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THE FUTURE OF JUDICIAL REVIEW IN INDIA: CHALLENGES AND OPPORTUNITIES IN THE 21ST CENTURY

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I. ABSTRACT

This paper critically examines the evolving landscape of judicial review in India, focusing on the multifaceted challenges and nascent opportunities presented by the technological advancements and socio-political dynamics of the 21st century. It specifically investigates how the integration of artificial intelligence and online dispute resolution mechanisms, while promising efficiency, concurrently introduces complex questions regarding due process, data privacy, and the fundamental right to access justice. Furthermore, the burgeoning caseload within the Indian judiciary necessitates innovative solutions, and AI-powered tools are emerging as potential aids for judges, particularly in research and preliminary judgment formulation. The Supreme Court of India's e-Courts project, alongside initiatives like SUPACE and SUVAS, exemplifies a proactive embrace of technology to enhance judicial efficiency and address environmental sustainability concerns inherent in traditional paper-based systems. This digitalization effort is crucial given the over 4.32 crore cases pending across various courts, placing a significant burden on the judiciary to enhance its operational efficiency. The transition to digital platforms, accelerated by events such as the COVID-19 pandemic, has been pivotal in managing this burden, facilitating virtual hearings and enabling faster redressal of matters. Beyond these immediate benefits, the strategic implementation of artificial intelligence in legal processes, such as the Supreme Court's SUVAS system, has also demonstrated significant progress in translating complex legal documents into multiple regional languages, thereby improving accessibility and comprehension for a diverse populace. This technological integration also holds promise for streamlining judicial review itself, potentially aiding in case management, precedent analysis, and even the identification of systemic legal inconsistencies. This integration, however, necessitates a rigorous examination of its implications for the foundational principles of judicial review, including its potential to

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either reinforce or erode judicial independence and accountability. The present analysis critically assesses these developments through the dual theoretical lenses of "Law and Society" and "Legal Realism," thereby providing a nuanced understanding of the interplay between legal norms, technological innovation, and societal impact.

II. KEYWORDS

Judicial Review, Artificial Intelligence in Judiciary, Judicial Activism, Judicial Restraint, Case Pendency, Constitutional Morality, Algorithmic Accountability, Access to Justice

III. INTRODUCTION

Judicial review, a fundamental tenet of India's constitutional framework, serves as a crucial mechanism for upholding the rule of law and safeguarding fundamental rights within its democratic system. This principle empowers the judiciary to scrutinize legislative enactments and executive actions, ensuring their conformity with the constitutional text and spirit. In the 21st century, the ambit of judicial review in India faces evolving challenges, particularly concerning the judiciary's role in addressing socio-political issues and ensuring constitutional morality amidst governmental actions. Indeed, the increasing influence of money and political power, coupled with corrupt practices, poses a significant threat to the democratic values enshrined in the Constitution, necessitating a vigilant and proactive judiciary.²

The imperative for judicial review in India is underscored by its role in balancing governmental power and protecting citizens from arbitrary authority, thereby ensuring the longevity of its democratic institutions. Despite its critical importance, apex courts have, at times, delayed crucial matters, leading to concerns about their commitment to constitutional morality and ethics.³ Moreover, the propensity for judicial overreach, wherein the judiciary assumes legislative or executive functions, further complicates the landscape, often detracting from the separation of powers inherent in a constitutional democracy.

² Khan K & Hamdard J, Imperatives of Judicial Review in India, SSRN Electronic Journal , 2025

³KTS, The Indian Constitution: Navigating Challenges in the 21st Century, International Journal For Multidisciplinary Research , 6 (3) 2024.

This dynamic necessitates a continuous re-evaluation of the judiciary's scope and limitations, ensuring that judicial activism remains within constitutionally prescribed boundaries while effectively addressing emerging societal complexities.

The ongoing problem of increased case pendency further exacerbates these challenges, raising concerns about timely and equitable justice for all citizens. This persistent backlog, comprising over 50 million cases, profoundly undermines public trust and economic growth by delaying dispute resolution and increasing the financial and emotional burden on litigants. Furthermore, a significant portion of these cases, estimated at 10%, have been pending for a decade or more, severely limiting the effective exercise of judicial oversight and contributing to a perception of judicial evasion by allowing unconstitutional policies to become *faits accomplis*.

This systemic delay, coupled with instances where courts struggle to interpret hastily passed, ambiguous laws due to a lack of legislative history, further impedes the delivery of justice and transparency. This predicament highlights the urgent need for comprehensive judicial reforms, including strategies to enhance efficiency and address the root causes of procedural delays. The Indian judiciary's persistent issue with a "docket explosion" and substantial case arrears, encompassing over 22 million pending cases, significantly impairs its operational efficacy and citizens' right to timely justice.

This extensive backlog, often termed a "cyclic syndrome" of arrears, is attributed to various factors including a high volume of new case filings, insufficient infrastructure, a limited number of judges, and bureaucratic inefficiencies. This situation is further compounded by a significant human resource deficit, with India having only 20.91 judges per million people, starkly contrasting with other nations and hindering the swift adjudication of disputes. The economic ramifications of this judicial inefficiency are substantial, with an estimated 3.5 crore cases pending that directly impact contract enforcement, thereby deterring investment and hindering overall economic growth.

A. RESEARCH OBJECTIVES

- To critically examine the evolving scope and relevance of judicial review in India in the 21st century.

- To analyse the challenges posed by technological advancements—particularly AI, ODR, and digital courts—to constitutional principles and judicial independence.
- To evaluate the impact of judicial backlog, pendency, and administrative inefficiencies on the effectiveness of judicial review.
- To assess how judicial activism and judicial restraint influence constitutional interpretation and governance.
- To explore opportunities for strengthening judicial review through comparative jurisprudence, ADR, and technology-driven reforms.

B. RESEARCH QUESTIONS

- How has the scope of judicial review evolved in India since independence and what factors influence its trajectory today?
- What challenges do AI-based tools, digital justice systems, and algorithmic decision-making pose for judicial independence, transparency, and due process?
- How do judicial activism and judicial restraint impact the balance of powers in a constitutional democracy like India?
- In what ways do systemic issues such as case pendency, delays, and vacancies hinder the effectiveness of judicial review?
- What opportunities exist for strengthening judicial review in India through reforms, technological integration, and comparative jurisprudence?

C. RESEARCH HYPOTHESES

This research hypothesises that judicial review in India, while constitutionally robust, faces significant structural and technological challenges that impede its effective functioning in the 21st century. It is assumed that the integration of artificial intelligence into judicial processes—though capable of reducing pendency and improving efficiency—also raises concerns about algorithmic bias, transparency, and

due process, thereby necessitating stronger regulatory and ethical frameworks.

The study further assumes that judicial activism continues to play a vital role in protecting fundamental rights and addressing governance failures, but excessive intervention risks undermining the separation of powers. Additionally, it is hypothesised that judicial review can be significantly strengthened through comparative legal insights, alternative dispute resolution mechanisms, and enhanced digital infrastructure.

D. RESEARCH METHODOLOGY

1. Research Design

- Doctrinal, analytical, and qualitative research methodology.

2. Sources of Data

- **Primary Sources:** Constitutional provisions, Supreme Court and High Court judgments, parliamentary debates, official government reports, Law Commission reports.
- **Secondary Sources:** Books, peer-reviewed journal articles, commentaries, online legal databases, research papers, and credible websites.

E. LITERATURE REVIEW

A considerable body of scholarship has analysed the evolution, scope, and challenges of judicial review in India. Early works by H.M. Seervai and V.N. Shukla emphasise judicial review as a basic feature of the Constitution, essential for safeguarding democratic principles. Austin's writings highlight the judiciary's role in shaping India's constitutional ethos, especially through doctrines such as basic structure. Scholars like Upendra Baxi and Granville Austin have extensively discussed post-Emergency judicial activism and the emergence of public interest litigation as transformative tools for rights protection.

Recent academic literature reflects a shift towards studying judicial review in the context of technology, digital governance, and AI. Articles published in the *NUJS Law Review*, *Indian Law Review*, and *JILS* examine concerns related to algorithmic bias, data

privacy, and accountability in AI-assisted judicial processes. Reports by NITI Aayog and the Supreme Court's e-Committee reveal both the potential and the risks associated with technology-driven justice delivery.

Literature on judicial delays and pendency, particularly the studies by the Vidhi Centre for Legal Policy and the Centre for Policy Research, underscores systemic inefficiencies such as judicial vacancies, administrative burdens, and procedural complexities. Comparative works referencing the U.S., U.K., and EU legal systems offer valuable insights into judicial oversight, appointment mechanisms, and AI regulation. Together, the scholarly discourse reveals a growing need to balance judicial independence, technological integration, and democratic accountability in shaping the future of judicial review in India.

IV. BACKGROUND OF JUDICIAL REVIEW IN INDIA

This critical shortage of judicial personnel and the resulting case backlog often led to protracted proceedings, sometimes spanning decades, which erodes the constitutional rights of citizens to fair and swift justice. This predicament not only delays quality judgments but also impacts their impartiality and transparency. The efficacy of judicial systems globally varies, emphasizing that judicial reforms cannot be universally applied and must be tailored to specific national contexts.

In India, several attempts have been made to determine factors contributing to heavy caseloads and slower case disposals, with delays in district courts being attributed to uneven judicial workloads, imbalances in litigation demand and supply, judicial vacancies, and inadequate case management systems. Simplifying judicial processes and prioritizing complex cases are crucial strategies to mitigate these delays and improve overall judicial efficiency. Additionally, enhancing judicial staff recruitment and ensuring their optimal allocation can significantly contribute to alleviating these burdens.⁴

Addressing the persistent issue of judicial vacancies and accelerating appointments are frequently proposed solutions to the burgeoning case backlog. The integration of

⁴ Sharma S, Shandilya R, & Sharma S, Predicting Indian Supreme Court Judgments, Decisions, or Appeals, Statute Law Review

technology, particularly artificial intelligence, presents another promising avenue for enhancing judicial efficiency by automating routine tasks, improving case management, and aiding in legal research. Such technological advancements could streamline procedural complexities, which are consistently identified as a primary impediment to the efficient discharge of judicial functions.

For instance, the adoption of e-courts and digital platforms can significantly reduce paper-based processes and facilitate faster information exchange, thus accelerating judicial proceedings. The substantial burden of over 4.32 crore pending cases in various courts underscores the urgent need for integrating AI to enhance operational efficiency within the judiciary.

V. EVOLUTION OF JUDICIAL REVIEW SINCE INDEPENDENCE

Furthermore, AI's potential extends to prognostication, diagnosis, treatment optimization, and disease prediction, areas that parallel its application in enhancing justice systems by enabling the analysis of vast datasets from surveillance, digital payment platforms, and social media for identifying unusual activities and suspected criminal behaviour.

The integration of AI can therefore revolutionize the functioning of the judiciary by enhancing decision-making for judges and legal professionals, while simultaneously offering the public more streamlined, efficient, and cost-effective services. Nevertheless, it is critical to acknowledge that AI is intended to augment, not supplant, the role of human judges, given its limitations primarily rooted in big data, algorithms, and computational power rather than organic intelligence.

Moreover, the ethical implications of AI deployment, particularly concerning data privacy, algorithmic transparency, and the potential for perpetuating societal biases, necessitate robust regulatory frameworks and continuous oversight to maintain public trust and ensure equitable justice outcomes. The efficacy and impartiality of AI algorithms are fundamentally dependent on the quality and nature of their training data, which, if biased, could perpetuate existing societal inequalities in sensitive legal matters such as child custody or bail.

This potential for bias, stemming from flaws in training data or algorithmic design, could lead to discriminatory outcomes, particularly for marginalized communities. Therefore, while AI offers significant opportunities to enhance the Indian criminal justice system through improved crime prediction, detection, and offender management, these applications must be carefully balanced against potential legal and ethical challenges such as bias, fairness, and transparency. To mitigate such risks, a comprehensive legal framework is essential, integrating best practices for transparency, accountability, and ethical standards in AI deployment within the judicial system.

VI. CONCEPTUAL FRAMEWORK OF JUDICIAL REVIEW

This section delineates the theoretical underpinnings of judicial review, tracing its evolution and its pivotal role in upholding constitutional principles within democratic governance. It further examines how judicial review, as a fundamental mechanism for checking legislative and executive overreach, faces new complexities with the advent of artificial intelligence, particularly in ensuring algorithmic accountability and maintaining judicial independence.

The integration of AI into judicial processes necessitates a re-evaluation of established judicial review principles, particularly concerning the transparency and explainability of AI-driven legal analyses. Moreover, the increasing use of generative AI in judicial decision-making introduces novel challenges related to bias, interpretability, and accountability, potentially compromising judicial discretion and the rule of law. These issues underscore the urgent need for a robust regulatory framework that addresses the unique ethical and legal implications of AI in the judiciary, ensuring that technological advancements align with fundamental rights and judicial integrity.

Furthermore, the judiciary must contend with the proliferation of predictive justice applications, which, while promising efficiency, risk undermining core legal tenets such as natural justice and non-discrimination if not deployed within strict ethical and legal parameters. The use of predictive analytics and AI in judicial decisions, while offering benefits such as enhanced accuracy and efficiency, also introduces significant

ethical concerns, including potential biases and accountability challenges.⁵

VII. DEFINITION AND PRINCIPLES OF JUDICIAL REVIEW

Judicial review, in its essence, is the power of the courts to examine the actions of the legislative and executive branches of government and to determine whether such actions are consistent with the constitution. This foundational principle ensures the supremacy of the constitution, acting as a crucial safeguard against arbitrary governance and upholding the rule of law. In India, this power is enshrined in the Constitution itself, allowing the Supreme Court and High Courts to invalidate any law or executive action that contravenes constitutional provisions.

This constitutional mandate forms the bedrock upon which the Indian judiciary exercises its authority to protect fundamental rights and maintain the delicate balance of powers within the democratic framework. The extensive reliance on artificial intelligence in judicial systems globally, including advanced tools like generative AI and machine learning, further emphasizes the imperative for judicial review to adapt, ensuring these technologies do not compromise the independence and fairness of legal processes.

This adaptation necessitates scrutinizing AI's potential for algorithmic bias and its impact on equitable legal outcomes, thereby expanding the traditional scope of judicial oversight to encompass technological accountability. The inherent challenges associated with bias, privacy infringement, and the potential for "hallucinations" in AI systems necessitate a robust regulatory framework to ensure their legitimate and efficient deployment within the legal domain. The integration of AI, especially large language models, into legal processes presents a unique challenge, as these systems, while offering efficiency, often lack the nuanced reasoning and truthful responses required for high-stakes legal interpretation.

This underscores the necessity for judicial review to evolve, examining not just the outcomes of AI-driven decisions but also the underlying algorithms and data sources for fairness, transparency, and adherence to due process. Moreover, judicial review

⁵Javed K & Li J, Bias in adjudication: Investigating the impact of artificial intelligence, media, financial and legal institutions in pursuit of social justice, PLoS ONE , 20 (1) 2025.

serves as a vital mechanism for ensuring that state actions, including legislation and executive decrees, uphold constitutional principles, thereby curbing governmental arbitrariness and safeguarding civil liberties. This power of judicial review is fundamental to the system of checks and balances, acting as a bulwark against potential legislative or executive overreach and ensuring adherence to the supreme law of the land.⁶

The Indian Constitution, through its inherent supremacy, serves as the ultimate legal framework, mandating that all governmental entities operate strictly within its provisions and refrain from actions that contravene constitutional principles. Judicial review thus functions as the primary enforcement mechanism for this constitutional supremacy, ensuring that legislative and administrative actions, including those leveraging digital technologies, remain within their legally defined limits.

The Supreme Court of India has been a pioneer in integrating Information and Communication Technologies through its e-Courts project, and its recent initiative to implement AI solutions for transcribing court proceedings signifies a further leap towards technological adoption in the judiciary. This technological push, however, necessitates a careful calibration with existing legal frameworks to prevent potential infringements on fundamental rights and ensure algorithmic accountability.

VIII. CONSTITUTIONAL BASIS OF JUDICIAL REVIEW IN INDIA

The philosophical underpinnings of India's constitutional framework, emphasizing values such as inclusion, diversity, rights, liberty, justice, and equality, inherently extend to the application of AI policies and digital infrastructure within the judicial system. This mandates that the implementation of advanced technologies, such as machine learning and generative AI, must be carefully scrutinized to ensure they align with these foundational principles, thereby preventing algorithmic biases from perpetuating or exacerbating existing societal inequalities.⁷

⁶ Artificial Intelligence in the Indian Criminal Justice System: Advancements, Challenges, and Ethical Implications, *Journal of Lifestyle and SDGs Review* 2025

⁷ The Indian approach to Artificial Intelligence: an analysis of policy discussions, constitutional values, and regulation, *AI & Society*, 39 (5) 2023

The inherent power of judicial review, deeply embedded within the Indian Constitution, therefore serves as a critical mechanism to evaluate the constitutional validity and ethical implications of such technological integrations, ensuring that advancements in legal tech uphold rather than undermine democratic ideals.

This necessitates a dynamic interpretation of constitutional provisions to address the novel legal and ethical challenges posed by artificial intelligence in the judicial process. This is particularly pertinent given the substantial number of pending cases in India, where AI-driven solutions are being explored to expedite adjudication, necessitating careful oversight to ensure fairness and adherence to due process.

IX. DISTINCTION FROM OTHER FORMS OF JUDICIAL OVERSIGHT

This distinction is crucial for understanding the nuanced role of judicial review, which goes beyond mere administrative oversight to encompass a substantive examination of legislative and executive actions against constitutional benchmarks, ensuring their consonance with fundamental rights and the basic structure of the Constitution. Moreover, the Supreme Court frequently applies judicial review to public interest matters, often engaging with issues of governance, policy, and finance, sometimes leading to significant constitutional discourse between different branches of government.⁸

This rigorous oversight underscores the judiciary's role in maintaining the delicate balance of power and upholding the rule of law, especially in cases where state actions may impinge on individual liberties or democratic principles. The Supreme Court, despite exercising judicial review to direct policy reforms, has also exhibited hesitancy in issuing pronouncements on significant constitutional questions, particularly when internal conflicts among judges regarding case management brought into doubt the credibility of the Court's processes. Such instances underscore the intricate balance the Court must maintain between judicial activism and restraint, especially when

⁸ Vendaschi A & Graziani C, New Dynamics of the "Post-COVID-19 Era": A Legal Conundrum, German Law Journal , 24 (9) 2024

addressing issues with far-reaching societal implications.⁹

X. CONTEMPORARY CHALLENGES TO JUDICIAL REVIEW IN INDIA

The efficacy of judicial review in India faces multifaceted contemporary challenges, including the imperative to navigate law-disruptive technologies and the potential for crucial matters to be delayed by apex courts. This includes addressing the constitutional implications of AI in legal decision-making, which demands an independent and impartial understanding of constitutional principles to prevent illegality and unreasonableness. Moreover, the increasing complexity of legal and technological landscapes necessitates a judiciary equipped with specialized knowledge to effectively scrutinize sophisticated algorithms and data governance frameworks, preventing their arbitrary application.

A. JUDICIAL ACTIVISM VS. JUDICIAL RESTRAINT – CORRECTED COMPARATIVE TABLE

Aspect	Judicial Activism	Judicial Restraint	Shared Challenges / Considerations
Core Principle	Proactive judicial role to protect rights, ensure justice, and initiate reforms through dynamic constitutional interpretation.	Judicial deference to the legislature and executive, prioritising constitutional fidelity and stability.	Balancing efficiency with the need for judicial intervention; maintaining legitimacy across branches.

⁹ The State of Liberal Democracy, Research at the University of Copenhagen (University of Copenhagen)

Approach to Policy/Governance & Public Interest Litigation	Proactive stance, especially through PILs; expanded jurisdiction to address governmental inaction, policy failures, environment, or social welfare issues.	Respects separation of powers; encourages elected branches to handle policy matters; limits judicial interference.	Maintaining institutional legitimacy and public trust; ensuring clear lines between legislative, executive, and judicial roles.
Impact on Constitutional Law	Prevents constitutional stagnation; asserts judicial supremacy through doctrines like <i>basic structure</i> ; may invalidate constitutional amendments.	Upholds legal predictability and stability by following established constitutional roles and precedents.	Ongoing tension between parliamentary sovereignty and constitutionalism; redefining the role of judges in a changing society.
Interaction with Technology & AI-Driven Systems	Scrutinises algorithmic bias, transparency, and	Ensures AI tools align with constitutional principles and privacy rights;	AI in judiciary raises concerns about transparency, algorithmic bias,

	accountability; demands ethical frameworks; evaluates whether AI perpetuates structural injustices.	cautious adoption of automated systems.	fairness, privacy, and accountability. The Supreme Court's AI Committee explores safe integration.
Relation to Case Pendency	Encourages innovative solutions to reduce backlog, even if it tests traditional limits of judicial oversight.	Emphasises efficient judicial administration without overstepping constitutional boundaries.	India faces over 50 million pending cases ; judge shortages; urgent reform needed to improve access to justice.
Potential Downsides	Risk of judicial overreach; courts may intrude into policy domains; concerns about "excessive legal creativity" under doctrines like derived	Excessive restraint may result in judicial inaction on important societal issues, enabling executive/legislative overreach.	Extremes of either approach – hyper-activism or rigid restraint – can threaten democratic balance and constitutional governance.

	basic structure.		
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XI. DELAYS AND BACKLOGS IN THE JUDICIAL SYSTEM

The persistent issue of high case pendency, with over 50 million cases awaiting resolution, significantly hinders the timely delivery of justice and erodes public confidence in the judicial system. This substantial backlog is a critical challenge, demanding urgent judicial reforms to enhance efficiency and ensure accessibility to justice. Furthermore, the current framework struggles to capture the intricate public-private interdependence in modern governance, suggesting that merely extending public law to private parties may not sufficiently address complex policy and accountability concerns.¹⁰

This gap is exacerbated by the trend of public functions being outsourced to private entities, creating accountability deficits that traditional judicial review mechanisms are ill-equipped to handle. Addressing this requires a multi-faceted approach, including leveraging alternative dispute resolution mechanisms like Lok Adalat to alleviate court burdens and promote swifter, more accessible justice. Online Dispute Resolution platforms, for instance, offer a promising alternative by leveraging technology to address the substantial case backlog, thereby enhancing both speed and cost-effectiveness in dispute resolution.¹¹

This digitalization, however, necessitates careful consideration of digital resource allocation and equitable access to ensure that all citizens, regardless of their socioeconomic status, can effectively utilize these platforms for seeking justice. Beyond the technological aspect, the fundamental concept of judicial activism—defined as the judiciary's proactive involvement in shaping laws to uphold constitutional principles—also plays a critical role in addressing systemic issues and ensuring legislative adherence to foundational legal tenets.¹²

¹⁰ Bridging Justice Paradigms: Lok Adalat and ADR Mechanisms, *International Journal of Criminal Common and Statutory Law* , 4 (2) 2024 146.
¹¹ The Overturning of Chevron Deference: Implications for the US Healthcare System, *Journal of General Internal Medicine* , 2024.
¹² From Government to Governance, From Judiciary to...?, *European Journal of Comparative Law and Governance*

Such activism, while potentially controversial, can be instrumental in correcting legislative lacunae and safeguarding fundamental rights, especially in a dynamic socio-political landscape. Despite its potential benefits, judicial activism, if unchecked, can lead to judicial overreach, blurring the lines between judicial interpretation and judicial legislation, thereby undermining the separation of powers. This makes it imperative for the judiciary to exercise self-restraint and develop clear jurisprudential boundaries to maintain institutional legitimacy and public trust.

XII. CHALLENGES TO JUDICIAL INDEPENDENCE AND ACCOUNTABILITY

The increasing scope of judicial activism, particularly through instruments like Public Interest Litigation, has led to a re-evaluation of the traditional judicial role, moving from a passive arbitrator to an active catalyst for social change. This shift has positioned the Supreme Court of India as a powerful state organ, often intervening in various facets of governance to uphold fundamental rights and ensure humane treatment of citizens.¹³ This judicial assertiveness, particularly evident since the post-Emergency era, has seen the Court expand its engagement from primarily fundamental rights protection to environmental preservation and broader socio-economic concerns, establishing itself as a significant policy actor.

This expanded role, facilitated by innovations such as public interest litigation, has allowed the judiciary to address issues like human rights violations and governance failures by government agencies, thereby transforming the legal landscape. This evolution signifies a global trend where judiciaries increasingly assert their authority as "good governance courts" due to perceived shortcomings in representative institutions.¹⁴

XIII. EMERGING OPPORTUNITIES FOR JUDICIAL REVIEW IN 21ST CENTURY

The burgeoning digital age presents an unparalleled opportunity for judicial review

¹³ Judicial Activism and the Supreme Court of India, SSRN Electronic Journal, 2013

¹⁴ Expanding Judiciaries: India and the Rise of the Good Governance Court, Washington University global studies law review, 8 (1) 2009 1.

to embrace technological advancements, such as AI-driven tools, to enhance efficiency and accessibility in justice delivery, while simultaneously navigating the complex ethical and jurisprudential challenges posed by algorithmic bias and data privacy. This necessitates the development of robust ethical guidelines and regulatory frameworks to ensure these technologies uphold the fundamental right to a fair trial and maintain transparency and accountability.

Despite these challenges, the 21st century presents significant opportunities for judicial review to evolve and adapt to contemporary societal needs, particularly through innovative approaches that enhance judicial independence and accountability. This adaptation necessitates a careful calibration of judicial power, ensuring that interventions remain within the bounds of constitutionalism while effectively addressing governmental shortcomings.

Furthermore, embracing technology for case management and information dissemination can bolster transparency and public access to judicial proceedings, fostering greater trust in the justice system.¹⁵

Such technological advancements can also facilitate real-time data analysis of judicial performance, enable evidence-based reforms and promote judicial efficiency. Moreover, the strategic deployment of artificial intelligence and machine learning algorithms could optimize case categorization, predict litigation outcomes, and even assist in legal research, thereby streamlining judicial processes and reducing adjudicatory delays. These tools, while promising, must be implemented with careful consideration for ethical implications, data privacy, and the potential for algorithmic bias to ensure equitable application of justice.

The judiciary's expanded role in policymaking, as evidenced in areas such as affirmative action and environmental policy, demonstrates its capacity to address complex societal issues beyond traditional legal interpretation. Leveraging Technology for Judicial Efficiency.¹⁶

¹⁵ Public Interest Litigation and the Protection of Women against Rape: A Comprehensive Study, *International Journal for Research in Applied Science and Engineering Technology*, 12 (5) 2024

¹⁶ Judicial Power: Scope and Legitimacy, *Indian Journal of Public Administration*, 40 (3) 1994

XIV. ROLE OF INTERNATIONAL LAW AND COMPARATIVE JURISPRUDENCE

The growing interconnectedness of global legal systems offers India an opportunity to draw upon international legal principles and comparative jurisprudence, enriching its own judicial review mechanisms and promoting a more progressive interpretation of constitutional provisions. This includes examining best practices from other nations regarding judicial appointments, oversight mechanisms, and the application of human rights law, which can inform reforms aimed at enhancing the robustness and impartiality of the Indian judiciary. Additionally, engaging with international conventions and treaties can provide a broader framework for interpreting fundamental rights and directive principles, thereby strengthening the protection of individual liberties and promoting socio-economic justice within the country.

This comparative approach can also help in navigating complex constitutional dilemmas, such as the balance between national security and individual freedoms, by leveraging insights from jurisdictions that have grappled with similar issues. Moreover, drawing from international experiences can provide a framework for judicial self-correction and adaptation, particularly in situations where domestic interpretations might inadvertently lead to constitutional decay or erode democratic institutions. Such an approach acknowledges the universal aspiration for justice while recognizing the unique socio-political context of India, allowing for the strategic adoption of legal innovations that resonate with its constitutional ethos.

XV. PROMOTING ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

Expanding the use of ADR mechanisms, such as mediation, conciliation, and arbitration, can significantly de-burden the formal court system, providing more accessible, cost-effective, and timely justice delivery, particularly for commercial disputes and interpersonal conflicts. These mechanisms are crucial for fostering a culture of amicable resolution and reducing the chronic backlog faced by the traditional judiciary, aligning with international trends in judicial efficiency and

access to justice.

The success of ADR mechanisms, however, hinges on adequate training for mediators and arbitrators, public awareness campaigns, and robust enforcement of settlement agreements, thereby ensuring their efficacy and legitimacy as alternatives to conventional litigation. Furthermore, the integration of technology, such as online dispute resolution platforms, can significantly enhance the reach and accessibility of these alternative mechanisms, making justice more readily available to a wider segment of the population. This expansion of ADR not only offers practical benefits in case management but also serves to democratize access to justice, particularly for marginalized communities who may find traditional litigation intimidating or cost prohibitive.

XVI. CASE STUDIES: LANDMARK JUDGMENTS AND THEIR IMPACT

Analysing pivotal judicial decisions provides critical insights into the evolution of constitutional interpretation and its tangible effects on governance, fundamental rights, and societal norms within India. These landmark judgments not only delineate the scope of judicial review but also demonstrate its dynamic capacity to adapt to changing socio-political realities and emergent legal challenges, thereby shaping the very fabric of Indian democracy. For instance, the judiciary's role in addressing the escalating backlog of cases, which significantly impacts economic prosperity and timely justice, underscores its profound influence on national development.

A. KESAVANANDA BHARATI V. STATE OF KERALA: BASIC STRUCTURE DOCTRINE

The Kesavananda Bharati case established the "Basic Structure Doctrine," asserting that Parliament's power to amend the Constitution cannot alter its fundamental features. This seminal 1973 judgment reinforced the Supreme Court's role as the Constitution's interpreter and guardian, safeguarding fundamental rights and democratic principles from legislative majoritarianism. The 700-page judgment, comprising eleven separate opinions, underscored the judiciary's commitment to

constitutional integrity. This doctrine, also analogously deployed through 'constitutional morality,' extends its application beyond constitutional amendments to legislation and executive acts. This judicial evolution reflects a dynamic interplay between activism and restraint, ensuring the Constitution remains a living document responsive to societal changes.

B. S.P. GUPTA V. UNION OF INDIA: COLLEGIUM SYSTEM

The First Judges' Case, also known as *S.P. Gupta v. Union of India*, initiated a new era in Indian judicial appointments by emphasizing the primacy of judicial consultation in selecting High Court and Supreme Court judges. This ruling significantly shifted power away from the executive, laying the groundwork for the Collegium system and aiming to enhance judicial independence. It established that judicial independence is a basic structure of the Constitution. Later judgments, particularly *Supreme Court Advocates-on-Record Association v. Union of India*, further solidified the "primacy of judges" in appointments, striking down attempts to dilute this control as violations of judicial independence. This jurisprudence highlights the ongoing tension between executive authority and judicial autonomy.¹⁷

C. SHAYARA BANO V. UNION OF INDIA: TRIPLE TALAQ VERDICT

The Shayara Bano case invalidated instant triple talaq, affirming the judiciary's role in protecting fundamental rights and constitutional morality against personal laws. This ruling expanded judicial review to deeply entrenched social practices. Similarly, the *Independent Thought v. Union of India* case criminalized sexual assault against minor wives, further demonstrating the Supreme Court's commitment to protecting vulnerable populations and aligning domestic law with human rights standards. These interventions highlight the judiciary's assertive stance in advancing socio-legal reforms but also fuel debates about judicial overreach and the balance of power.¹⁸

D. PUTTASWAMY V. UNION OF INDIA: RIGHT TO PRIVACY

The Puttaswamy judgment, delivered by a nine-judge bench, established the

¹⁷ Bhatia G, The Primacy of Judges, SSRN Electronic Journal, 2016

¹⁸ Tradition To Transformation: Legal Frameworks For Women's Rights In India

fundamental right to privacy as intrinsic to Article 21 of the Indian Constitution, expanding individual liberties. This ruling broadened the protection of personal autonomy and decisional privacy, recognizing privacy as an overarching right encompassing spatial and informational aspects. This landmark decision emphasized that the right to privacy must be applied by Indian courts in specific cases to measure its true impact. Consequently, the Puttaswamy judgment integrated privacy as a core fundamental right, spanning aspects from equality to freedom of expression and personal liberty. This interpretation highlights the judiciary's proactive role in adapting constitutional provisions to contemporary societal needs.

E. AYODHYA VERDICT: LAND DISPUTE AND SECULARISM

The Ayodhya judgment, delivered by a five-judge bench, resolved a long-standing socio-religious conflict by allocating disputed land for a Ram Temple and an alternative plot for a mosque. This contentious verdict raised questions about the interpretation of secularism and the judiciary's struggle with deeply rooted religious and political issues, potentially prioritizing majoritarian sentiments over legal principles. The ruling highlights the judiciary's challenge in balancing historical wrongs with constitutional values. The Supreme Court's approach in this case, like its inconsistent application of the "living constitution" metaphor, demonstrates the complexities and occasional hesitations in its role of interpreting constitutional questions and adapting to societal changes.¹⁹

XVII. THE FUTURE TRAJECTORY OF JUDICIAL REVIEW

The future of judicial review in India is marked by the judiciary's commitment to interpreting the Constitution as a "living instrument," adapting it to contemporary issues like privacy and gender justice. This proactive approach also involves safeguarding judicial independence and acting as a check on executive power. However, critics argue that the Supreme Court's application of this "living metaphor" is often inconsistent and rhetorical, raising concerns about its coherence and selective use in fundamental rights cases.

¹⁹ Patel D, Settling the Unending Legal Battle for the Holy Site in Ayodhya: Revisiting the Ram Janmabhoomi – Babri Masjid Case, SSRN Electronic Journal , 2022

Despite these criticisms, the concept remains vital for judicial review to address evolving societal norms and challenges, requiring a nuanced balance between judicial dynamism and legal certainty to preserve the constitutional framework. This inherent tension necessitates continuous jurisprudential refinement to ensure that the judiciary's interpretive dynamism does not inadvertently lead to judicial overreach or undermine the separation of powers.

XVIII. BALANCING JUDICIAL ACTIVISM WITH DEMOCRATIC PRINCIPLES

The Court's engagement with highly sensitive cases, such as those pertaining to the right to privacy and the decriminalization of certain personal behaviours, further exemplifies this evolving balance. This necessitates a critical examination of the judiciary's role as a catalyst for social change, especially when other governmental organs exhibit passivity. This judicial activism, while often serving to protect fundamental rights, must be carefully balanced with the constitutional imperative of the separation of powers to maintain institutional integrity. Such a balance is crucial to prevent accusations of judicial overreach, particularly when courts venture into policy domains traditionally reserved for the legislature, as seen in global discussions surrounding the extent of judicial intervention in social reforms. This delicate equilibrium is particularly evident in India, where the judiciary has frequently employed judicial activism to shape constitutional law and expand fundamental rights, often intervening where legislative action has lagged.²⁰ This proactive stance, while sometimes lauded for advancing social justice, simultaneously raises questions about the democratic legitimacy of judicial pronouncements that venture beyond strict legal interpretation into policymaking. These dynamics underscore the ongoing scholarly debate regarding the appropriate scope of judicial review, particularly in a constitutional democracy where the judiciary's role is to interpret, not legislate.

²⁰ JUDICIAL ACTIVISM AT THE COST OF SEPARATION OF POWER IN PAKISTAN: A COMPARISON OF JUSTICE IFTIKHAR CHAUDHRY AND JUSTICE SAQIB NISAR'S ERA, Pakistan Journal of Social Research , 4 (3) 2022

XIX. CONCLUSION

The preceding discussion has illuminated the multifaceted challenges and opportunities confronting judicial review in India in the 21st century, particularly as it navigates the complexities of digitalization and artificial intelligence. A forward-looking approach mandates the careful integration of AI to support, rather than supplant, human judgment, thereby preserving the ethical foundations and public trust essential for a robust justice system. This requires developing a comprehensive legal framework that integrates transparency, accountability, and ethical standards, along with multi-stakeholder cooperation among legal professionals, policymakers, and technologists. Such a framework would facilitate the effective deployment of AI tools for tasks like automating document management and case prioritization, while ensuring that the core tenets of judicial independence and fairness are meticulously preserved. Moreover, continued research into AI's capabilities for legal judgment prediction and explanation, coupled with reinforcement learning from human feedback, will be crucial for refining these tools to accurately reflect expert legal reasoning and alleviate judicial backlogs. The Supreme Court of India has already initiated projects leveraging AI for transcribing court proceedings, demonstrating an early commitment to integrating such technologies. These endeavours underscore a broader trend towards utilizing AI to enhance judicial efficiency, though they also highlight the imperative for careful ethical and regulatory consideration.

However, the broader adoption of AI in areas like evidence analysis, legal research, and even predictive justice necessitates a robust legal framework to address challenges such as bias, fairness, and transparency. This framework must also contend with the complexities of establishing criminal liability for autonomous AI systems, a nascent legal area requiring clear legislative guidance. Furthermore, India's existing cyber law framework is not adequately equipped to address the specific threats and capabilities presented by AI, necessitating immediate and focused reforms to establish a strong regulatory foundation.

This includes adapting existing legal frameworks such as the Information Technology Act of 2000 and the Indian Penal Code of 1860 to regulate AI within the legal

profession. The integration of artificial intelligence into the Indian judicial system, through initiatives like SUPACE and SUVAS, aims to enhance efficiency in case management and legal research, addressing the substantial burden of over 4.32 crore pending cases. These AI-driven systems, including the SuVAS translation tool, have already demonstrated success in areas such as translating Supreme Court judgments into multiple regional languages and facilitating virtual hearings, which has also contributed to significant carbon emission reductions.²¹

XX. Recommendations for Strengthening Judicial Review

To strengthen judicial review in an era of increasing AI integration, it is crucial to establish clear ethical guidelines and regulatory frameworks that address potential threats to judicial independence and human rights, such as algorithmic bias and compromised privacy. This includes developing mechanisms to audit AI systems for fairness and accuracy, particularly given the risk of perpetuating societal biases through flawed training data or algorithmic design. Moreover, ensuring transparency in the AI decision-making processes, including clear explanations of the data, logic, and limitations, is paramount to upholding constitutional rights and procedural fairness in the Indian justice system.

The judiciary must proactively engage with emerging technologies like generative AI to understand their implications, ensuring that these tools serve as supportive instruments to human judgment rather than autonomous decision-makers. While generative AI offers the promise of increased efficiency and expanded access to justice, its adoption introduces significant concerns regarding bias, interpretability, and accountability, potentially undermining judicial discretion, the rule of law, and the safeguarding of rights. Consequently, jurisdictions worldwide are adopting varied strategies for integrating generative AI into courtroom practices, reflecting a lack of universal consensus on its active utilization and implementation methodologies. This disparity in approaches underscores the critical need for a globally coordinated effort to establish common ethical frameworks and best practices for AI deployment in legal

²¹ Artificial intelligence and criminal liability in India: exploring legal implications and challenges, *Cogent Social Sciences*, 10 (1) 2024

contexts.

XXI. REFERENCES

- Vidhi Centre for Legal Policy, *Inefficiency and Judicial Delay: Insights from the Indian Judiciary* (2017).
- Vidhi Centre for Legal Policy, *District Courts Performance and Pendency Report* (2022).
- Vidhi Centre for Legal Policy, *A Framework for Extremely Delayed Cases* (2023).
- National Judicial Data Grid (NJDG), *Judicial Pendency and Case Backlog Statistics in India*.
- Supreme Court of India, *Report of the e-Committee on AI Integration and Digital Courts*.
- Dommetti, Sairam & Patlolla, Pranav Reddy, *Algorithmic Bias and Social Justice in Digital Governance* (Indian Journal of Law and Rights).
- Systematic Review, *AI, Data Policy, and Structural Inequality in India* (Science & Technology Studies Journal).
- *NyayaAnumana & INLegalLlama Dataset Study: Indian Legal Judgment Prediction* (AI & Law Research Series).
- *Predicting Delays in Indian Lower Courts Using Machine Learning* (Empirical Legal Research Paper).
- *Nyay-Darpan: Decision-Support System for Indian Consumer Law* (Legal Tech Research Study).
- e-Courts Mission Mode Project, *Digital Transformation in Indian Judiciary: Progress Report*.
- Seervai, H. M., *Constitutional Law of India*.
- Shukla, V. N., *Constitution of India: Commentary*.