



# The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## DEMOCRACY ON TRIAL- THE ROLE OF JUDICIARY IN INDIAN DEMOCRACY

~*Spandan Shrivastava*

Democracy, as enshrined in the Preamble of the Indian Constitution, is protected through its three pillars- Legislature, Executive and Judiciary. This horizontal distribution of power, inspired from the United States of America, acts as a system of checks and balances, ensuring the effective enforcement of the democratic framework. India has a single integrated judicial hierarchy, with Supreme Court as the Apex Court, followed by twenty-five High Courts, Subordinate Courts and Tribunals. The Supreme Court established under Article 124 of the Constitution has writ jurisdiction, advisory jurisdiction and, original jurisdiction to hear disputes between Union government and one or more states or between two or more states, under Article 32, 143 and 131 respectively<sup>1</sup>. The High Court has revisional and appellate jurisdiction, and the power to issue writs under Article 226<sup>2</sup>. The subordinate courts function as the first point of contact with original jurisdiction in all matters except those barred from its jurisdiction<sup>3</sup>. The Judiciary, acts as the defender of the law of the land through its expansive scope of powers, ensuring that the organs function in accordance with the constitutional sentiment. This constitutional positioning of the courts makes an analysis of its role in protecting the core features of democracy imperative.

### SEPARATION OF POWER AND CONSTITUTIONAL SUPREMACY

The cornerstone of Indian democracy is the division of power. It ensures constitutional balance of powers between the three organs, and prevents the erosion of democratic function. The Judiciary is regarded as the constitutional watchdog. The Apex Court through its judicial review powers under Article 13 keeps a check on the functioning of the Legislature and prevents concentration of power as illustrated in *Shreya Singhal v. Union of India* (2015),

---

<sup>1</sup> INDIA CONST. arts. 124, 32, 143, 131.

<sup>2</sup> INDIA CONST. arts. 226.

<sup>3</sup> VIJAY KUMAR SINGH, *LEARN THE LAW* 123 (1<sup>st</sup> ed. 2022).

where the Apex Court exercised judicial review to invalidate Section 66A, of the Information Technology Act, 2000<sup>4</sup>. In the case of *Kesavananda Bharati v. State of Kerala* (1973), the Supreme Court established the ‘Basic Structure Doctrine’, according to which the core features of the constitutional framework cannot be altered or amended by the Parliament<sup>5</sup>. In doing so, the Court upheld the supremacy of constitution over encroachment by the Legislature. *Minerva Mills Ltd. v. Union of India* (1980) judgments upheld the amending power of the Parliament under Article 368, provided it is consistent with the basic structure, reinforcing the rule of law and its enforcement<sup>6</sup>.

## **PROTECTION OF FUNDAMENTAL RIGHTS**

Fundamental rights are enforceable entitlements given to the people. They act as safeguards against unreasonable encroachment by the government, forming the core of a right based democracy. The constitutional courts have writ jurisdiction under Article 32 and 226 of the Constitution, under which any citizen can directly approach the Supreme Court or the High Court in case of violation of their fundamental rights, to issue writs of habeas corpus, mandamus, quo warranto, prohibition and certiorari<sup>7</sup>. It acts as a safeguard for citizens for the enforcement and protection of their basic rights against unreasonable intervention of the government. In the case of *Bhim Singh, MLA v. State of J&K* (1985), writ of habeas corpus was issued against the false imprisonment of Bhim Singh and the petitioner was given monetary compensation of Rs. 50,000<sup>8</sup>. The court has utilised its power of providing constitutional remedies to interpret and expand the scope of fundamental rights and uphold the ‘rule of law’. In *Maneka Gandhi v. Union of India* (1978), the Apex Court established the ‘golden triangle rule’, showcasing the trinity of Article 14, 19 and 21 and expanded Article 21 to include Right to Life with Dignity<sup>9</sup>. It overturned the *A.K. Gopalan v. State of Madras* (1950) judgment by introducing the test of fairness, justice and reasonableness, and post-decisional hearing, reinforcing the principle of natural justice<sup>10</sup>.

## **FREE AND FAIR ELECTION**

Abraham Lincoln defined democracy as government “of the people, by the people, for the people”. Free elections ensure that citizens have the right to express their electoral choice and

---

<sup>4</sup> *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

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

<sup>6</sup> *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

<sup>7</sup> INDIA CONST. arts. 32, 226.

<sup>8</sup> *Bhim Singh v. State of Jammu & Kashmir*, (1985) 4 SCC 677.

<sup>9</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

<sup>10</sup> *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

elect their representatives to the Legislature, ensuring accountability and legitimacy of the ruling government. The Supreme Court through its judgments has strengthened the electoral integrity of Indian democracy. In the case of *Subramanian Swamy v. Election Commission of India* (2013), the Court held that VVPAT is integral to the fair nature of elections<sup>11</sup>. In the recent case of *Association for Democratic Reforms v. Union of India* (2024), the Apex Court declared the Electoral Bond Scheme void as it violated Article 19(1)(a)<sup>12</sup>. Electoral integrity prevents democracy from being rendered illusory.

### **PROMOTION OF EQUITY**

Article 14 of the Constitution empowers the people with Right to Equality as a fundamental right<sup>13</sup>. It ensures that every person is equal before the law. For the enforcement of 'equality', Indian democratic framework works on the principle of 'equity'. Indian society has long suffered from segregation and discrimination based on the caste system. The deep-seated hatred and oppression lead to graded inequality of the oppressed community. The Constitution protects their rights by ensuring equal opportunity through affirmative action. Reservation in education, public employment and political bodies acts as a safeguard against the disadvantaged status ascribed by the society. The Supreme Court in the case of *Indra Sawhney v. Union of India* (1993), capped the reservation at 50% and introduced the creamy layer principle to ensure the benefits reach to those in need<sup>14</sup>. In the *State of Punjab v Davinder Singh* (2024) case, 7 judge bench overturned the *E.V. Chinnaiah Vs. State of Andhra Pradesh and Ors.* (2004) to allow sub-categorisation of Scheduled Caste by the states for preferential reservation<sup>15</sup>.

### **CRITICAL ANALYSIS AND CONCLUSION**

The Judiciary acts as the defender of the democratic framework envisioned by the Constitutional makers. It strengthens constitutional ethos through its judgments and interpretation of laws, while preventing overreach of power by the Legislature and Executive. It plays a crucial role in maintaining the constitutional balance.

However, concerns have emerged regarding judicial overreach, giving rise to tussle between judicial activism and legislative autonomy. The Collegium system has faced criticism due to

---

<sup>11</sup> *Subramanian Swamy v. Election Commission of India*, (2013) 10 SCC 500.

<sup>12</sup> *Association for Democratic Reforms v. Union of India*, (2024) 5 SCC 1

<sup>13</sup> INDIA CONST. arts. 14.

<sup>14</sup> *Indra Sawhney v. Union of India*, (1993) Supp (3) SCC 217.

<sup>15</sup> *State of Punjab v. Davinder Singh*, 2024 SCC OnLine SC 1860; *E.V. Chinnaiah v. State of Andhra Pradesh*, (2005) 1 SCC 394.

lack of transparency and allegations of nepotism. National Judicial Appointments Commission Act and the 99<sup>th</sup> Constitutional amendment, which aimed to involve members of all the three organs in judicial appointment, was ruled unconstitutional by the Apex Court on the ground of threatening judicial independence<sup>16</sup>. In the *State of Tamil Nadu v Governor of Tamil Nadu (2025)*, the Supreme Court initially prescribed timelines for governors to grant or withhold assent to state legislation<sup>17</sup>. However, following the 16<sup>th</sup> Presidential Reference, the Court acknowledged the limits of its jurisdiction and overruled the time line principle showcasing judicial self-restraint. Thus, there is a growing need to balance judicial autonomy with legislative integrity in order to ensure that all organs work as envisioned by the Constitution. Ultimately, the Judiciary sustains democracy not as a sovereign but as sentinel of the constitutional boundaries.

---

<sup>16</sup> Supreme Court Advocates-on-Record Ass'n v. Union of India, (2016) 5 SCC 1.

<sup>17</sup> *State of Tamil Nadu v. Governor of Tamil Nadu*, 2025 INSC 481 (SCC citation awaited).