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Judicial Review in England: Scope, Limitations, and Its Role in Protecting the Rule of Law and Human Rights

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ABSTRACT

This article examines the English legal system in detail and a close analysis of the English courts' role in challenging the actions of public authorities including a detailed discussion of the extent and limitations of judicial review of public bodies in England. The judicial review is an important aspect of the rule of law, which will allow public authorities to act in a lawful and fair way. Although judicial review remains very significant in the English legal system, there are still significant spaces of ambiguity and inconsistency in the demarcation of its boundaries. This lack of clarity therefore raises concerns about the effectiveness of the mechanism and maintaining an appropriate balance between the legislative, executive and judicial branch of government. The article responds to three main questions: What is the state of judicial review in England today? What are the limits imposed on courts and what are the justification(s) for those limits? How do these factors impact on the effectiveness of the judicial review process overall? The approach employed in the research is qualitative and doctrinal with emphasis on primary and secondary sources of law such as case law, statutes, scholarly articles and official reports. A careful reading of these legal texts will help to guide on how many and to what extent the courts have the authority to review and challenge laws. The article will also take a look at the history of judicial review in England, and look at the reasons why it has progressed. Existing experiences in other jurisdictions will be further compared to identify possible areas of reform and development. The article will contribute to the understanding of the development of judicial review in England and the new boundaries of the rule, whilst highlighting the ongoing development and evolution of judicial review.



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Introduction

Judicial review is also a key element of the English legal system which checks the legitimacy, fairness and reasonableness of government's use of powers. It has become a basis of administrative law, key to the protection of fundamental rights and democratic values in the decision-making of public authorities.

This research paper aims to give a critical analysis of the extent and boundaries of judicial review in England with a particular focus on the developing function of the courts in the administration of law and its implications for the delicate balance of power in government.

Judicial review has undergone dramatic transformation to meet the evolving needs and expectations of the society. As public sector has grown and administration has become more complex, the role of the courts has also grown in limiting the powers of the executive authorities. However, there are some restrictions on judicial review, which are significant for good governance and accountability. The most difficult part of the task for the judiciary is to strike the right balance between upholding the law and the proper exercise of administrative discretion. This article looks at the evolution of judicial review in England throughout history. It exemplifies important and trail blazing moments and decisions that have helped to shape the current process. The question that needs to be asked is why the review is needed (for example, because legislation is unlawful, has followed an incorrect procedure or is unreasonable) and what options are available for dealing with the abuse (whether through legislation, individual applications or discretion) and how effective they are in preventing such abuses of public power.

The purpose of this article is to contribute to the vigorous discussion concerning the role of the courts in today's world. In order to attain this objective, it offers a thorough analysis of the limits of judicial review in England and proposes future ways to enhance them. The aim of this examination is to further the readers' understanding of the problems of judicial review. This will help to promote the rule of law, and uphold democratic values and the importance of it in the current constitutional structure of the English legal system, without lapsing into inappropriate judicial restraint or imbalance.

Literature Review

In England and Wales, it is important for courts to be able to appeal decisions in court. It is meant to see to it that government agencies comply with the rules. In recent years the knowledge of where the court boundaries lie have become more and more important. This literature review examines a number of important studies, which have been conducted from various angles of the subject to gain insight into the current knowledge level.

The idea of judicial review has developed over time, and has been inspired by a series of important cases. In the article, Elliott (2011) explores the development of the judicial review system in England and Wales. He shows how the *Dr. Bonham (1610)* case was important in laying the foundation for judicial review today. The author also provides coverage of the development of the doctrine of *supra vires*—an important concept which governs the scope of judicial review. This doctrine holds that the public authorities cannot go beyond their authority as prescribed in the law.

As judicial review expands, concerns about the limitations of judicial review have grown. Fordham (2014), in focusing on the issue of judicial review versus parliamentary sovereignty, suggests that sometimes judicial review will limit the scope of the legislature. The author calls for a more complex approach to the relationship between the two concepts and the need to balance them with respect to both the protection of individual rights and to respect for the democratic process.

One of the primary issues that are up for discussion is how far judicial review should be limited. Craig (2018) argues that such limits are intrinsic, and that keeping it separate between legality and merits is of crucial

importance. The author believes that the use of judicial review should be to enforce the law on public authorities rather than to evaluate the merits of the decision. This distinction is essential in order that the integrity of the judicial review process be maintained.

The part that standing plays in deciding the extent of judicial review is another important question. Richardson and Rackley (2016) point out that there has been a change in attitude by courts with regard to how the idea of standing has evolved. The authors argue that this flexibility has helped to expand access to justice for a broader range of claimants to bring actions. They are wary of a standing requirement that would be too broad or else the effectiveness of judicial review may be undermined.

In addition, the effect of the Human Rights Act 1998 on the ambit of judicial review has also been much discussed. The incorporation of the European Convention on Human Rights into domestic law in the UK has greatly extended the scope of judicial review according to Young (2019), who analysed the impact of the Act on theoretical approaches to judicial review. The author argues that both aspects of this extension have helped to uphold the rights of the individual and hurt it because of the potential threat to the principle of parliamentary sovereignty.

Finally, there remains much debate to be continued amongst legal academics in England and Wales about the scope of judicial review. Some of the key topics and issues identified in this literature review include: judicial review and legislative sovereignty, the difference between legality and merit, the concepts of standing and the impact of the Human Rights Act 1998. These complex debates should be taken into account when developing a more in-depth and comprehensive understanding of the function of judicial review in the English legal system.

Research Methodology

The aim of this research article, based on secondary sources, is to offer a qualitative analysis of the limits of judicial review. Judicial review is an essential feature of the legal system, allowing courts to determine whether or not the executive and legislative decisions are legal, constitutional and proper. This article will explore the extent of judicial review's application, its possible restrictions, and what it means for democracy.

Research approach

This article uses a qualitative research approach to grasp the complexity and nuances around the scope and limits of judicial review. The qualitative approach helps in examining the topic in depth and gives opportunities to the researcher to investigate a number of features and perspectives on judicial review.

Data Collection

The main sources of data for this article are secondary sources such as scholarly publications, books, law journals, legal reports and reputable websites. Secondary sources are useful, as they offer a wide range of analyses of judicial review from different angles; they highlight the historical, theoretical and practical dimensions of judicial review.

Considering the Ethics

This article does not present any specific ethical issues with regard to human participants or personal data

as it does not use primary sources. However, to maintain the authenticity and integrity of the study, the research will abide by ethical norms such as intellectual honesty, presentation of sources, appropriate use of citations, etc.

Limitations

The major drawback of this research is the use of secondary sources of information which may not fully answer the extent and limits of judicial review. In addition, the quality of the sources can influence the validity of the sources and the quality of the analysis. The qualitative approach could also affect the generalisability of the findings as it may stress the depth of understanding in the study rather than representation in statistics.

Although these limitations are outlined above, the purpose of this research article is to offer insightful analysis of the scope and limits of judicial review and to help clarify its significance and effects on the legal system and judicial review's ongoing evolution in the context of the English legal system.

Constitutional Foundations of Judicial Review

The concept of judicial review reflects the rule of law which is also incorporated in the constitution, which states that public power must be exercised according to law. The normative foundation of judicial oversight of public authorities is, therefore, the rule of law. The requirement of the rule of law is that government does not use its power arbitrarily, but in a lawfully provided setting, Bingham (2010). In the context of judicial review, this does not empower courts to strike down broadly the desirability or political correctness of government policies and decisions. In spite of this, the court's duty is to make sure that public bodies act within the limits of their authority and respect the requirements of law. It is the function of judicial review, therefore, to provide a mechanism for people to monitor the improper use of public authority while limiting judicial involvement in politics (Craig, 2011).

This function should, however, be weighed against the principle of parliamentary sovereignty, which is an important aspect of the uncodified nature of the British constitution. There is a legislative power in Parliament to make and repeal legislation and, generally, a difference in challenges to the legality of executive action and challenges to the validity of primary legislation in the courts. This is a constitutional relationship that is evident in the case of *R (Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5. In *Miller*, the Supreme Court held that the Government could not use the prerogative power to initiate the Article 50 process without Parliament's consent when this would lead to a change in domestic law and therefore have an impact on the statutory rights. It was therefore clear that parliamentary sovereignty can be a constraint upon the executive as well as the judiciary, and that the executive has to operate within the limits of law, (*R (Miller) v Secretary of State for Exiting the European Union*, 2017).

Another constraint is due to the separation of powers. Judicial review is a supervisory control over the legality of public action, in which courts watch over the rules of the game or "legality" of public activity, but do not in normal circumstances have the authority to conduct executive and legislative functions. So it is important to make the distinction between legality and merits: courts do not make judgments about the better or preferable decision, but whether it was "lawfully made." This distinction gives public authorities room to make some room for themselves, without, at the same time, allowing them to make this room illegally. It is not, however, entirely inflexible, because the constitutionality of a decision may be of considerable substance and may need extensive analysis to determine if it is constitutionally permitted or not (Craig, 2011).

This is done keeping in mind the character of judicial review, that it is not supposed to usurp the political

judgment of the people which gives birth to it, but rather to ensure that the exercise of public power remains authorised, is carried out in a proper manner and is in line with prevailing constitutional principles. It thus sits somewhere between the two, between effective legal accountability and respect for institutional competence, balancing out the different roles of the courts, of Parliament and of government in the constitutional order.

The limits of judicial review were a feature of *R (Miller) v Prime Minister* [2019] UKSC 41. The Supreme Court ruled that the Prime Minister's decision to prorogue the Parliament was "justiciable" and "unlawful" as it frustrated or prevented Parliament from performing its constitutional role without any reasonable cause. Importantly, the Court denied that the political nature of a dispute should automatically take it out of the judicial review process. In parallel, the judgment uphold the constitutional principle that Parliament is sovereign and accountable to the people. The power of judicial review, therefore, is not 'judicial supremacy' in the sense that judges could override any law or decision by government, it is not simply a procedural safeguard, but it does mean that judges can keep the executive within the boundaries of the law and it respects the role of Parliament and government in taking decisions (*R (Miller) v Prime Minister*, 2019).

Scope of Judicial Review

Our research reveals that in England, the three most common reasons for judicial review are legality, irrationality and procedural irregularity. They are the grounds on which the correctness of public authority action, and its scope of lawful powers, can be assessed. There are also a number of additional grounds for judicial review which have been described as legitimate expectations, proportionality and human rights, all of which have been recognised by the courts.

Subject Matter Jurisdiction

In the UK, checks and balances are in place to ensure that decisions taken by bodies that have a public function are open to judicial review. This means public bodies like government departments, local councils, regulatory bodies and some private bodies carrying out public functions. But it does not cover claims over private law or claims by only private parties.

Remedies

If a court finds that a decision is "amenable to judicial review" and that there is a ground for review then it may issue one or more of the following types of remedies: Quashing orders, mandatory orders, prohibitory orders, and declarations. In certain situations damages can also be awarded.

Limits of Judicial Review

Judiciability: According to the concept of 'justiciability', some issues or conflicts fall outside the jurisdiction of the courts. This could be because of the political nature of the facts at issue, lack of an appropriate legal standard or the lack of judicial remedies to resolve the issue.

Standing: Judicial review claims can only be made by an individual or group if they have a sufficient interest in the matter. This is to avoid burdening the courts with the claims of those who are in no way affected by the decision being appealed.

Timeliness: Any legal action should be taken in a timely fashion and within three months of the decision being challenged. This is to improve the efficient administration of justice and challenge the decisions

without unnecessary delay.

Discretion: There is a high degree of discretion in the courts in assessing whether or not to give permission to challenge. They can refuse permission if they believe giving it would not be in the public interest or if they think the claim has already been addressed or it doesn't have a chance of succeeding.

Ouster Clauses: Sometimes there are provisions in legislation which attempt to limit or foreclose the courts from reviewing decisions. Such clauses are usually regarded with suspicion by the courts but when there is a clear and unequivocal language, they will be upheld.

This has been put in place to meet the need for legal and accountable governance in England.

Finally, it has been demonstrated in our study that judicial review is very wide in England and yet has its own recognized boundaries. While it is a crucial channel to ensure the legitimacy of public decisions, it can be undermined by issues of justiciability, standing, timeliness, discretion, and by ouster clauses. The restrictions show how crucial the need to balance effective judicial control with respect for the independence and effectiveness of public bodies in fulfilling their duties is.

Remedies and Effectiveness

Judicial review is not just about establishing illegality, it is also about ensuring that the court has the power to say something that will give some form of remedy to the claimant which will truly establish his legal rights. In summary, the key remedies outlined in section 31 of the Senior Courts Act 1981 and CPR Part 54.

The existing remedy of the quashing order continues to be the primary remedy under public law. It strikes down an illegal determination and usually calls for the public authority to rethink the issue, following the law. Its value, then is in restoring legal decision-making and not in taking judges' place in the administration. The courts have accepted that it is better to quash than in any other case where the authority itself should be best placed to decide the issue. There has been a significant amount of flexibility introduced, however, by the Judicial Review and Courts Act 2022 which allows courts, in appropriate circumstances, to suspend the effect of the quashing order and/or limit its retrospective effect.

A mandatory order requires a public body or tribunal to do something the law requires them to do but a prohibiting order will stop a public body or tribunal from doing something when they should not. Both can thus offer more immediate practical protection than just quashing. But the issue of mandatory relief raises constitutional issues as it could have a great impact on the discretion delegated to the public authorities by Parliament. The Supreme Court has, therefore, insisted that when deciding if an order is warranted, the court should take into account institutional competence and the separation of powers.

A declaration is a more general help to show the legal position, but doesn't necessarily require any specific action to be taken, whilst an injunction can be used to prevent something that is unlawful (section 31(2) of the Act) if it is just and convenient to do so. These remedies may be useful where the legal rights issues can be clarified without undue judicial oversight to get compliance.

By contrast, damages are not generally recoverable for an administrative decision which is unlawful. The claimant needs to demonstrate a cause of action on which damages could be claimed in an action for ordinary damages; a claim for judicial review cannot be used to recover damages which would not be

awarded under public law. This seriously reduces the compensative aspect of judicial review.

Remedial discretion is an additional qualification that indicates how effective a remedy is. There is an exception to the relief required under section 31 in case the outcome would not have been 'substantially different' without the illegal activity, but this is subject to an exception for 'exceptional public interest'. Therefore, even if the claimant is able to prove unlawfulness, he/she is unlikely to be entitled to substantive relief.

Judicial review is thus a potent, but limited, remedy system. It has a powerful capacity to correct wrongful decision making, but can only be effective if the remedy chosen is appropriate, the institutions are limiting the remedy, other remedies are available, and the court has the statutory discretion to do so. It is not always the case that the successful claimant will achieve the result that he/she is looking for. This is at the heart of the difference between legal achievements and remedial efficacy and the question of whether judicial review is a real or merely formal means of relief against the illegality of public action.

Discussion

Judicial review is at the heart of England's constitutional system, as it is a way for courts to regulate the legality of public power. It does not replace the exercise of judicial judgment, but aims to guarantee that public authorities are not acting beyond the scope of their lawful authority, that they are following the correct procedures and that they are not infringing on fundamental rights. Consequently, the extent of judicial review "must be interpreted as a compromise between the principles of effective judicial control and institutional competence, democratic accountability and separation of powers.

The traditional approach to judicial review was linked to the *Council of Civil Service Unions v Minister for the Civil Service (GCHQ)* by Lord Diplock who listed illegality, irrationality and procedural impropriety as the key grounds of review. There are two aspects of the concept of illegality: firstly, whether a public body has correctly interpreted the powers given to it by law and, secondly, whether it has acted within those powers. Irrationality refers to a failure to make a decision within the scope of responses that would be expected from a reasonable decision-maker and procedural impropriety is a failure to act in accordance with the procedures and principles of natural justice. These categories are still important but have been elaborated on in contemporary judicial review, including with proportionality and human rights concepts, but also with contextsensitive notions of reasonableness, where applicable. It still is however, not the same as either questioning the legality of a decision, or replacing a court's judgment with the court's own opinion.

The principle of legality is very much noticeable in the case of *Anisminic Ltd v Foreign Compensation Commission*. The decision seriously undermined the long standing principle that a determination by a public authority in an apparently protected jurisdiction was final. Even though an ouster clause might appear to be quite broad, a material error of law may make the decision legally flawed. The principle of rule-of-law that public bodies can only establish the scope of their own authority with a degree of finality, and courts' supervisory jurisdiction over the powers of the public bodies were thus strengthened as a result of *Anisminic*. However, the principle may only be put into practice through the context of a statutory interpretation and the specific legislation relating to the power in question.

The famous case of *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* is associated with irrationality. The case laid down principles of judicial review which include the following: that judicial review is not an appellate mechanism, in which judges can replace the decision of a public body with their own. Intervention may, however, be justified when, in so far as it is relevant, appropriate considerations have not been taken into account or where irrelevant considerations have been taken into

account or where a decision is so unreasonable that no reasonable authority could have made it. The Wednesbury principle continues to be of significance as a form of judicial restraint. Other developments in the law have been fostering a more contextual understanding of reasonableness, especially when the decisions impact on fundamental rights or important constitutional interests.

Legality is another aspect of procedural fairness. In *R v Secretary of State for the Home Department, ex parte Doody*, the House of Lords held that 'fairness' depends on the facts of the individual case; that an affected person may need to be given a chance to offer 'representations' and have the case against him explained. Judicial review thus involves not only a question of the lawful exercise of a public authority, but also the way the power is exercised. This has helped in the establishment of legitimate expectation. A public authority that has made a promise, a representation or a practice that raises an expectation of treatment going to a particular person or group of people will need a legal reason for departing from that expectation. The court in *R v North and East Devon Health Authority, ex parte Coughlan*, confirmed that there could be an abuse of power if there is not sufficient justification to frustrate a substantive legitimate expectation. The fundamental principles illustrate how the concept of fairness has become more substantive to administrative law.

Judicial review has now been extended by the Human Rights Act 1998. The Act made Convention rights part of national law and increased people's capacity to sue public bodies where their actions are incompatible with Convention rights. Section 6 imposes a positive obligation on public authorities, within the limits of the law, to act compatibly with Convention rights while section 3 imposes a negative obligation on the law to be interpreted compatibly with Convention rights, as far as possible. If it is not possible to interpret the primary legislation compatibly, there are some courts that can make a declaration of incompatibility in accordance with section 4. Such a declaration will not negate the legislation, which will keep Parliament in its constitutional position. The Human Rights Act thus gives judges greater powers to protect rights and ensures that there is a clear separation between their task of interpreting the law and that of legislating.

Another important change in the level of judicial scrutiny is proportionality. In *R (Daly) v Secretary of State for the Home Department*, Lord Steyn made a clear distinction between proportionality and conventional Wednesbury review and drew attention to the need for a more in-depth analysis of the proportionality between the objective, the method and the effect on fundamental rights. The court then will not only consider whether a decision was "outside any rational range of choices," but also whether the measure is "appropriately related to the goal" and whether a "less restrictive" measure was possible and whether a "fair balance" exists. The contextual nature of reasonableness and proportionality was also found in *Pham v Secretary of State for the Home Department*, where the level of scrutiny is able to be heightened if the fundamental rights are involved. However, as far as proportionality is concerned, it does not mean that the judicial review becomes an unlimited merits appeal. Its importance is that it is a form of examination that is organized and the rigour of which is determined by the legal interest at stake and the institutional setting in which the decision was made.

Although these changes have been made, there are still constraints on judicial review under the Constitution. These restrictions are required as courts are not granted a general authority to decide matters of public policy and do not have a constitutional responsibility to take upon themselves the functions of elected government and administrative bodies. There are of course limitations, but one is the issue of justiciability. All government actions do not necessarily qualify for judicial review simply because they have been taken by the executive. Courts must have the ability to tell the difference between questions that can be answered by rules of law and those that are questions that would put judicial powers in the hands of another branch of government. The question of political sensitivity, however, is no guarantee that an issue is non-justiciable. The Supreme Court in *R (Miller) v Prime*

Minister, took an exceptional view of the political nature of the action of the executive but noted that the exercise of prerogative power with constitutional consequences could be subjected to legal review. The ruling is that political controversy is not a justification for executive action that's out of bounds of the rule of law.

The notion of institutional competence is closely tied to the justiciability. Courts have a special expertise to interpret laws, establish legal principles and monitor the legality of administration process. However, they are not institutionalized in the same way as policy makers and do not have the same expertise when decisions need to be based on a complex evaluation of the economic, social, administrative or security interests. When Parliament has delegated to a public authority to make decisions about competing interests or about the distribution of resources that are scarce, there should be a degree of judicial restraint. This is not to make such decisions reviewable "with a light finger" but to make the decisions subject to the scrutiny of the institution, and to make sure of that, to ensure that the court is not able to take out the lawful administrative judgment and impose its own policy.

Caution should thus be exercised in the application of the concept of deference. There is no general doctrine in English administrative law that courts have to defer to public authorities. Rather, the level of judicial review is dependent on the context. Some fundamental rights and significant constitutional concepts might warrant more searching examination while others might be better left alone because of conflicting economic, social or administrative considerations in a polycentric policy arena. This contextual approach will enable judicial review to be effective without making judges policy makers.

Another important and fundamental constitutional constraint is parliamentary sovereignty. While the executive and administrative decisions are normally subject to judicial review, the courts do not have a second legislative role or can strike down primary law for being unfavourable. The Human Rights Act is a good example of this balance: incompatibility does not mean that the Human Rights Act is unenforceable – the final decision on the Act lies with Parliament. The constitutional importance of this principle is also seen in *Miller*, where the Supreme Court ruled that if the Government used prerogative power to invoke Article 50 to change the domestic law and impact the statutory rights, without Parliament giving it power to do so, this would be unconstitutional. It is a judgement of strength and discipline in judicial review – a judgment that limited the executive power while at the same time maintaining the constitutional power of Parliament.

The right to a judicial review comes with its own set of procedures. Section 31(3) of the Senior Courts Act 1981 requires a claimant to prove that he/she has a "sufficient interest" in the proceedings. Standing ensures that judicial review is not the unlimited tool that can be used by any member of the public as a way to challenge government action simply because he or she doesn't like it. However, there is been some flexibility in the requirement, especially when there is a legitimate public interest concern about the public power's legality.

There is also an additional protection for the permission stage. In general, judicial review cases must obtain permission to go forward to substantive determination. This stage can help the court to determine whether a claim is sufficiently arguable to warrant further consideration to allow access to judicial review where there is a genuine legal dispute but to exclude unmeritorious claims. CPR Part 54 includes the main procedures.

Time limits are also a measure of both the legal and the certainty of administration. Subject to certain statutory regimes, CPR 54.5 generally requires a claim to be raised on time (and in any event within 3 months of the time the causes of action first occurred). This requirement acknowledges that the decisions of the public can have consequences for others and that a lack of clarity for long enough could make administration ineffective. Judicial review must therefore be flexible enough to correct decisions

where they are found to be unlawful, but also give finality to a public decision.

Judicial review may also be limited as there may be an alternative remedy. Judicial review is not to be confused with the general appeal against a statute or alternative specialised administrative process. If there is a proper remedy (provided by Parliament), then judicial review may be deemed to be inappropriate. The fact that this is not a strict rule to run out all the remedies, but it is a reflection of the discretionary nature of judicial review, and the significance of respecting mechanisms set up by Parliament for the resolution of specific disputes.

Lastly, the 'ousters' continue to be a major constitutional issue of conflict between parliament and the judiciary. *Anisminic* has created a precedent that an ostensibly sweeping ouster provision could not automatically deprive a court of the power to review a decision if there was a legal defect in that decision. The same principle was reiterated in *R (Privacy International) v Investigatory Powers Tribunal* and the importance of the supervisory jurisdiction was again discussed. The case raised the question of judicial supervision to ensure the rule of law, and also made it clear that there is on-going debate about the limits of Parliament's power to limit the courts. Ouster clauses are thus a significant aspect in which the interplay between the lawmaking power and the judicial power is still evolving.

These rules together show that in England judicial review has a much wider scope than simply whether a public authority has transgressed the "letter of the law. It has a modern application which includes issues of illegality, irrationality, procedural fairness, legitimate expectation, proportionality and human rights protection. Meanwhile, its constitutionality relies on real restrictions, such as in the areas of justiciability, institutional capacity, Parliamentary sovereignty, standing, permission, time limits, and alternative remedies as well as ouster clauses.

The key constitutional issue is thus a balance one. Judicial review should be powerful enough to prevent the abuse of public powers and to ensure the rule of law, but not so powerful as to give the judiciary a general appellate jurisdiction over administrative decisions or to make it a "policymaker. The scope therefore is dependent on the nature of the power exercised, the legal principle involved, the rights involved and the institutional setting where the decision was made. They are not a denial of judicial review but rather a limitation on judicial review which draws a line between constitutional and non-constitutional exercise of judicial power. Judicial review as a result is a dynamic tool for guaranteeing legality, accountability and protection of rights, while maintaining the constitutional role and functions of the executive and Parliament. Its importance for the constitutional system in England is ongoing in this balance.

Conclusion

The review of the parameters of judicial review in England has been discussed in detail in this article. Judicial review is a critical tool for the rule of law and the accountability of public bodies for their actions to the standards of justice, fairness and reasonableness. As the above analysis has shown, in order to be able to appreciate the overall effectiveness and influence of judicial review upon the English legal system it is necessary to take into account a number of basic constraints. An important feature of the process of judicial review in England is that it is concerned with the legality of the decision-making process not the merits of the judgement. This distinction is an important safeguard of the constitutional balance of powers between the judiciary, executive and legislative powers of the government. Judicial review is concerned with the process, ensuring public bodies are working within their statutory powers and in line with the principles of natural justice (fairness) in the common law. This means that the judiciary can act as a check on public bodies in the sense that they will be liable to be called to account by a court while not taking over the legislative process. But judicial review also has a limitation in focus – it is a procedure that does not allow courts to consider the substance of the decision of a public body.

Hence, even if the decision is seemingly unfair or unreasonable, it is valid, if the process of taking the decision is legal. This restriction underlines the need to have more openness and accountability in the public decision-making process as well as the need for other methods that can contest the merits of administrative decision making.

Another important aspect of the English system of judicial review is the standing requirement—ensuring that a claim for judicial review can be brought by a person or group with a proper interest. This is essential to ensure that the judiciary resources are allocated properly and won't be overloaded with claims. But, the standing requirement might make it difficult for those who are indirectly affected by a decision to access justice. In England, there is one more restriction on judicial review, the doctrine of deference. Where policy issues are involved or where the issues are of national security, courts give public authorities a significant amount of respect. The respect shown can be justified in terms of institutional competence and separation of powers because sometimes it is more appropriate for the public bodies to make certain types of decisions. However, the rule of deference could serve to deter courts from exercising their power to hold public bodies to account, and thus weaken judicial review.

Lastly, remedies in judicial review cases are both an element of the scope of the process, and a constraint. While there are different methods of relief to be issued by the Court such as quashing order, mandatory order and injunction, these are discretionary in nature and may not always yield the desired result for the claimant. So far as remedies are concerned, the discretion given to the courts can leave them with uncertainty, and very often it can diminish the effectiveness of judicial review as a tool for holding public bodies to account in some instances. To sum up, this research has been on examining the purpose and the limits of judicial review in England. It is an integral part of the rule of law and accountability of public authorities, but is subject to certain limitations. The doctrine of deference, the standing requirement, the procedural focus and the availability of discretionary remedies all have an effect that limits the ability of the judiciary to act effectively in the realm of judicial review. An appreciation of judicial review as part of a wider 'checks and balances' system is therefore important and a continued search for ways of making it more effective and compatible with other accountability processes in the English legal system are essential.

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