

# Supreme Court: The Guardian of the Constitution

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**ABSTRACT:** In some nations, the highest judicial body within the legal framework of that jurisdiction is the Supreme Court, also called a court of last resort or apex court, whose decisions are not subject to further review by another judge. The designations for such courts can vary across jurisdictions. Ultimate remedy courts typically act exclusively as appellate courts, hearing appeals at an intermediate level from trial courts or appeal courts. In fact, there are several supreme courts in several countries, each of which is the court of last resort for a specific geographical area or for a particular field of law. Many existing case laws of higher courts applicable to their respective jurisdictions or imposed coded rules in countries of civil law to maintain a consistent understanding. Many common-law countries have a principle of prior judgment in which previous court rulings are a legal precedent in their jurisdiction for the same lower-status court or courts. On any of the rulings, the highest and final authority is the Supreme Court.

**KEYWORDS:** Supreme Court, Constitution, Jurisdiction.

## I. INTRODUCTION

The concept of ethics, morals, natural law, fairness, equality and equity is justice. The foundation of civilization is justice. It is the right ordering of things and people. In literal terms, it means equality. Among all nations, equality. In his book 'A Theory of Justice,' John Rawls used a social contract argument to demonstrate that justice, and distributive justice in particular, is a kind of fairness: an equal distribution of goods[1].

Rawls asks us to imagine ourselves behind a curtain of ignorance that removes any comprehension of our personalities, social status, moral standards, income, talents, and plans for life, and then asks what theory of justice we would like to control our society if we tried to do the best for ourselves when the curtain is raised[2].

The supremacy of the law, which has a wider socio-legal connotation, upholds the dignity of the judicial system by rendering justice to those who knock at its doors. This sentence, 'Satyameva Jayate,' encapsulates the essence of the hopes and ideals of the judicial system in India. Judiciary is an entity that, through the penalty of the culprit, infuses confidence in the people with regard to the rule of law and the omnipotence of justice. Therefore, in the eyes of the law, anyone who seeks to hinder the judicial process and circumvent the ends of justice is known as a criminal.

The judiciary, defending the equality demanded by Indians, was to be the arm of the democratic movement. Between the central and state governments, there is a division of powers. In order to preserve the supremacy of the constitution, disputes between the central and state governments must therefore be settled by an independent and neutral authority. The Supreme Court is an arbitrator of sorts[3][4].

It is the ultimate translator and Protector of the Constitution. Besides this, he is also a defender of the civil rights of the people. It is the biggest tribunal that has to draw the line between individual rights and society's strength. As the "guardian of social reform," the Supreme Court must represent.

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## *Jurisdiction of the Supreme Court*

Three forms of jurisdiction are included in the Supreme Court: appellate, original and advisory.

### *Original jurisdiction*

Its original jurisdiction is exclusive and extends to any form of dispute between the Government of India as well as one or more states or between the government as well as any state(s) on the one hand or between two or more states on the other hand, if and until the fall out involves any problem (if that of law or fact) on which the presence or degree of a legal river is concerned[5].

Within its original jurisdiction, the court enforces civil rights, hears federal disputes and can transfer cases. The court aims to protect the people from legislative and executive excesses as a defender of fundamental rights. The court has the exclusive authority to settle conflicts between the government and a state or between two states, as far as federal disputes are concerned.

Under the Indian Constitution, Article 32 confers original jurisdiction on the SC in matters relating to the protection of fundamental rights. Indian SC may issue writings, instructions or orders containing, and in essence, mandamus, quo warranto, certiorari, habeas corpus and prohibition writings. The power to order a move from the High Court of a state to the High Court of any other state in a criminal or civil case has also been granted. It may also transfer the cases from a lower court to the same state high court[6].

If the SC is of the opinion that cases involving the same legal issues are before it and in front of one or more of the High Courts and that these are essential legal issues, the SC may, before the High Court or the Courts, delete the cases and discharge all such cases on its own. The Arbitration and Conciliation Act, 1996 obliges the SC to carry out international commercial arbitration.

### *Appellate jurisdiction*

The Supreme Court's appeal jurisdiction is the supreme court's power to consider and resolve appeals from the lower court. The higher court will review judgments and change the outcomes of decisions of the lower court. Under the federal judiciary, the appellate courts have control over the district courts and the supreme court has jurisdiction over the circuit courts.

The appealing jurisdiction of the Supreme Court can be exercised by a certificate issued by the High Court of Appeal pursuant to Article 132(1), 133(1) and Article 134 of the Indian Constitution with respect to the judgment, decision or final judgment of any High Court of Appeal, in cases involving both civil and criminal cases and significant and relevant legal issues.

In civil cases, appeals also rest with the Supreme Court where the High Court in question certifies that:

- The case concerns a critical, publicly important legal issue; and
- The Supreme Court must decide on that question in the High Court's judgment.

In criminal cases, if the High Court is involved, an appeal is brought before the Supreme Court:

- Reversed the acquittal decision of the person convicted on appeal and sentenced him/her to death or imprisonment for a lifetime or for a period not less than 10 years;
- Removed the convicted person from any court under his jurisdiction for trial before him and sentenced him to death or imprisonment for a lifetime or for a period not less than 10 years in that trial;
- The case was deemed eligible for appeal before the Supreme Court. Parliament is entitled to give the Supreme Court additional powers to entertain and determine appeals against any ruling, final order or judgment in a criminal case before the High Court.

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The Supreme Court also has a very broad jurisdiction of appeal through all courts and tribunals in India to the degree that, in accordance with its discretion, it may grant special leave to appeal under Article 136 of the Constitution from any judgment, decree, decision, sentence or order passed or made by any court or tribunal in the entire territory of India in the event of any legal situation.

### *Advisory jurisdiction*

In matters to which the President of India may expressly refer, pursuant to Article 143 of the Constitution, the Supreme Court shall have special advisory authority. The appeal jurisdiction of the Supreme Court can be exercised by a certificate provided pursuant to Articles 132(1), 133(1) or 134 of the Constitution by the High Court concerned in respect of any judgment, decision or final order of the High Court in civil or criminal cases involving serious questions of law relating to the interpretation of the Constitution.

In civil cases, appeals also rest with the Supreme Court if the High Court concerned certifies this in certain circumstances. In matters to which the President of India may expressly refer, pursuant to Article 143 of the Constitution, the Supreme Court shall have special advisory authority. In all tribunals, the law found binding by the Supreme Court is binding. Article 141 of the Indian Constitution provides that, for all lower courts in India, every law, decision, order or decree shall be binding. But it also guarantees that the Supreme Court is not bound by its own decisions, and can withdraw its own judgment[7].

There have been several occasions where evidence of such a matter has been presented. In the case of *Bengal Immunity Co. v Bihar State*, if it is convinced of its error and its beneficial impact on the public interest, the court held that there is nothing in the Indian Constitution which prevents the Supreme Court from departing from its previous judgment. In *Golaknath v Punjab State*[8], i.e., the case of *Shankari Prasad* and the case of *Sajjan Singh*, the SC overturned two of its decisions. And again, in the case of the *Constitutional Right*, the SC, in the *Golaknath* case, reconsidered and overruled its decision.

### *Decrees and orders of the Supreme Court*

Article 142 of the Indian Constitution provides that the SC may, in the exercise of its jurisdiction, issue such decrees or orders as may be necessary for complete justice in the matter pending before it. Before Parliament makes provision for it to be in the way specified by the president, the court's decision is enforceable. Article 144 of the Indian Constitution specifies that all civil and judicial authorities in the territory of India shall operate with the assistance of the Supreme Court[9].

Intrinsic power is the power granted by Article 142 and it should be used to do full justice. And pursuant to Article 144, the power is very broad and it is possible for the court to establish legal theories to fulfill the ends of justice.

According to the provisions of almost every law made by Parliament in that name, as regards the entire territory of India, the Supreme Court is entitled, in its entirety, to amend any order or law with a view to preserving the presence of any person, the discovery or processing of any record or the inspection or punishment of any contempt on its own account. As per Article 144(2) of the Indian Constitution, this has been enshrined[10].

## II. CONCLUSION

The vision of justice as envisaged in our Constitution is such that all persons are made entitled to certain inalienable rights, and governments deriving their powers from the consent of those governed are formed in order to preserve these rights; and if any kind of law becomes destructive of those purposes, people have the right to revoke their consent, thereby imposing a new government.

The Constitution assumes that, for the greatest number of citizens, the common good is compatible with maintaining human rights. The provisions of the Constitution were formulated economically yet dynamically expanded throughout the country by the Supreme Court and the High Courts to meet the needs that have arisen from time to time, making the

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provisions relevant and significant to the people of India. Ours is a glorious Constitution raised up by the citizens with consummate skill and allegiance. It is a text based on deep moral foundations and embedded in eternal values; our Constitution, with a great vision of justice, provides a gallant showing of unparalleled virtues of agelessness.

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