



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

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# **CONSTITUTIONAL REVIEW: STUDY OF AMERICAN MODEL AND EUROPEAN MODEL**

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## **ABSTRACT**

Constitutional review is a process by which some countries check whether laws are conformable to the constitution. The system is designed to avoid violation of rights constitutionally protected, thereby making the constitution effective, stable and preserved. There are basically two models of constitutional review; the American and European models of constitutional review are the two very dominant structures through which constitutional law is interpreted and upheld and reflect two different legal philosophies as well as judicial review approaches. This paper provides a comparative analysis of constitutional review systems, the American and European models of which illustrate different approaches to judicial oversight and constitutional interpretation. The American model is rooted in the landmark case *Marbury v. Madison* (1803), which uses a decentralized common-law system in which the judiciary, led by the U.S. Supreme Court, has great power in reviewing laws for compliance with the constitution. This model has allowed courts to not only interpret the Constitution but influence policy, thus again leading to questions about judicial activism and the democratic legitimacy of such unelected judges. Conversely, the European model can be seen in places such as Germany and Austria in taking a centralized approach using highly specialized Constitutional Courts exclusively tasked with constitutional matters which normally have government or legislative instigations rather than that from a citizen. This approach is more often taken with civil law practices and reflects stability in legal systems through procedural consistency and institutional stability. An American model concentrates on individual rights, increasing judicial independence, whereas the European model emphasizes systemic order as well as legislative responsibility. Each model has its advantages and disadvantages; the American system allows the courts to be of greater influence over policy, whereas the European system develops accountability within the legislature by making access to courts limited. The paper concludes by proposing that hybrid systems may benefit the emerging democracies, integrating the procedural discipline of the European model with the rights protections of the American model to establish a balanced framework for constitutional review.

## INTRODUCTION

As we all know that the constitution of a country is considered as the supreme law of the land. The constitution is the rule of the state which consists of the fundamental principles by which a state is governed. Constitutional review is one way of ensuring that the laws, policies and government actions are within the limits of the constitution so as to protect democratic principles and safeguard individual rights. Constitutional review refers to the judicial mechanism used when courts examine whether laws, policies and government actions reflect the conformity of these against a nation's constitution. Often acting as a safeguard to rules of law and democratic precepts, constitutional review does ensure that legislative and even executive actions do not impede the fundamental rights and freedom enshrined within constitutions.

Constitutional review is one of the most significant means of maintaining the constitutional balance as well as protecting individual rights in India. Indian courts, through landmark rulings and the Basic Structure Doctrine, have developed a unique approach to constitutional review that is founded upon both judicial independence and restraint. This ensures that although the judiciary is the mighty guardian of the Constitution, it respects the role of other branches of the government within a democratic framework.

The two basic forms of constitutional review are centralized and decentralized. The former type is characteristic for the most European countries, for instance, Germany and Austria: there exists a special Constitutional Court responsible for matters related to the constitution, often on a government's application rather than on that of individuals. In this form, emphasis is placed on institutional stability and coherence in the legal system and a focus on procedures. The decentralized model, dominant in the United States, empowers multiple levels of courts to interpret constitutional issues and vest final authority in the U.S. Supreme Court. The model was established in *Marbury v. Madison* (1803), giving the judiciary a significant role in the protection of individual rights and acting as a check on the powers of the legislature and the executive. It forms the cornerstone of modern legal systems, symbolizing adherence to constitutionalism as an exercise in protection of citizen rights and limiting the arbitrary exercise of governmental power within constitutional limits. Various methods used in the United States and Europe reflect different legal traditions, political philosophies and views on the role of the judiciary in governance.

## IMPORTANCE OF CONSTITUTIONAL REVIEW

Constitutional review plays a very important role in the functioning of a democratic society and it is rather crucial for upholding the rule of law, protecting individual rights and placing governmental accountability. For that purpose, here are several key reasons highlighting its importance and relevance:

- **Protection of Fundamental Rights:** Constitutional review also ensures that a country protects individual rights and freedoms that the constitution lays down. By allowing constitutional review to scrutinize the action of government or the laws brought forward, constitutional review remains an essential check on legislatures and the executive organs. In this way, the fundamental rights of people are not infringed with impunity.
- **Upholding the Rule of Law:** Constitutional review strengthens the rule of law, whereby all persons and institutions-including the state-stand before the law. When checking and balancing the constitutionality of enacted laws, the courts ensure that no one among them, not even governmental agencies, is superior to the law; all the activities of the state are law-abiding. This promotes a rule of law whereby the administration of laws is impartial and fair to all parties.
- **Supremacy of the Constitution:** It is the Constitution that stands supreme in this land and consolidated by constitutional review because all laws and actions by government are bound to be according to constitutional provision. This supremacy is important in a democracy against arbitrary governance and protects the construction of the government according to the Constitution.
- **Promotion of Democracy and Responsibility:** Constitutional review promotes democratic governance in the sense that elected representatives are made accountable to the consequences of their acts. Independent judges are likely to make legislators refrain from making laws whose provisions are arbitrary or discriminatory. In this respect, the rights of minorities and the vulnerable will not be compromised by the will of the majority.
- **Checks and Balances in Judicial Appointments:** Constitutional review is an expression of judicial independence whereby the judiciary provides a checking force within the powers existing between the legislative and executive. Such a division of power is indispensable for the prevention of arbitrary power and the assurance that the respective separate branches of a government would not overstep their limits set. It

gives courts the ability to become free and untouched in their operation from political pressure, which enhances public confidence in the judiciary.

- **Flexibility and Evolution of the Law:** Constitutional review by the courts helps to interpret the Constitution in terms of contemporary social, political and economic conditions prevailing in the given society. This is what gives law an ability to remain fitting with the clock of society, responding to the emergent trends on societal norms and values. Judicial review serves as a means to the progressive interpretation of constitutional law to ensure that constitutional protection of individual rights remains effective in the matters relating to current issues of the given society.
- **Conflicts and Ambiguities in the Law:** Constitutional review provides the resolution of contradictions between different laws or between the laws and constitutional provisions. The courts resolve these issues by interpreting ambiguities in the law and thereby offering guidance about what legal standards exist, all the better to introduce greater harmony in the interpretation of laws, an imperative for maintaining legal certainty and consistency.
- **Effects on Public Policy and the Administration:** The striking down of a law is considered to have a profound effect on public policy as the laws that violate constitutional provisions are struck down. This allows the judiciary the power to influence the process of legislation and influence legislators to frame legislation respecting rights under the constitution. This is an agent for reform in law and in society, spurring human rights, social justice and equality issues into discussions.
- **International Human Rights Compliance:** With increasing globalization, constitutional review also brings international human rights standards back to domestic laws. Using constitutional review, courts can check that the national legislations are in conformity with the international treaties and obligations which would implement global human rights standards within a national framework.

Constitutional review is indispensable to ensure the protection of rights, upholding the supremacy of the rule of law and sustaining democratic governance integrity. It serves as an essential instrument of responsibility, responsiveness and continuous law change, because it is the dynamic play of the Constitution with those whom it governs. In this regard, a review of the constitution in the hands of the judiciary has been integral to developing a just and equal society so that democracy's ideals not only become abstract theory but come alive within daily governance.

## CONSTITUTIONAL REVIEW IN INDIA

The Constitution of India, which was adopted in 1950, does not contain a specific statement declaring it to be the supreme law of the land. It appears that the framers of the Constitution considered such a declaration unnecessary. The Constitution outlines the distribution of powers between the Union and the States. It clearly defines the roles of the three branches of government—the Legislature, the Executive and the Judiciary—ensuring that no branch can usurp the functions of the others. If any branch were permitted to act outside the bounds of the Constitution, the established distribution of functions would lose its significance. Consequently, the supremacy of the Constitution is considered a fundamental aspect of the Indian Constitution's basic structure, meaning it cannot be altered or eliminated, even through Constitutional Amendments. Indian constitutional review can be characterized as a major mechanism adopted by the Indian judiciary for ensuring that law and the executive is guided by the Constitution. Not only has the protection of rights but the essence of upholding the rule of law for a balanced system within governance. Such judicial review power has been constitutionally entrenched, mainly under **Articles 13, 32 and 226** of the Constitution, as a grant of power both to the Supreme Court and High Courts in enforcing fundamental rights and declaring the constitutionality or otherwise of legislative or executive acts.

Constitutional review in India was born of the realization by the draftsmen of the Constitution that an effective judiciary should be available to check and balance arbitrary exercise of legislative and executive power. India's judiciary has shaped constitutional review in immense measure since 1950, when the Constitution came into force. The first cases presented a framework for judicial intervention, but it was *Kesavananda Bharati v. State of Kerala (1973)*<sup>1</sup> that crystallized principles governing judicial review by using the Basic Structure Doctrine. The following are the landmark decisions in the constitutional review history of India;

### 1. *A.K. Gopalan v. State of Madras (1950)*<sup>2</sup>

This was one of the first important cases on the issue of constitutional review in India. The Supreme Court found that the right to personal liberty under Article 21 is qualified by law and procedure. Such a decision at first circumscribed judicial review but opened the way to further evolution in the interpretation of fundamental rights.

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<sup>1</sup> AIR 1973 SC 1461

<sup>2</sup> AIR 1950 SC 27

**2. *Kesavananda Bharati v. State of Kerala (1973)***

Above all, the Basic Structure Doctrine as introduced by the Supreme Court declared that the Parliament had the right to amend the Constitution but could not tamper with its basic structure. This judgment confirmed the judicial review position of constitutional amendments so that essential constitutional principles did not become depleted.

**3. *Maneka Gandhi v. Union of India (1978)*<sup>3</sup>**

Such became a landmark case in opening wider the interpretation of Article 21, holding that curtailment of the right to life and personal liberty may not be done without just procedure. The judgment emphatically underlined the relevance of due process, whereby the scope of judicial review was significantly broadened by reinforcing the role of judiciary in protecting individual rights.

**4. *Minerva Mills v. Union of India (1980)*<sup>4</sup>**

In this judgment, the Supreme Court, while reaffirming Basic Structure Doctrine, underlined how judicial review is essential in preserving the integrity of the Constitution. The Court struck down amendments that affected the authority of the judiciary, consolidating the principle that judicial review is part of the basic structure of the Constitution.

**5. *S.R. Bommai v. Union of India (1994)*<sup>5</sup>**

Address the case of misuse of the applicability of Article 356 involving imposition of President's rule. The Court claimed a locus-standi to challenge powers that dismiss a state government vis-à-vis judicial oversight in order not to endanger this federal structure through the possible discretion of the executive.

## **RECENT DEVELOPMENTS IN CONSTITUTIONAL REVIEW**

In recent years, the Indian judiciary has actively engaged in constitutional review concerning various social and legal issues. Several landmark judgments have underscored the judiciary's commitment to protecting fundamental rights and ensuring that laws are consistent with the Constitution.

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<sup>3</sup> AIR 1978 SCR (2) 621

<sup>4</sup> AIR 1980 SC 1789

<sup>5</sup> 1994 AIR 1918, 1994 SCC (3) 1

**1. *Navtej Singh Johar v. Union of India, (2018)*<sup>6</sup>**

This is a landmark judgment, the Supreme Court of India decriminalized Section 377 of the Indian Penal Code which criminalized consensual homosexual acts. The Court held the law violated the right to equality and the right to life and personal liberty under Articles 14 and 21, respectively. This was a landmark judgment by the judiciary in recognizing rights of the LGBTQ+ community and demonstrated the evolving view of individual rights.

**2. *Shayara Bano v. Union of India, (2017)*<sup>7</sup>**

It, in this case, held the practice of instant triple talaq unconstitutional because it violates the fundamental rights of Muslim women. It clearly mentioned that the law shall not contradict constitutional values; hence, it is the landmark judgment where personal law interlaces with constitutional rights.

**3. *Justice K S Puttaswamy v. Union of India, (2017)*<sup>8</sup>**

It held the right to privacy under Article 21, making it a fundamental right before the Supreme Court. As a judgment, it opened very crucial avenues in law: that of data protection and surveillance as well as the personal autonomy between individual liberties and state capture.

**4. *Indian Young Lawyers Association v. State of Kerala (2018)*<sup>9</sup>**

The Supreme Court relaxed the century-old ban imposed on women of all ages to enter the Sabarimala Temple. The Court declared that such a restriction was unconstitutional and reflected discriminatory tendencies, thus upholding the basic principles of equality and freedom of worship.

Constitutional review in India plays the role of upholding the Constitution, safeguarding the fundamental rights of individuals and ensuring governmental action as per constitutional prescriptions. In this regard, judicial review has evolved, as did landmark cases that set in motion the development of the Basic Structure Doctrine and other such developments which underscored the role of the judiciary as a bulwark of democracy and freedom. In such a society where, Indian society is facing complex legal and social dilemmas, it is of importance that the judiciary upholds the commitment to constitutional review so that the foundational principles of justice, equality and rule of law may be maintained and preserved. Through its proactive

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<sup>6</sup> AIR 2018 SC 4321.

<sup>7</sup> AIR 2017 9 SCC 1 (SC)

<sup>8</sup> AIR 2018 SC (SUPP) 1841, 2019 (1) SCC 1,

<sup>9</sup> AIR ONLINE 2018 SC 243

approach to interpreting the law, the Indian judiciary shapes the landscape of society and guarantees that its constitutional values are preserved and promoted in an ever-changing world.

## **AMERICAN MODEL OF CONSTITUTIONAL REVIEW**

The Constitution of the United States is a dynamic, living document that outlines both the source and the limits of power among the three branches of government. The authority of the written Constitution is well-established in the American legal framework. The American model of constitutional review is a rock-solid principle of U.S. law in which the judiciary acts as a key actor for making sure the laws plus actions of the government are in accordance with the Constitution. This model is a characteristic feature of its decentralized method primarily around the Supreme Court and other federal and state courts being able to exercise a judicial review. The constitutional review framework in the United States has been greatly developed over the years by the cases that have broadened the principles and the scope of the review.

One of the cornerstones of constitutional review in the United States is the decision made by the Supreme Court in the case *Marbury v. Madison (1803)*, when Chief Justice John Marshall emphasized the significance of judicial review. The Court, in this case, declared that it had the power to annul the laws inconsistent with the Constitution, thus emphasizing the judicial check of the executive and legislative branches. This ruling was a breakthrough in the development of constitutional review, which later on supported democratic growth through the subsequent cases.

### **KEY FEATURES OF AMERICAN MODEL CONSTITUTIONAL REVIEW**

- **Decentralized Judicial Review:** In the United States, judicial review is not concentrated in a specific high court of constitutional law but is distributed across multiple court levels, namely state courts, federal district divisions and the U.S. National Court of Justice. The innovative system permits the opportunity of various judicial interpretations and complements the task of the courts in guarding against the constitutional rights' violations.
- **Role of the Supreme Court:** The U.S. Supreme Court is the highest authority on constitutional issues. Its decisions are mandatory for all subordinate courts and also establish the relevant jurisprudence. The Supreme Court's conceptions of the

Constitution of the U.S. are, in fact, a pivotal example for future cases and lawfully related to initiatives.

- **Case Law and Precedent:** The American model is based primarily on case law, which is past judgments or rulings that affect the interpretation of the Constitution. This approach to judicial precedent allows for a system that is both flexible and stable, which can evolve to accommodate changes in the values and norms of society. The following are the landmark cases in American constitutional review;

1) ***Marbury v. Madison (1803)***<sup>10</sup>

This landmark case established the principle of judicial review, confirming the judiciary's authority to declare laws unconstitutional. Chief Justice Marshall stated that "a law repugnant to the Constitution is void," thereby setting a precedent for the courts as protectors of the Constitution.

2) ***Brown v. Board of Education (1954)***<sup>11</sup>

This pivotal ruling declared that racial segregation in public schools was unconstitutional, effectively overturning the *Plessy v. Ferguson* (1896) decision that upheld the "separate but equal" doctrine. The Court's unanimous decision highlighted that segregation violated the Equal Protection Clause of the Fourteenth Amendment, marking a significant step forward in civil rights.

3) ***Roe v. Wade (1973)***<sup>12</sup>

This case recognized a woman's right to choose to have an abortion under the right to privacy protected by the Fourteenth Amendment. The Supreme Court ruled that states could not impose excessive restrictions on abortion, framing reproductive rights within the context of personal liberty and privacy.

4) ***United States v. Nixon (1974)***<sup>13</sup>

In this case, the Supreme Court affirmed that the President is not above the law. The Court ruled that President Nixon had to comply with a subpoena for tapes related to the Watergate scandal, reinforcing the principle of accountability in governance and the judiciary's role in reviewing executive actions.

5) ***Obergefell v. Hodges (2015)***<sup>14</sup>

This landmark decision recognized same-sex marriage as a constitutional right under

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<sup>10</sup> 5 U.S. (1 Cranch) 137 (1803)

<sup>11</sup> 347 U.S. 483 (1954)

<sup>12</sup> 410 U.S. 113 (1973)

<sup>13</sup> 418 U.S. 683 (1974)

<sup>14</sup> 576 U.S. 644 (2015)

the Equal Protection and Due Process Clauses of the Fourteenth Amendment. The Supreme Court's ruling highlighted the dignity and equality of same-sex couples, mirroring the evolving landscape of civil rights.

While the American approach to constitutional review has greatly shaped U.S. law and society, it encounters several challenges. Critics argue that judicial activism can upset the balance of power, enabling unelected judges to make decisions that significantly influence public policy. Conversely, supporters maintain that judicial review is essential for protecting minority rights and upholding democratic principles against potential majority overreach.

The American model of constitutional review is a crucial and dynamic aspect of the U.S. legal system, embodying the principles of checks and balances and the rule of law. Through significant cases, the judiciary has played a key role in interpreting the Constitution and defending individual rights. The decentralized nature of judicial review encourages varied interpretations and adaptability to societal changes, ensuring that the Constitution remains a living document. As the U.S. faces complex legal and social issues, the significance of constitutional review will remain vital in preserving democratic values and safeguarding individual rights.

## **EUROPEAN MODEL OF CONSTITUTIONAL REVIEW**

The European Constitution, as described in the EU Treaties, sets up the framework for governance in the EU, promotes human rights, fosters unity and lays down principles that direct the interactions between member states and EU institutions. The European model of constitutional review is essential for upholding constitutional principles across different European countries. This model stands out for its focus on specialized constitutional courts, which have the authority to ensure that laws comply with constitutional standards. These courts play a crucial role in maintaining the balance of powers, safeguarding fundamental rights and promoting a legal culture that values constitutional supremacy. A comparative analysis of this model, along with significant case law, reveals its distinctive characteristics, particularly in nations such as Germany, France and Italy.

The European model features specialized constitutional courts that operate separately from the regular judiciary. These courts have the power to annul legislative acts that violate the

constitution. In contrast to the U.S. model of judicial review, where any court can interpret constitutional matters, the European system centralizes this authority within specific courts. This approach is often referred to as the “centralized” or “Kelsenian” model, named after Hans Kelsen, who advocated for a dedicated court to uphold the constitution.

The main functions of these courts include:

- **Abstract review:** Assessing the constitutional validity of legislation before it takes effect.
- **Concrete review:** Evaluating constitutionality when issues arise in actual cases.
- **Individual constitutional complaints:** Enabling individuals to contest laws that infringe on their constitutional rights.

These roles enhance the position of constitutional courts as guardians of constitutional principles, curbing legislative excesses and ensuring accountability from the executive branch.

The following are the notable cases in European constitutional review;

- 1) *Costa v. ENEL (1964)*<sup>15</sup> established EU law’s primacy, ensuring it overrides conflicting national laws.
- 2) *Germany’s Solange I and II cases (1974 and 1986)*<sup>16</sup> conditionally accepted EU supremacy, allowing German review if EU rights protections were deemed insufficient.
- 3) *Kadi v. Commission (2008)*<sup>17</sup> set a precedent that EU actions, even when implementing international mandates, must adhere to fundamental rights protections. Collectively, these cases define the interplay of national sovereignty, EU authority and rights protections within the European legal order.
- 4) *The Lisbon Treaty Decision (2009)*<sup>18</sup> by Germany’s constitutional court emphasized constitutional identity, asserting that EU law must respect core national principles.

The European model of constitutional review is generally more cautious than the U.S. approach, emphasizing the importance of maintaining a balance between legislative and executive powers while also upholding European Union law. In countries like Germany and Italy, courts closely monitor government actions to protect civil rights. Additionally, the European Court of Human Rights (ECHR) provides an extra layer of oversight, enabling individuals to bring cases of rights violations to an international forum. This model is

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<sup>15</sup> Case 6/64 Costa v ENEL [1964] ECR 595, Case 6/64 Costa v ENEL [1964] ECR 593

<sup>16</sup> (22 October 1986) BVerfGE 73, 339, [1987] 3 CMLR 225

<sup>17</sup> C-402/05 P and C-415/05

<sup>18</sup> (2007/2286(INI)) (2009/C 184 E/05)

characterized by the presence of specialized constitutional courts that serve as protectors of the constitution. Through significant case law in nations such as Germany, France and Italy, these courts have bolstered constitutional supremacy, enhanced fundamental rights, and established precedents that influence European judicial thought. This framework ensures that European legal systems can adapt to the changing dynamics between national and EU law, creating a strong mechanism for safeguarding democracy and the rule of law throughout Europe.

### COMPARISON BETWEEN INDIAN, AMERICAN AND EUROPEAN MODEL OF CONSTITUTIONAL REVIEW

Features	Indian Model	European Model	American Model
<b>Type of Judicial Review</b>	<b>Mixed:</b> Includes both concrete and abstract review, with wide-ranging powers over fundamental rights.	<b>Centralized:</b> Specialized constitutional courts handle constitutional matters, often with both abstract and concrete review.	<b>Decentralized:</b> Judicial review can be conducted by any court, with the Supreme Court as the final arbiter.
<b>Primary Court(s) Involved</b>	Supreme Court of India and High Courts	Specialized Constitutional Courts (e.g., Germany’s Federal Constitutional Court, France’s Constitutional Council)	Primarily the U.S. Supreme Court, but lower federal and state courts can also review constitutional issues.
<b>Historical Basis</b>	Derived from both British and U.S. systems, explicitly enshrined in the Constitution (Article 13).	Inspired by Hans Kelsen’s centralized review model, with influence from national sovereignty and EU law frameworks.	Established by <i>Marbury v. Madison</i> (1803), giving courts the implied power to nullify unconstitutional laws.
<b>Scope of Review</b>	Broad review of both central and state legislation, including administrative actions.	Typically reviews national legislation; EU law also adds a supranational review component in EU member states.	Reviews federal and state legislation, with a focus on actual cases rather than abstract or advisory opinions.

<b>Access to Review</b>	Open to individuals, often facilitated by <b>Public Interest Litigation (PIL)</b> for broader societal issues.	Accessed through designated processes; individual access varies (e.g., Germany’s individual complaint, France’s QPC).	Limited to actual cases brought before courts by individuals or groups; no abstract review or PIL.
<b>Protection of Fundamental Rights</b>	Extensive, especially under the "Basic Structure" doctrine, which limits amendments altering core constitutional principles.	Strong, with constitutional courts safeguarding fundamental rights; some states rely on EU/ECHR protections for additional support.	Strongly protected through the Bill of Rights and Supreme Court decisions, with amendments subject to stringent processes.
<b>Review of Amendments</b>	Amendments can be reviewed under the "Basic Structure" doctrine ( <i>Kesavananda Bharati v. State of Kerala</i> , 1973).	Typically, does not review constitutional amendments directly, but can interpret constitutional principles in light of EU standards.	Does not generally review constitutional amendments; amendments must go through a rigorous, prescribed process.
<b>Key Doctrines</b>	<b>Basic Structure Doctrine</b> protects core constitutional values; broad rights interpretation (e.g., Article 21).	National constitutional identity vs. EU law supremacy; Germany’s “Solange” doctrine balances national and EU rights.	<b>Stare Decisis</b> and judicial restraint in political matters; focus on precedent and case law evolution.
<b>Examples of Landmark Cases</b>	<b>Kesavananda Bharati (1973)</b> - Basic Structure Doctrine, <b>Maneka Gandhi (1978)</b> - Expansive rights interpretation.	<b>Lüth Case (Germany, 1958)</b> - Rights as “objective value order,” <b>Solange I and II (1974, 1986)</b> - EU law relationship.	<b>Marbury v. Madison (1803)</b> - Judicial review, <b>Brown v. Board of Education (1954)</b> - Civil rights, <b>Roe v. Wade (1973)</b> (recently overturned).

## CONCLUSION

The Indian, European and American models of constitutional review reflect distinct judicial philosophy and a structural approach to constitutional principles. The Indian model is a mix of U.S. and European characteristics with wide powers of judicial review that will safeguard rights for the individual as well as for the public at large. Its other features are PIL and Basic Structure Doctrine, where the Parliament is restrained from altering the very fabric of constitutional provisions and such a model of judiciary supports independence of judiciary along with being proactive about their constitutional supremacy. The European model deals with centralized constitutional review by specialized courts, which is not part of the common judiciary system. It has abstract and concrete review, which has been the case in countries like Germany and France, among others. These courts balance national sovereignty with the law of the EU. Therefore, the ECHR offers additional protection of rights. In this model, national identity and supranational principles are aligned.

On the other hand, the American model is decentralized, based on the philosophy of judicial restraint and deals more with constitutional issues by solving within actual cases. *Marbury v. Madison* sets up judicial review in the U.S, which entitles all courts to decide constitutional matters; however, the Supreme Court has a final say. It is more precedent-oriented, with much restraint, keeping judicial activity out of the political affairs. In conclusion, while the Indian model supports broad judicial activism, the European model features centralised constitutional review; the American model is case-to-case interpretation. The practice in all of them creates a unique means for respect of constitutional integrity as also to evolve in terms of its social needs.

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