



COMMONWEALTH INSTITUTE FOR JUSTICE EDUCATION AND RESEARCH

LLOYD LAW COLLEGE, GREATER NOIDA

[AN INITIATIVE OF COMMONWEALTH LEGAL EDUCATION ASSOCIATION (ASIA-INDIA CHAPTER)]

CALL FOR PAPERS FOR AN EDITED VOLUME

On

**70 YEARS OF INDEPENDENCE: AN ASSESMENT OF SEPARATION OF
POWER AND JUDICIAL REVIEW**

The Constitution of India has completed 68 years of its existence. Separation of Power and Judicial Review are two prominent features in the Constitutions of successful democracies. The Indian Constitution defines the contours of India's federal structure and lists out the Fundamental Rights and duties of Indian citizens, the role of the government, principles for the state policy, interaction between the government and the citizens, and the powers of the President, Prime Minister, Governor and Chief Minister.

Though Indian Constitution does not adhere perfectly to the Montesquieu's theory of an equal Trinitarian separation of power, it has created an extraordinary system of regulatory mechanisms for the organs of a democracy. Its structural coherence has helped the Constitution of India achieve legitimacy in the society, and the document has been identified as a node in the conversation between law and democracy. It has laid a strong foundation for the country in its journey towards the ideals set forth in its Preamble.

In a Parliamentary democracy, the democratic governance of a State features an Executive branch as the part of government with the authority and responsibility for the daily administration of the state. It derives legitimacy from, and is held accountable to the legislature

(i.e. Parliament, with the power to enact, amend and repeal laws). Judicial review is a form of court proceeding, in which the lawfulness of a decision or action, or a failure to act, by a public body exercising a public function is checked. It is the only available check on unbridled and arbitrary exercise of power in cases where there is no other effective means of challenge. This makes judicial review essential to maintain the rule of law ensuring that law has been correctly applied and the right procedures have been followed. The functioning of judicial review and its ramifications in a Parliamentary democracy at large have given rise to key constitutional debates in the last few decades in our country.

Judicial review is a form of court proceeding, in which the lawfulness of a decision or action, or a failure to act, by a public body exercising a public function is checked. It is only available where there is no other effective means of challenge and is essential to maintain the rule of law. Judicial review is concerned with whether the law has been correctly applied, and the right procedures have been followed. A Parliamentary democracy is where the democratic governance of a state features an executive branch (the part of government with the authority and responsibility for the daily administration of the state) derives legitimacy from, and is held accountable to, the legislature (Parliament, with the power to enact, amend and repeal laws). These two notions have also given rise to a key constitutional debates existing for the last few decades in our country.

A judicial system gains its relevance and authority by the compelling character of its reasoning on behalf of constitutional values. The doctrine of judicial review is a method to ensure legitimacy of power and administrative efficiency and goes hand in hand with the doctrine of rule of law which includes elements like Supremacy of law, equality before law, equal protection of the law, control of arbitrariness of the governmental actions. Post independence, the Indian judiciary has used its review power to give effect to the individual and group rights guaranteed under the Constitution. Similarly, in administrative aspects, the judicial review has mainly focused on ensuring fairness in its action. One of the major concerns that has arisen in its application of judicial review is that when should a court exercise it and whether it should be applied irrespective of the policy adopted by the legislature.

An analysis of Indian Constitution shows that the constitutional scheme was not merely the 'separation of power' but it is more like a 'distribution of power' among three wings of State

i.e. Legislature, Executive and Judiciary. The Constitution seeks to create a respect to the power of “judicial review” exercised by the judges and Supreme Court of India. The importance of judicial review is at times measured solely by its impact upon the political agenda or policies of the government, which actually undermines the evaluation of its contribution in development of principles defining legal frameworks for administrative decision-making. In India, judicial review has evolved in three dimensions, first, to protect the legality of essential rights in Part three of the Constitution, second, to authorize the disinterest of organizational achievement and third, the interrogation of public interest and legislative competence between Centre and State relation.

As we herald the seventh decade of India’s independence and celebrate 68 years of adoption of the Indian Constitution, the time is ripe to assess the concepts of Separation of Power and Judicial Review in their modern-day avatars. In this academic endeavour we aim to bring out an edited volume which will undertake a comprehensive review of contemporary relevant legal issues mentioned in this area.

The book shall be published with ISBN. The contributions should adhere to the following themes:

Broad Themes

1. Classical and modern theories of separation of power;
2. Separation of power: Theory and Practice;
3. Separation of Power and Administrative Law;
4. Doctrine of checks and balances;
5. Natural justice;
6. Protection of individual rights;
7. The nature and scope of judicial review;
8. Judicial review and judicial activism;
9. The incorporation of international conventions;
10. Public interest litigation;
11. Rationality and proportionality of judicial review.

Submission Guidelines

1. The research paper should address the following aspects under each topic:
 - a. A short background with introduction;
 - b. Constitutional provisions;
 - c. Comparative analysis with best practices;
 - d. Leading case laws
 - e. Conclusion and way forward.
2. The page limit is **10 pages** and each paper should have an abstract of not more than 200 words;
3. The paper shall be formatted according to the following guidelines:
 - a. It shall be in Microsoft word format, Times New Roman font, 12 pt. size and 1.5 line spacing for main text; Times New Roman font, 10 pt size and 1 line spacing for the footnotes;
 - b. The main text shall be divided under different sub-headings. Different level of headings shall be formatted as follows:
 - Level one heading: It shall be numbered and in the centre.
 - Level two heading: It shall be left aligned and in bold letters.
 - Level three heading: It shall be left aligned and italicized.
 - c. All citations shall be placed in foot-notes;
 - d. The ILI pattern should be strictly followed in the footnoting and citation. The mode of citation to be followed is available at <http://www.ili.ac.in/footnoting.pdf>.
4. All papers should have a Cover sheet with the Theme, Title of the paper, Author details including name, designation and affiliation.
5. All papers (abstract and full paper) must be mailed to **researchcell@lloydlawcollege.edu.in** under the subject name: **“An assessment of Separation of power and judicial review- Title of the Paper- Author’s Name”**.
6. Important Dates:
 - a. Date of announcement: December 1, 2017,**
 - b. Date of submission of the abstract: December 28, 2017**
 - c. Date of full paper submission: January 15, 2018.**