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## **SUPREME COURT – THE GUARDIAN OF THE CONSTITUTION**

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### **ABSTRACT**

Every time a person's fundamental rights are violated, they have the right to file a petition in the Supreme Court under Article 32 of the Constitution of India, 1950 ("Constitution"). Given that it is regarded as "the protector and guarantor of Fundamental Rights," the Supreme Court is given the power to issue orders or directions for the implementation of any of the rights guaranteed by the Constitution. In the Indian political system, the Supreme Court has been given a highly significant position and serves as the final adjudicator of constitutional interpretation. The Supreme Court of India is granted the power of judicial review under the country's constitution. The Supreme Court can protect fundamental rights and invalidate laws that go against the Constitution by means of judicial review. Hence under Articles 13, 32, 131-136, 143, 226, and 246 Supreme Court has the power to review any law.<sup>2</sup>

### **RESEARCH QUESTION**

What is the role of the Supreme Court in protecting and interpreting the Constitution of India?

### **FINDINGS**

The Indian Supreme Court is the highest court in the nation and has the ability to interpret the Indian Constitution. It is the guardian of fundamental rights and has the right to seek redress in court if those rights are violated in any way. It is the court of record, and all lower courts recognize its rulings as precedents without challenge.

It has the power to review its own judgement if new evidence is found, a fact is related to the records of the court, or if there are enough reasons to suffice for a review. The Supreme Court has the power to make rules for carrying out its practice and procedure, appoint its officers and servants, punish a person if found guilty of contempt of court, appeal under The Peoples Representation Act 1951, confer additional powers not mentioned in the Constitution, and transfer cases under Article 139A.

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<sup>2</sup> The Constitution of India, 1950.

### Judicial activism

Judicial activism is the term used to describe the judiciary's proactive role in influencing public policy and resolving social issues. It calls for the courts' willingness to actively participate in the creation of the legal system rather than simply applying a narrow interpretation of the law. This strategy frequently entails the court reading the Constitution broadly, filling in legislative gaps, and even issuing decisions that have an effect on how the other parts of government operate.<sup>3</sup>

### Protecting fundamental rights

The Constitution's fundamental rights of citizens, including freedom of speech and expression, the right to life and personal liberty, equality before the law, and protection from unlawful activity, are upheld by this supreme court. The same court has broadened the scope of fundamental rights through important rulings, assuring their validity in many situations. Article 13 states that any laws that violate or go against the fundamental rights are void and unenforceable. The right to file petition in the Supreme Court for the enforcement of Fundamental Rights is guaranteed under Article 32, and the Supreme Court is given authority to do so by issuing directives, orders, or writs.

Hence it safeguards our Fundamental Rights. For instance, the Supreme Court has ruled that section 377 of the IPC is unconstitutional in the *Navtej Singh Johar case*.<sup>4</sup>

### Public Interest Litigation

Today, the judiciary is essential to the preservation of the environment. The Public Interest Litigation (PIL) is one of the major innovations in Indian law. Under Article 20, Article 47, Article 32 (right to constitutional remedies), and Article 226 (power of High Courts to issue certain writs), the High Courts of India have accepted writ petitions in the form of PILs.

However, it is possible to define "public interest" as those interests that the general public is concerned about. A topic becomes one of public interest when the general public, or a

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<sup>3</sup>Ishaan Jain, The Role of the Supreme Court of India as a Protector and Warden of the Constitution, Law Street Journal, June 15, 2023 (1:00 PM) <https://lawstreet.co/speak-legal/the-role-of-the-supreme-court-of-india-as-a-protector-and-warden-of-the-constitution>

<sup>4</sup> AIR 2018 SC 4321.

segment of the general public, expresses interest in it. The rights and welfare of the community, or a group within it, are considered to be matters of public interest.<sup>5</sup>

### *Peoples Union for Democratic Rights v. Union of India*<sup>6</sup>

The court now allows public interest litigation or social interest litigation at the request of "public spirited citizens" for the protection of any individual or group of individuals whose social or economic disadvantage prevents them from seeking redress in court.

In the context of administrative action, there are just three grounds for judicial review<sup>7</sup>

When something is;

1. unreasonable or illogical
2. Illegality or unjustifiability
3. Proportionality and procedural impropriety

Judicial review of a decision matter process adheres to the correct legal procedures and considers the relevance of the factors through examination whenever it has been corrupted by irrationality and ignorance of such crucial factors that no reasonable authority endowed with the power could have made such a decision.

### Supreme Court as Interpreter of Indian Constitution

The Supreme Court, when subject to judicial review, has the authority to judge whether a central or state legislative and executive orders are constitutional or not. The Supreme Court may declare them to be unlawful and unconstitutional if they are examined and found to violate the principles of our Constitution.

Hence, it upholds the constitutional principles. In *AK.Gopalan v. State of Madras*<sup>8</sup>, the court upheld that the constitution is supreme and that a statute law must always be in compliance

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<sup>5</sup> DR. J.N PANDEY, CONSTITUTIONAL LAW OF INDIA (56<sup>TH</sup> Ed. Central Law Agency, 2019).

<sup>6</sup> AIR 1982 SC 1473.

<sup>7</sup> Suryansh Singh, Powers and functions of the Supreme Court, BLOG IPLEADERS, June 15, 2023 (4:00PM) <https://blog.ipleaders.in/powers-and-functions-of-the-supreme-court/>.

<sup>8</sup> AIR 1950 SC 27.

with the constitutional criteria in order to be valid.

The Hon'ble Court checks executive actions. The rule of law must be the foundation for every state action. The Supreme Court has a constitutional responsibility to interpret the federal nature of the Indian Constitution. By issuing judicial interpretations under its original authority, the Supreme Court continues to keep the government within its bounds.

Supreme court also controls any authoritarian tendencies. The Supreme Court safeguards citizens against executive and parliamentary abuses. Through judicial review, it shields our nation from the tyranny of the executive and legislative. Various laws or executive actions may damage the very essence of democracy if there is no judicial review or judicial activism.

The Supreme Court of India is granted the right to examine any order or judgement it has issued and check its own decisions. The judiciary can correct its own errors as a result of this power. The Supreme Court and High Court overrule and set aside their own judgements and decrees in accordance with changing conditions and circumstances, as well as the emergence of new facts and legislation.

The Supreme Court has done this on numerous occasions, including in the *Kesavananda Bharati* case<sup>9</sup>. By overturning the *Golaknath* Judgement of 1967, this judgement supported the modifications made to Articles 368 and 13 of the Indian Constitution by the 24th Amendment.

***Maneka Gandhi v. Union of India* (1978)<sup>10</sup>:**

The Supreme Court widened the application of Article 21 (protection of life and personal liberty) in this case and ruled that the right to one's own personal freedom includes the freedom to travel. The court's ruling emphasized the need for the legal process to be just, fair, and reasonable in order to protect people's rights from arbitrary state action.

***Shayara Bano v. Union of India* (2017)<sup>11</sup>:**

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<sup>9</sup> (1973) 4 SCC 225.

<sup>10</sup> AIR 1978 SC 597.

<sup>11</sup> (2017) 9 SCC 1.

The Supreme Court ruled that instant triple talaq (also known as Talaq-e-bidder) is an unlawful practice that violates fundamental rights in this case. The court's ruling placed a strong emphasis on gender equality and the necessity of defending Muslim women's rights against unfair divorce procedures.

*Navtej Singh Johar v. Union of India (2018)*<sup>12</sup>:

By repealing Section 377 of the Indian Penal Code, the Supreme Court effectively decriminalized consensual same-sex relationships. The court ruled that sexual orientation is a necessary component of privacy, dignity, and equality, guaranteeing the LGBTQ+ community equal rights and protection.

## CONCLUSION

The Hon'ble Supreme Court of India, defending the law and protecting the sovereignty and integrity of the Indian Constitution, has the absolute authority to prevent violations of the rights, obligations, and liberties. This court ensures that the Constitution's provisions are upheld through its precedents and interpretations. Its function as the guardian and defender of the Constitution is crucial to preserving India's democratic framework and ensuring justice for all. Through judicial review, the judiciary has proven remarkably important in preserving the supremacy of the constitution. The court is the primary force that upholds democracy and makes sure that there is peace, justice, and good order. The Supreme Court serves as the final arbiter of constitutionality because the constitution gives the judiciary the independence it needs and the authority it needs to keep the administration in check.

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<sup>12</sup> AIR 2018 SC 4321.