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FROM GUARDIAN TO CATALYST- THE SUPREME COURT’S ROLE IN PROTECTING FUNDAMENTAL RIGHTS

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The Indian legal system is shaped by the adversarial model of jurisprudence, influenced by the nation’s colonial history. Thus, the horizontal division of power, though a part of the basic structure, is not rigid, allowing overlapping functions exercised by each organ. Within this framework, the Supreme Court is established as the Apex judicial authority. Its dispute resolution power is pervasive, extending to protection, interpretation and quasi-legislative function, aimed at safeguarding the fundamental rights enshrined under Part III of the Constitution. These are legal safeguards against the power overreach by the Legislature or the Executive, enforceable in the courts of law. The Supreme Court as the guardian of the Constitution, plays a decisive role beyond judicial review to expansion of Fundamental Rights in the interest of the citizens. It ensures a balance between the individual autonomy and social control, by acknowledging the exceptional scenarios wherein the government can infringe Fundamental Rights through reasonable restrictions, while also exercising its judicial review powers under Article 13 to make sure that the act does not violate the basic structure of the Constitution¹. Further, Article 32, described as the “heart and soul” of the Constitution by Dr. B.R. Ambedkar, grants it writ jurisdiction, under which any citizen can directly approach the Apex Court in case of violation of their Fundamental Rights and Article 142 allows the Court to overcome the gaps in law, to ensure ‘complete justice’ in cause or matter².

BASIC STRUCTURE DOCTRINE AND JUDICIAL REVIEW

The judicial review power exercised by the Supreme Court is implicitly inferred from Article 13 of the Constitution, and has taken its present form through a history of precedents dating back to *Shankari Prasad Singh Deo v. Union of India* (1951), wherein the Apex Court held

¹ M.P. Jain, *Indian Constitutional Law* 6 (8th ed. 2018).

² M.P. Jain, *Indian Constitutional Law* 458; 261 (8th ed. 2018).

that the Parliament has the power to amend the Fundamental Rights³. This was subsequently overturned through the judgement in *I.C. Golaknath v. State of Punjab* (1967), which was nullified through The Twenty-Fourth Constitutional Amendment, 1971, granting unlimited amending powers to the Parliament and The Twenty-Fifth Constitutional Amendment, 1971, which limited the scope of judicial review⁴. *Kesavananda Bharati v. State of Kerala* (1973) established the basic structure doctrine, stating that the core features of the Constitution are beyond the amending powers of the Parliament⁵. The Court exercises this authority to challenge the constitutional legitimacy of any act passed by the Legislature- as in the recent judicial review of the abrogation of Article 370, which upheld the Union's action⁶. Thus, these legal entitlements are dynamic and responsive to the present social realities. By responding to changing times, the Court preserves the constitutional equilibrium through the system of checks and balances.

PURPOSIVE INTERPRETATION AND PIL

It preserves the 'living document' characteristic of the Constitution by breathing life into the Fundamental Rights through purposive interpretation and enforcement. The Supreme Court acts as a catalyst by interpreting rights not in isolation, but in interaction with the constitutional sentiment and the current needs. Article 21-Right to Life and Personal Liberty, has been interpreted expansively to include other rights through Judicial precedents. In *Olga Tellis v. Bombay Municipal Corporation* (1985), the Apex Court held that Right to Livelihood is an 'integral component' of Article 21, while in the case of *M.C. Mehta v. Union of India* (1987), right to a clean, healthy and pollution-free environment was established as a part of Right to Life⁷. In the recent case of *Justice K.S. Puttaswamy v. Union of India* (2017), the Supreme Court further expanded its scope to include Right to Privacy⁸.

Earlier, rights were conceived primarily as legal guarantees against over-reach by the state and its scope was limited to the protection of citizens from State's unreasonable interference. But the Supreme Court extended it to impose positive duties on the State in the interest of the citizens, through the introduction of PIL. It relaxed the locus standi and allowed public-spirited individuals to approach the doors of the Court on behalf of the vulnerable

³ *Shankari Prasad Singh Deo v. Union of India*, AIR 1951 SC 458.

⁴ *I.C. Golak Nath v. State of Punjab*, AIR 1967 SC 1643.

⁵ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁶ In re Article 370 of the Constitution, Writ Petition (C) No. 1099 of 2019 (Sup. Ct. India).

⁷ *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 SCC 545;

M.C. Mehta v. Union of India, (1987) 1 SCC 395.

⁸ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India).

communities. In the landmark case of *Hussainara Khatoon v. State of Bihar* (1979), the Apex Court while broadening the extent of Article 21, imposed a positive duty on the state to provide speedy trial, and free legal aid⁹. PIL has served as a means for the Court to transcend beyond its traditional role to systematically engage with ground realities and has enabled positive transformation in the subjects of environment, human-rights, governance and labour welfare.

CRITICAL ANALYSIS AND CONCLUSION

The Supreme Court functions as the voice of the voiceless in the country. The doors of the Court have become accessible to those who have been ignored for generations. In the case *Navtej Singh Johar v. Union of India* (2018), the Court preserved the LGBTQ+ community rights in India by decriminalising consensual homosexual conduct by partially striking down IPC Section 377¹⁰. This independent exercise of its functions strengthens the citizens' belief in the rule of law. But judicial autonomy of the Supreme Court had faced jeopardy, specifically in the 1970s. Controversial amendments and the power struggle between the Legislature and Judiciary eroded the fundamental entitlements of the people. The decision in *ADM Jabalpur v. Shivkant Shukla* (1976) marked the darkest phase of judicial abdication in the Indian constitutional history¹¹. Though, the 44th amendment 1978, reinforced the fundamental values of the Constitution, the phase revealed the risk of lack of judicial autonomy and increased legislative pressure. Further, the enactment of The Muslim Women (Protection of Rights on Divorce) Act, 1986 showcased the impact of erosion of judgements through legislative override¹². Similar trends of parliamentary nullification, as evidenced by the promulgation of the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023, reveal a recurring trajectory of institutional tension between the Legislature and the Judiciary¹³. Although the constitutionality of the act is presently under challenge before the Apex Court, it underscores the pressing need for the conscious preservation of the Supreme Court's independence to safeguard constitutional governance. As the conscience-keeper of the Constitution, its ability to uphold the fundamental values against political pressures would enable its motto of "Yato Dharmastato Jayah" to turn into a lived reality.

⁹ *Hussainara Khatoon v. State of Bihar*, (1979) 3 SCR 169.

¹⁰ *Navtej Singh Johar & Ors. v. Union of India*, (2018) 10 SCC 1.

¹¹ *ADM Jabalpur v. Shivkant Shukla*, (1976) 2 SCC 521.

¹² The Muslim Women (Protection of Rights on Divorce) Act, 1986, Act No. 25 of 1986 (India) (19 May 1986).

¹³ *The Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023*, PRS Legislative Research (India), promulgated May 19, 2023, available at <https://prsindia.org/billtrack/the-government-of-national-capital-territory-of-delhi-amendment-ordinance-2023>