional institutions and an embedded

<sup>201</sup> H.M. Seervai, *Constitutional Law of India*, Vol. 1-3 (Universal Law Publishing, 2015)

<sup>202</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 1966).

culture of accountability resembles an engine without pistons: it has possessed form but lacks force.

#### **2.4 The Interdependence of Constitutional Elements**

**2.4.1** Constitution, constitutionalism, and rights are therefore inseparably connected. The constitution provides the framework, the structural foundation upon which governance rests. Constitutionalism<sup>5</sup> animates that framework, infusing it with principles of justice, equity, and accountability. Fundamental rights give the entire structure human purpose, reminding the state that governance ultimately aims to secure the well-being and dignity of individuals. Only when these three elements align with law, institutional practice, and societal culture operate in harmony thus the constitution transcend its textual form and become a lived reality. This delicate balance gives democracy its strength: a government guided by rules, restrained by principles, and oriented toward protecting and empowering its citizens.

### **3. Judicial Review: Legal Basis and Rationale**

#### **3.1 Defining Judicial Review**

**3.1.1** Judicial review may appear to be a technical legal concept, but fundamentally, it constitutes a cornerstone of democratic governance. It functions not merely as a procedural safeguard but as a mechanism through which the constitution itself is enforced, ensuring that the state operates within its defined boundaries. In India, while the term "judicial review" may not appear explicitly throughout the Constitution, its essence is embedded within the document and reinforced through judicial interpretation. Put simply, it represents the power of courts to examine whether a law, policy, or government action remains within the limits established by the constitution.

#### **3.2 Constitutional Provisions Supporting Judicial Review**

**3.2.1** Article 13 declares that any law inconsistent with the fundamental rights in Part III of the Constitution is void. Articles 32 and 226 provide citizens with the right to approach courts to seek enforcement of these rights, offering remedies such as writs to challenge unconstitutional actions<sup>203</sup>. Through landmark rulings over time, the Indian judiciary has established that judicial review forms part of the "basic structure" of the Constitution, meaning it cannot be abolished even through constitutional amendments. This principle ensures that neither the legislature nor the executive can override the core values and guarantees that form the foundation of the nation's democratic framework.

#### **3.3 The Multi-Dimensional Rationale for Judicial Review**

**3.3.1** The rationale for judicial review operates on multiple dimensions. First, it upholds the supremacy of the Constitution, ensuring that all laws and actions are measured against its principles. Second, it protects citizens' fundamental rights, offering a concrete mechanism to challenge abuses or encroachments. Third, it serves as a check on the powers of the legislature and executive, preventing overreach and arbitrary action. Moreover, judicial review allows the legal system to respond to evolving social, economic, and technological conditions, thereby keeping the Constitution relevant in a changing society. Perhaps most importantly, it strengthens public confidence in governance, signalling that power remains accountable and that citizens are not powerless before the state. In this sense, a constitution without judicial review resembles an unfulfilled promise; judicial review converts that promise into lived reality.

<sup>203</sup> Constituent Assembly Debates, Volumes 1–12 (Government of India, 1946–1950).

### 3.4 Responsibilities and Limitations

**3.4.1** However, the exercise of judicial review carries responsibilities and limitations. They must ensure that access to justice remains equitable and that the judiciary's authority retains legitimacy and public trust<sup>204t</sup>. Courts must proceed carefully to maintain the delicate balance between safeguarding rights and respecting the domain of policymaking, which primarily lies with elected representatives. Furthermore, courts must interpret rights in a manner that reconciles individual protection with the practical needs of governance, avoiding rigid or literal approaches that may hinder public administration or social progress.

### 3.5 The Bridge between Ideals and Reality

**3.5.1** In essence, judicial review is not merely a technical instrument of law; it bridges constitutional ideals and the daily experiences of citizens. It ensures that the lofty promises of the Constitution, that is liberty, equality, and justice—are not abstract concepts but tangible protections upon which citizens can rely. By empowering courts to hold the government accountable, judicial review sustains the very essence of democracy, ensuring that the rule of law prevails over arbitrary authority.

## 4. Evolution and Landmark Jurisprudence in India

### 4.1 The Dynamic Nature of Judicial Review

**4.1.1** The story of judicial review in India demonstrates both dynamism and deep commitment to constitutionalism. From the earliest days following independence, the Indian judiciary has played a pivotal role in shaping the contours of fundamental rights<sup>6</sup> and ensuring that governmental power remains accountable.

### 4.2 Golaknath v. State of Punjab (1967): Establishing Inviolability of Rights

**4.2.1** One landmark early case in this journey was **I.C. Golaknath v. State of Punjab (1967)**, in

which the Supreme Court held that Parliament could not amend or curtail fundamental rights. This judgment underscored the inviolability of rights, emphasizing that they form the core of the constitutional promise and cannot be undermined even by the highest law-making authority.

### 4.3 Kesavananda Bharati v. State of Kerala (1973): The Basic Structure Doctrine

**4.3.1** A few years later, **Kesavananda Bharati v. State of Kerala (1973)**<sup>7</sup> marked a watershed moment in Indian constitutional jurisprudence. The Court introduced the "basic structure" doctrine, which balanced Parliament's amending powers with the need to preserve the essential framework of the Constitution. The doctrine established that while the legislature possesses authority to amend laws, it cannot destroy the foundational elements of the Constitution, including fundamental rights, the separation of powers, and judicial review itself. This principle has since served as a critical safeguard against attempts to dilute the constitutional ethos, ensuring that the document remains a living charter of democracy and justice.

### 4.4 Justice K.S. Puttaswamy v. Union of India (2017): Right to Privacy

**4.4.1** More recently, in **Justice K.S. Puttaswamy (Retd.) v. Union of India (2017)**, the Supreme Court recognized the right to privacy as a fundamental right under Articles 14, 19, and 21. This decision reflected the evolving nature of judicial review and demonstrated the judiciary's responsiveness to changing social and technological realities. Privacy, once considered a peripheral concern, was affirmed as central to individual dignity, autonomy, and liberty being the core values that the Constitution seeks to protect.

### 4.5 The Adaptive and Expansive Nature of Judicial Review

**4.5.1** These landmark cases illustrate that judicial review in India is neither static nor merely procedural; it is adaptive, expansive, and

<sup>204</sup> A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (Macmillan, 1885).

increasingly focused on safeguarding human dignity, equality, and inclusion. Over time, the doctrine of review has evolved from a narrow assessment of legality to broader and more nuanced protection of citizens' rights, encompassing procedural fairness, substantive justice, and social empowerment. By continuously interpreting and refining the scope of fundamental rights, the judiciary ensures that constitutionalism remains vibrant and meaningful.

#### 4.6 Courts as Custodians and Interpreters

**4.6.1** The evolution of judicial review demonstrates how courts act as both custodians and interpreters of the Constitution. They do not merely strike down laws; they reinforce the values of democracy, fairness, and accountability, ensuring that the state functions not as an unchecked authority but as a responsible guarantor of justice. In this way, judicial review and the protection of rights operate in tandem, creating a resilient framework that preserves the essence of the Constitution while allowing it to evolve in response to contemporary challenges.

### 5. Functions and Significance of Judicial Review in Protecting Fundamental Rights

#### 5.1 Enforcement of Fundamental Rights

**5.1.1** Judicial review plays a central role in safeguarding the rights and liberties of individuals, serving as a vital mechanism through which constitutional promises become lived realities. One of its foremost functions is the enforcement of fundamental rights. When citizens face arbitrary deprivation of life, liberty, property, or other essential freedoms, courts possess the authority to intervene, scrutinize the legality of governmental action, and strike down laws or administrative acts that violate constitutional guarantees<sup>205</sup>. In this sense, judicial review is not merely a technical exercise; it provides a lifeline for individuals confronting abuse of power.

<sup>205</sup> Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company, 2019).

#### 5.2 Maintenance of Institutional Balance

**5.2.1** Another critical function of judicial review is the maintenance of institutional balance. In a democracy, the legislature and executive are entrusted with wide-ranging powers to govern, enact laws, and implement policies. Judicial review acts as a check on this authority, ensuring that laws and actions remain within the boundaries defined by the Constitution. While these powers remain essential for effective governance, they carry the potential for overreach or abuse. By enforcing these limits, the judiciary helps preserve the separation of powers, ensuring that no branch of government becomes dominant or unaccountable.

#### 5.3 Ensuring Constitutional Relevance and Adaptability

**5.3.1** Judicial review also ensures the relevance and adaptability of the Constitution in a rapidly changing society. Modern challenges are ranging from digital privacy, artificial intelligence, and environmental protection to emerging questions of data rights and social equity to require courts to interpret constitutional provisions in ways that address contemporary realities.

Judicial review allows the judiciary to apply centuries-old principles to new circumstances, thereby keeping rights meaningful and practical. In this way, the Constitution remains a living document rather than a static artefact.

#### 5.4 Promoting a Culture of Rights and Accountability

**5.4.1** Beyond enforcement and institutional oversight, judicial review promotes a broader culture of rights and accountability. Knowing that laws and government actions can be challenged empowers citizens to assert their rights and seek remedies. It instils confidence that the state remains accountable and that the legal system responds to grievances, particularly significant in India for marginalized and vulnerable groups. Through judicial review, courts have expanded the scope of rights to

encompass dignity, livelihood, education, and access to justice, moving beyond traditional categories to protect those who are socially, economically, or politically disadvantaged.

## 5.5 The Critical Hinge Between Text and Practice

**5.5.1** Ultimately, judicial review<sup>206</sup> functions as a critical hinge between constitutional text and practical governance, between the power of the state and the protection of citizens. It ensures that fundamental rights are not abstract ideals but actionable entitlements. By balancing state authority with individual freedoms, judicial review strengthens democracy, promotes social justice, and affirms the principle that law exists to serve the people. Without this mechanism, constitutional guarantees risk remaining aspirational; with it, they become enforceable, dynamic, and deeply intertwined with the lived experience of citizenship.

## 6. Challenges, Critiques and Limitations of Judicial Review

### 6.1 The Complex Reality of Judicial Review

**6.1.1** While judicial review stands as one of the strongest safeguards of democracy and fundamental rights, it is not without flaws, complexities, and limitations. The mechanism, though essential for maintaining constitutional supremacy, faces several practical and theoretical challenges that affect its efficiency and credibility within a democratic framework.

### 6.2 Judicial Overreach and the Separation of Powers

**6.2.1** One of the foremost concerns is judicial overreach. When the judiciary begins to intervene in areas reserved for the legislature or executive, it risks upsetting the delicate balance of separation of powers. For instance, when courts make decisions on matters of policy, such as economic schemes, administrative appointments, or legislative priorities that they may inadvertently assume roles not constitutionally assigned to them. This blurring

of boundaries can lead to accusations that unelected judges are substituting their wisdom for the collective judgment of elected representatives.

**6.2.2** While judicial activism has often led to progressive outcomes, such as environmental protection and recognition of socio-economic rights, excessive interference may erode democratic accountability and weaken faith in the political process.

### 6.3 Access to Justice: The Gap Between Theory and Practice

**6.3.1** A second and equally pressing challenge is access to justice. The right to judicial review holds meaning only when citizens can effectively approach the courts. However, for many Indians, this remains a distant ideal. High litigation costs, procedural complexities, and prolonged delays deter ordinary people who are especially those from marginalised and rural communities try to from seeking remedies. The Supreme Court and High Courts, though accessible in theory, often remain geographically and economically out of reach for the poor.

**6.3.2** This creates a paradox where rights exist on paper but remain unprotected in practice. Thus, the strength of judicial review is limited not only by constitutional text but also by social and economic realities.

### 6.4 Institutional Constraints and Systemic Challenges

**6.4.1** The judiciary itself faces institutional constraints<sup>207</sup>. The backlog of cases, shortage of judges, and limited administrative resources impede the timely exercise of review powers. Prolonged litigation undermines the essence of justice, which must be prompt and effective. Inconsistencies across judgments, differences in interpretation among benches, and the absence of uniform standards for judicial reasoning sometimes create uncertainty in constitutional jurisprudence. This weakens

<sup>206</sup> S.P. Sathe, *Judicial Activism in India* (Oxford University Press, 2000).

<sup>207</sup> Justice K. Ramaswamy, "Judicial Review: A Basic Feature of the Constitution," *Indian Law Review* (1994).

public trust and makes it difficult to predict the outcome of similar cases, thereby affecting the stability of the legal system.

## 6.5 Legislative and Executive Evasion of Judicial Scrutiny

**6.5.1** Another significant limitation arises from legislative and executive attempts to evade judicial scrutiny. Governments sometimes try to frame laws or constitutional amendments in ways that restrict or exclude judicial review. This was evident in historical episodes such as the attempt to place certain constitutional amendments in the Ninth Schedule to shield them from review.

**6.5.2** Although the Supreme Court reaffirmed its authority in later rulings like **I.R. Coelho v. State of Tamil Nadu (2007)**, such episodes reveal ongoing tension between judicial authority and political power. The judiciary must remain vigilant to preserve its independence and prevent erosion of constitutional checks and balances.

## 6.6 Balancing Individual Rights and Collective Interests

**6.6.1** Furthermore, judicial review often confronts the conflict between individual rights and collective interests. Balancing liberty and social order presents a difficult judicial task. The state may justify restrictions on rights for reasons of national security, public morality, or welfare. Courts must weigh these claims carefully, ensuring that such restrictions are neither arbitrary nor excessive. This balancing act becomes especially delicate in diverse societies like India, where cultural, religious, and regional differences complicate the understanding of rights and freedoms.

## 6.7 Socio-Cultural Context and Legitimacy

**6.7.1** Lastly, the socio-cultural context presents a subtle but persistent challenge. In a society where constitutional literacy is limited and where traditional hierarchies continue to shape public attitudes, judicial review may sometimes appear as an elite-driven process. The legitimacy of judicial decisions depends not

only on legal reasoning but also on their acceptance by the people. Hence, the judiciary must remain sensitive to social realities and ensure that its interventions are inclusive and equitable.

## 7. Future Directions and Reform Suggestions

### 7.1 The Need for Adaptive Reform

**7.1.1** As India's democracy evolves and new social, economic, and technological challenges emerge, the mechanism of judicial review must also adapt to ensure that constitutional ideals remain vibrant and relevant. Strengthening judicial review involves not merely reforming institutions but renewing the spirit of constitutionalism and ensuring that justice reaches every citizen in both letter and spirit.

### 7.2 Enhancing Procedural Clarity

**7.2.1** One of the foremost areas of reform lies in enhancing procedural clarity. Over the years, ambiguity has persisted regarding who has the right to approach the court (*locus standi*) and which matters are justiciable. While public interest litigation (PIL) has expanded access, it has also led to concerns of misuse and inconsistency. Clearer procedural frameworks would help balance openness with responsibility.

**7.2.2** The courts must continue to refine principles that determine when and how socioeconomic rights, such as health, education, or housing is enforced. Defining these boundaries would prevent excessive judicial intervention while ensuring that essential rights are not neglected under the guise of "policy matters."

### 7.3 Expanding Access to Justice

**7.3.1** Equally crucial is the goal of expanding access to justice. Judicial review cannot fulfil its promise if citizens cannot practically approach the courts. Strengthening legal aid mechanisms, establishing mobile or virtual courts, and developing technology-enabled

<sup>208</sup> B. Shiva Rao (ed.), *The Framing of India's Constitution: A Study* (Indian Institute of Public Administration, 1967).

platforms for filing and tracking cases can make justice more inclusive.

**7.3.2** Artificial intelligence and digital infrastructure can be leveraged to manage case flow, translate proceedings into regional languages, and provide legal awareness to marginalized populations. Speedy hearings in rights-based cases, particularly those concerning life and liberty, should be prioritized through dedicated constitutional benches or fast-track mechanisms<sup>209</sup>.

#### **7.4 Institutional Strengthening of the Judiciary**

**7.4.1** Institutional strengthening of the judiciary represents another indispensable reform direction. Judicial independence must be protected through transparent and merit-based appointment processes. Adequate budgetary support is vital for improving court infrastructure, expanding staff, and implementing efficient case management systems.

**7.4.2** Regular judicial training programmes should be institutionalized to ensure that judges remain informed about emerging areas of law like data protection, artificial intelligence, climate change, and human rights in the digital age. A modernised judiciary is not merely one that delivers judgments but one that delivers justice with speed, empathy, and foresight.

#### **7.5 Fostering Inter-Institutional Dialogue**

**7.5.1** In addition, enhancing dialogue between the legislature, executive, and judiciary can make constitutional governance more collaborative rather than confrontational. Judicial review need not always manifest as a strike-down power; it can also function as interpretive guidance.

When courts articulate constitutional principles clearly, they assist lawmakers in drafting future legislation that aligns with fundamental rights.

**7.5.2** Similarly, the legislature can respond constructively to judicial feedback by reforming

laws in accordance with constitutional values. This culture of dialogue fosters mutual respect among institutions and strengthens democratic accountability.

#### **7.6 Adapting to Contemporary Challenges**

**7.6.1** Another vital area of reform lies in adapting judicial review to contemporary challenges.

The twenty-first century has ushered in complex questions that the framers of the Constitution could not have foreseen, but digital surveillance, climate justice<sup>210</sup>, artificial intelligence, and bioethics, to name a few. Courts must expand the interpretive scope of rights to meet these realities.

**7.6.2** For instance, the recognition of the right to privacy in **Justice K.S. Puttaswamy v. Union of India (2017)** marked a transformative moment. Future challenges like algorithmic discrimination or environmental degradation require similarly bold judicial imagination. The essence of constitutionalism lies not in preserving the past but in ensuring that justice remains meaningful in changing times.

#### **7.7 Nurturing a Public Culture of Constitutionalism**

**7.7.1** However, reform cannot succeed without nurturing a public culture of constitutionalism. The judiciary alone cannot safeguard rights; citizens must also know and claim them. Civic education, public discourse, and rights awareness campaigns can help build a society that respects law and values equality, liberty, and dignity.

**7.7.2** When people believe in the justice system and hold institutions accountable, constitutional governance gains legitimacy. Thus, strengthening judicial review is as much a moral and cultural task as it is a legal one.

<sup>209</sup> U.N. Human Rights Committee, *General Comment No. 32: Right to Equality Before Courts and Tribunals* (2007).

<sup>210</sup> P.P. Craig, "Constitutionalism, Rights and Judicial Review," *Oxford Journal of Legal Studies* (1997).

## 8. Conclusion

### 8.1 The Triad of Democratic Governance

**8.1.1** The intricate relationship between constitutionalism, fundamental rights, and judicial review forms the moral and structural backbone of any democratic society governed by the rule of law. Each element complements the others: constitutionalism defines the limits and accountability of power, fundamental rights express the ethical and humanistic soul of governance, and judicial review serves as the vigilant guardian ensuring that these ideals are not merely written promises but lived realities. Together, they transform a legal document into a living framework of justice, equality, and freedom.

### 8.2 The Indian Experience

**8.2.1** In the Indian context, this triad has been instrumental in shaping a democratic order where power is not absolute but accountable. From the early days of independence to the present digital era, judicial review has acted as a moral compass guiding the state back toward constitutional values whenever it has strayed. Landmark judgments—from Golaknath and Kesavananda Bharati to Puttaswamy, as mentioned above, demonstrate how the courts have expanded the meaning of liberty and dignity beyond textual confines, interpreting the Constitution as a dynamic, evolving document. These judicial interpretations remind us that democracy is sustained not by power but by principles, not by authority but by accountability.

### 8.3 The Ongoing Challenge

**8.3.1** However, the story of judicial review is also one of constant evolution and challenge. The courts have had to navigate a delicate path that is protecting rights without overstepping into the domain of policy, ensuring independence while maintaining legitimacy, and balancing individual freedoms with collective welfare. The strength of judicial

review<sup>211</sup> lies not only in its ability to strike down unconstitutional laws but in its moral courage to remind the state that every act of governance must reflect the Constitution's conscience.

**8.3.2** Yet for this system to remain effective, it must be inclusive and open to all citizens regardless of class, gender, or background or/and transparent enough to inspire trust in its fairness.

### 8.4 Looking Forward

**8.4.1** As India confronts new challenges such as digital surveillance, climate change, and technological inequality, the role of judicial review becomes even more critical. The Constitution must be interpreted with sensitivity to emerging realities while holding fast to its timeless ideals of justice, liberty, equality, and fraternity. In this sense, the Constitution is not a relic of the past but a living organism that grows and adapts with society. Judicial review is the heartbeat that keeps this organism alive, ensuring that governance remains bound by the spirit of humanity and fairness.

### 8.5 The Moral Vision of Constitutionalism

**8.5.1** Ultimately, constitutionalism is not merely a legal doctrine<sup>212</sup>, with it is a moral vision of governance. It reminds us that power must always serve people, not the other way around. Judicial review, therefore, represents more than a judicial function; it is the practical expression of hope and that no citizen is powerless before the state, that rights are not privileges but entitlements, and that the rule of law will always triumph over the rule of might.

<sup>211</sup> S. Krishnaswamy, *Democracy and Constitutionalism in India* (Oxford University Press, 2009).

<sup>212</sup> Law Commission of India, *Report No. 272: Assessment of Statutory Frameworks of Tribunals* (2017).