

1. DO YOU AGREE WITH THE STATEMENT THAT THE SCOPE OF JUDICIAL REVIEW IN INDIA IS MUCH BROADER THAN THAT OF WHAT EXISTS IN US? CRITICALLY DISCUSS COMPARING THE JUDICIAL REVIEW IN THESE TWO COUNTRIES.

Judicial review is the power of Supreme Court and high courts to examine the constitutional validity of any law or act made by the parliament and state legislatures. In India the concept of Judicial review was borrowed from US constitution but scope of judicial review in India is narrower than that of what exists in US because of the following reasons:

In India, Judicial review can be based on three grounds- If the action of legislature or executive violates fundamental rights or it is repugnant to the constitutional provisions or it is outside the competence of the authority which has framed it.

Therefore scope, of judicial review in India is narrower than that of scope of judicial review in USA where Supreme Court of USA the power to reject or abrogate any law which is made by Congress or states.

Also, American constitution provides Due process of law which gives wide scope to the Supreme Court where as Indian constitution mentions about procedure established by law which gives narrow scope to the Supreme Court. But from Menaka Gandhi vs Union of India case, 1976 onwards supreme court also using the concept of Due process of law by accepting the concept of natural justice in some times.

Differences:

US constitution does not mention about judicial review in their constitution either explicitly or implicitly whereas Indian constitution explicitly mentions doctrine of judicial review in Articles-13, 32, 131, 143, 226 and 246. For example Article 13 (2) states that "State shall not make any law which take away or abridges the rights conferred in Part-III (Fundamental rights) of the constitution and law made in contravention of this clause, to the extent of contravention, be void.

In USA if the judges not like a particular law or philosophy then also the judiciary may reject law. For example, recent dismissal of ban of Visas to Muslim nations decision taken by Trump. In India judges use judicial review when the law or act is unconstitutional.