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CONSTITUTIONAL SUPREMACY AND JUDICIAL ACCOUNTABILITY IN INDIA: A CRITICAL INQUIRY

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Abstract

The principle of constitutional supremacy constitutes the normative foundation of democratic governance in India, ensuring that all institutions operate within the limits prescribed by the Constitution of India. Judicial review has historically functioned as the primary mechanism through which this supremacy is preserved, enabling the judiciary to invalidate unconstitutional legislative and executive actions. However, the expansion of judicial power, particularly in the post-liberalization era, has generated significant concerns regarding judicial accountability. This study critically examines the evolving relationship between constitutional supremacy and judicial accountability in India, focusing on the tensions between judicial independence and institutional responsibility. Through doctrinal analysis and critical evaluation of judicial practices, the paper highlights both the strengths and limitations of the current framework. It argues that while judicial review is indispensable for protecting constitutional values, the absence of transparent accountability mechanisms risks undermining democratic legitimacy. The study concludes by proposing a balanced reform-oriented approach that preserves judicial independence while enhancing transparency, efficiency, and institutional accountability.

Keywords: Constitutional Supremacy, Judicial Review, Judicial Accountability, Judicial Activism, Indian Judiciary, Rule of Law, Governance.

Introduction

India's constitutional democracy is built upon the foundational principle that the Constitution is the supreme law governing all state actions (Baxi, 2020). Unlike systems based on parliamentary sovereignty, the Indian model places constitutional limitations on legislative and executive powers, ensuring that governance remains subject to legal and moral constraints. Judicial review emerges as the key instrument through which this supremacy is maintained, granting courts the authority to interpret and enforce constitutional provisions.

Over the decades, the Indian judiciary has transitioned from a relatively restrained institution to an assertive guardian of constitutional values. This transformation has been driven by socio-political developments, including the need to protect fundamental rights, address governance failures, and ensure accountability of public institutions (Dhavan, 2021; Mehta, 2021). The rise of Public Interest Litigation (PIL) further expanded judicial reach, allowing courts to intervene in matters of public concern. However, this expansion has not been without criticism. Questions regarding judicial overreach, lack of transparency in judicial appointments, and delays in adjudication have intensified debates around judicial accountability. While judicial independence remains essential for safeguarding constitutional supremacy, unchecked judicial authority may disrupt the balance of power envisioned by the Constitution (Sathe, 2019).

This paper seeks to critically examine the relationship between constitutional supremacy and judicial accountability, emphasizing the need for a nuanced approach that balances institutional independence with accountability. It explores whether the current judicial framework adequately addresses the challenges posed by expanding judicial power in a complex democratic society.

Conceptual Framework

Constitutional Supremacy in India

Constitutional supremacy refers to the idea that the Constitution is the ultimate source of legal authority and governance. In India, this principle is reinforced through a written constitution, entrenched fundamental rights, and an independent judiciary empowered to interpret constitutional provisions (Khosla, 2020).

The doctrine ensures that:

- No law or executive action can override constitutional provisions
- Fundamental rights act as enforceable limitations on state power

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- The judiciary serves as the final arbiter in constitutional disputes

This framework establishes a system of limited government, where power is distributed and regulated to prevent arbitrariness. Constitutional supremacy thus functions not only as a legal doctrine but also as a normative commitment to justice, equality, and democratic governance (Rajgopal, 2022).

Judicial Review as a Safeguard

Judicial review operationalizes constitutional supremacy by enabling courts to examine the validity of laws and administrative actions. It acts as a critical check on majoritarian excesses and ensures that governance remains consistent with constitutional principles (Bhushan, 2020). The scope of judicial review in India is notably broad, encompassing:

- Legislative actions
- Executive decisions
- Constitutional amendments (subject to the Basic Structure Doctrine)

Through judicial review, courts have played a transformative role in expanding the interpretation of rights, promoting social justice, and reinforcing the rule of law.

Judicial Accountability

Judicial accountability refers to the mechanisms through which judges are held responsible for their conduct, decisions, and administrative performance (Rao, 2023). It encompasses multiple dimensions:

- **Institutional accountability:** Appointment, transfer, and removal processes
- **Functional accountability:** Quality and reasoning of judgments
- **Administrative accountability:** Case management and efficiency

In a democratic system, accountability ensures that judicial power is exercised responsibly, transparently, and in alignment with constitutional values.

Evolution of Judicial Review in India

The evolution of judicial review in India reflects changing socio-political contexts and judicial philosophies.

Phase of Judicial Restraint (1950-1970)

During the early years, the judiciary adopted a conservative approach, often deferring to legislative authority. Courts focused on procedural validity rather than substantive justice.

Phase of Judicial Activism (1970-1990)

This period marked a significant shift, with the judiciary asserting its authority in response to political crises. The emergence of the Basic Structure Doctrine fundamentally altered the balance between Parliament and the judiciary. Additionally, PIL enabled access to justice for marginalized groups, transforming the judiciary into a proactive institution.

Contemporary Phase (1990-Present)

The contemporary judiciary is characterized by:

- Expanded jurisdiction in governance matters
- Increased reliance on constitutional morality
- Intervention in policy-related issues

While these developments have strengthened constitutional protections, they have also raised concerns regarding institutional overreach and accountability.

Constitutional Supremacy through Judicial Intervention

Judicial intervention has played a decisive role in reinforcing constitutional supremacy in India by ensuring that the principles enshrined in the Constitution of India are not merely symbolic but actively implemented in governance. The judiciary, through the mechanism of judicial review, has consistently acted as the guardian of constitutional values by scrutinizing legislative and executive actions against constitutional standards. This has enabled courts to invalidate laws and policies that infringe upon fundamental rights or violate the basic structure of the Constitution, thereby maintaining the supremacy of constitutional norms over political expediency.

One of the most significant contributions of judicial intervention lies in the expansive interpretation of fundamental rights. The judiciary has moved beyond a narrow textual reading of rights and adopted a purposive approach, thereby broadening the scope of rights such as equality, liberty, and dignity. This dynamic interpretation has ensured that the Constitution remains a living document capable of responding to changing social realities. In doing so, the courts have not only protected individual rights but have also strengthened the normative foundations of constitutional supremacy by aligning legal interpretation with evolving democratic values.

Another critical dimension of judicial intervention is the development and application of the Basic Structure Doctrine, which has served as a powerful tool to preserve the core identity of the Constitution. By asserting that certain fundamental features - such as the rule of law, separation of powers, and judicial independence - cannot be altered even through constitutional amendments, the judiciary has effectively limited the amending power of Parliament. This doctrine has ensured that constitutional supremacy is not compromised by transient political majorities and has reinforced the idea that the Constitution embodies enduring principles that must be safeguarded.

Judicial intervention has also contributed to enhancing transparency and accountability within the governance framework. Through active scrutiny of administrative decisions and public policies, the courts have compelled state institutions to adhere to standards of fairness, reasonableness, and legality. This has strengthened democratic governance by promoting a culture of accountability among public authorities. At the same time, judicial interventions in areas such as environmental protection, human rights, and administrative reforms have demonstrated the judiciary's willingness to address governance gaps and protect public interest.

However, the expanding scope of judicial intervention has also raised important questions about the appropriate limits of judicial power. While the judiciary's proactive role has undoubtedly strengthened constitutional supremacy, it has also blurred the boundaries between judicial functions and policy-making domains traditionally reserved for the legislature and executive. This tension highlights the need for a careful balance, where judicial intervention continues to uphold constitutional values without encroaching upon the institutional roles of other branches of government. Ultimately, judicial intervention remains indispensable for preserving constitutional supremacy, but its effectiveness depends on maintaining institutional equilibrium within the democratic framework.

Challenges to Judicial Accountability

Despite its central role in upholding constitutional supremacy, the Indian judiciary faces significant challenges in ensuring accountability, which have become increasingly prominent in contemporary legal discourse. The expansion of judicial power, particularly through judicial activism and public interest litigation, has amplified concerns regarding the absence of robust mechanisms to hold the judiciary accountable. While judicial independence is essential for protecting constitutional values, the lack of transparency and oversight can create an imbalance that undermines public confidence in the institution.

One of the primary challenges to judicial accountability arises from the growing perception of judicial overreach. Although judicial activism has played a crucial role in advancing social justice and addressing governance failures, excessive intervention in policy matters risks disrupting the separation of powers. When courts engage in areas traditionally reserved for the executive or legislature, questions emerge regarding the legitimacy and democratic accountability of such actions. This tension reflects the broader challenge of defining the limits of judicial authority in a constitutional democracy.

Another significant concern relates to the opacity of the judicial appointment process, particularly under the collegium system. While this system was designed to safeguard judicial independence by minimizing executive interference, it has been widely criticized for its lack of transparency and absence of clear criteria for selection. The perception that judicial appointments occur behind closed doors without adequate accountability mechanisms has raised questions about fairness, inclusivity, and institutional credibility. This issue highlights the need for reforms that enhance transparency without compromising the independence of the judiciary.

Judicial delays and the persistent backlog of cases further complicate the issue of accountability. The slow pace of adjudication not only undermines the effectiveness of judicial review but also restricts access to timely justice. In many cases, prolonged litigation diminishes the practical value of legal remedies, thereby weakening public trust in the judicial system. This administrative inefficiency reflects a critical gap in accountability, as the judiciary must not only deliver fair decisions but also ensure that justice is administered within a reasonable timeframe.

The mechanisms for disciplining judicial misconduct remain limited and largely ineffective. The process for removing judges is complex and rarely invoked, making it difficult to address instances of unethical behavior or incompetence. Internal accountability mechanisms, such as in-house procedures, often lack transparency and fail to provide adequate public scrutiny. As a result, the judiciary appears insulated from external accountability, which can erode its legitimacy in the eyes of the public.

These challenges collectively underscore the need for a more comprehensive framework of judicial accountability that complements judicial independence. Ensuring accountability does not imply undermining the authority of the judiciary; rather, it enhances institutional legitimacy by promoting transparency, efficiency, and ethical conduct. Addressing these issues is essential for maintaining the credibility of the judiciary as both a guardian of constitutional supremacy and a responsible public institution within a democratic system.

Judicial Independence vs Accountability: A Delicate Balance

Judicial independence is essential for protecting constitutional values and ensuring impartial adjudication. However, independence must be balanced with accountability to prevent misuse of power.

An effective balance requires:

- Transparent institutional processes
- Ethical standards and codes of conduct
- Mechanisms for performance evaluation

The challenge lies in designing accountability frameworks that do not compromise judicial autonomy while ensuring responsible exercise of power. Comparative analysis reveals that different democracies adopt varied approaches to balancing judicial power and accountability.

- **United States:** Strong judicial review combined with political oversight in appointments
- **United Kingdom:** Limited judicial review under parliamentary supremacy
- **India:** A hybrid model with expansive judicial authority but limited accountability mechanisms

India's model reflects its unique constitutional vision but requires continuous refinement to address emerging challenges.

Reform Proposals

The growing discourse on judicial accountability in India underscores the urgent need for comprehensive reforms that can strengthen institutional credibility without undermining judicial independence. Given the central role of the judiciary in upholding constitutional supremacy, any reform must be carefully designed to preserve its autonomy while enhancing transparency, efficiency, and public trust. The challenge lies not in reducing judicial power, but in ensuring that such power is exercised responsibly and within clearly defined constitutional boundaries.

One of the most critical areas requiring reform is the process of judicial appointments. The existing collegium system, though instrumental in safeguarding judicial independence, has faced persistent criticism for its lack of transparency and accountability. The absence of clearly articulated criteria, public scrutiny, and institutional checks has created perceptions of arbitrariness and exclusivity. Introducing a more transparent and participatory mechanism - without compromising judicial primacy - could significantly enhance public confidence. This may include structured disclosure norms, reasoned recommendations, and limited but meaningful institutional oversight.

Equally important is the need to address procedural inefficiencies that continue to affect the functioning of the judiciary. The persistent backlog of cases and delays in adjudication not only weaken the effectiveness of judicial review but also undermine access to justice. Reform efforts must therefore prioritize the adoption of technology-driven solutions, such as digital case management systems, virtual hearings, and data-based monitoring of judicial performance. Streamlining procedural frameworks and ensuring time-bound disposal of cases can substantially improve the efficiency and responsiveness of the judicial system.

Another critical dimension of reform relates to ethical accountability and professional conduct within the judiciary. While judges are expected to adhere to the highest standards of integrity, the mechanisms for enforcing ethical norms remain largely internal and opaque. Strengthening judicial codes of conduct, enhancing disclosure requirements, and institutionalizing mechanisms for addressing complaints can contribute to greater accountability. Importantly, such measures must be designed to avoid external interference that could compromise judicial independence, thereby maintaining the delicate balance between autonomy and oversight.

Doctrinal clarity also forms an essential component of judicial reform. The expanding scope of judicial intervention, particularly in policy-related matters, has blurred the boundaries between the judiciary and other branches of government. While judicial activism has been instrumental in addressing governance gaps, it is necessary to establish clearer limits to prevent overreach. Developing consistent judicial standards and reinforcing the principle of separation of powers can help ensure that judicial review remains focused on constitutional interpretation rather than policy formulation.

Enhancing institutional transparency is crucial for sustaining public trust in the judiciary. Greater openness in judicial functioning, including publication of decisions, accessibility of court proceedings, and dissemination of information regarding administrative processes, can strengthen the legitimacy of judicial institutions. Transparency not only fosters accountability but also reinforces the perception of the judiciary as a fair and impartial arbiter.

Reforming the judiciary requires a holistic approach that integrates institutional, procedural, ethical, and doctrinal dimensions. The objective is not to constrain judicial authority, but to ensure that it operates within a framework that promotes accountability and public confidence. In a constitutional democracy like India, where the Constitution of India serves as the ultimate guide, judicial reforms must align with the broader goal of preserving constitutional supremacy while strengthening the institutional integrity of the judiciary.

Conclusion

The relationship between constitutional supremacy and judicial accountability in India reflects a delicate balance central to democratic governance. Judicial review has played a vital role in upholding the authority of the Constitution of India by ensuring that legislative and executive actions remain within constitutional limits. Through progressive interpretation, the judiciary has strengthened fundamental rights, promoted the rule of law, and reinforced democratic values. However, the expansion of judicial power has also intensified concerns regarding accountability. Issues such as judicial overreach, lack of transparency in appointments, delays in adjudication, and limited mechanisms for addressing misconduct have raised questions about institutional responsibility. While judicial intervention has been essential in addressing governance gaps, its growing scope necessitates clearer boundaries to maintain the separation of powers.

The analysis suggests that constitutional supremacy and judicial accountability are interdependent rather than conflicting principles. Judicial authority derives legitimacy from public trust, which in turn depends on transparency, efficiency, and ethical conduct. At the same time, excessive external control may undermine judicial independence, weakening its role as a constitutional guardian. Therefore, a balanced approach is essential. Strengthening accountability through transparent procedures, improved efficiency, and clearer doctrinal limits can enhance institutional credibility without compromising independence. Ultimately, the sustainability of constitutional governance in India depends on a judiciary that is both independent and accountable, capable of upholding constitutional values while maintaining public confidence.

Conflicts of Interest

The authors declare that there are no significant competing financial, professional, or personal interests that might have influenced the performance or presentation of the work described in this manuscript.

References

1. Baxi, U. (2020). *The Indian Supreme Court and politics*. Eastern Book Company.
2. Chandrachud, A. (2022). *Republic of rhetoric: Free speech and the Constitution of India*. Penguin.
3. Dhavan, R. (2021). Judicial accountability and constitutional morality in India. *Journal of Indian Law and Society*, 12(2), 45-62.
4. Krishnaswamy, S. (2020). *Democracy and constitutionalism in India*. Oxford University Press.
5. Mehta, P. B. (2021). The rise of judicial sovereignty in India. *Seminar Journal*, 735, 12-18.
6. Sathe, S. P. (2019). *Judicial activism in India*. Oxford University Press.
7. Singh, M. P. (2023). Constitutional governance and judicial review in India. *Indian Journal of Constitutional Law*, 15(1), 1-25.
8. Bhushan, P. (2020). Judicial accountability: A democratic necessity. *Economic and Political Weekly*, 55(10), 25-30.
9. Choudhry, S., & Khosla, M. (2021). The Indian Constitution and judicial review. *International Journal of Constitutional Law*, 19(3), 890-905.
10. Khosla, M. (2020). *India's founding moment: The Constitution of a most surprising democracy*. Harvard University Press.
11. Rajagopal, B. (2022). Constitutionalism and accountability in the global South. *Law and Society Review*, 56(1), 34-52.
12. Rao, N. (2023). Transparency and judicial reforms in India. *Indian Law Review*, 7(2), 145-162.