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## **APPLICABILITY OF PUBLIC LAW VIS A VIS PUBLIC AUTHORITY IN THE U.K. AND INDIAN CONTEXT**

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### **ABSTRACT**

This study contains the application of public law on public authorities in the U.K. and India, which primarily examines the legal frameworks and accountability monitoring devices. Public law governs relations between the individual and the state, where any mismatches give birth to either a challenge in the courts or something that society refers to as corruption. This public authority gets usually tested through what is called the functional test in the U.K.

Under this approach, both private and government bodies fulfilling public functions are characteristic public authorities of the U.K. Approximately all public authorities and persons performing the function of a public and which are even not in the ambit of the conventional definition of a public body contribute to the substantive scope in this country. The Constitution of India offers broadly defined public authorities, which could also involve central, state, and local bodies, public sector undertakings, and regulatory institutions. The RTI Act of 2005 adds more to that than mere transparency.

The paper identifies similar challenges-common challenges of corruption, accountability, and human rights infringements in both countries-and provides avenues for cross-learning. It highlights differences in the systems of judicial review in the two countries: India's broader powers of judicial scrutiny vis-à-vis the parliamentary sovereignty in the U.K. Ultimately, this research will shed light on the strong and weaker sides and possible reforms to strengthen the public law systems in both countries for better governance with citizen participation.

## 1. INTRODUCTION

### 1.1 Definition of Public Law and Public Authorities

Public law manages the interactions or relationships between individuals and the government or state, but it is also restricted to the proper exercise of powers by the state. Primarily concerned with legal principles for establishing, operating, and controlling public power. Public Law consists of various branches:

- **Constitutional Law:** This theory deals with the underlying doctrine to the state's separation of powers and protection of individual rights through the governmental structure. It lays down the standards under which public authorities act.
- **Administrative Law:** This area defines the powers and ordinances for the administration. Here, we have legal guarantees that the conduct of public authorities will conform to the restrictive powers mandated by statutes, thus ensuring accountability of state and governmental agents.
- **Criminal Law:** This branch undertakes code violations against the sovereign, fixing punishment for these through establishing codes of sanctioned behavior. It maintains proper order by fostering a notion of self-protection within society for the common man.

Public Authority is constrained within being termed such when established by an act under the Constitution to make decisions, enforce laws, and provide public utility services. Examples of this authority include national and local government bodies, regulatory agencies, and public corporations. Public authorities derive their powers from statutes or regulations impinging on their powers, duties, and activities. Grasping these definitions brings relevance by laying the basis for a discussion on public law and public authority found in the current U.K., with India providing a comparison.<sup>1</sup>

### 1.2 Comparative Analysis in Public Law: Its Significance

A comparative analysis in public law is significant, and some reasons include:

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<sup>1</sup> Hood, C., & Heald, D., *Transparency: The Key to Better Governance?* (Routledge 2006).

- **Understanding Different Legal Systems:** By undertaking a comparative study of the U.K. and India concerning public law, one can appreciate the various developments that have taken place regarding legal principles, regulations, and practices in both circumstances. This goes a long way toward explaining the cultural, historical, and political factors shaping each system.
- **Consideration of Effectiveness and Efficiency:** The comparative legal analysis allows public authorities to operate to understand the effectiveness and efficiency of each form of governance. This provides additional insights for the two systems individually and opens up avenues for possible best practices that might be adopted in any jurisdiction.
- **Seeking Common Ground:** As far as the regulation of public authorities is concerned, despite their national remoteness from one another, the two countries share far more common challenges, such as corruption, accountability, and human rights violations. Though relatively more arduous, a comparative backdrop will shed light on everyday issues, thus fostering some spirit of collaboration for reform.
- **Learning from Each Other:** Insights from one jurisdiction can be imported into another with a view toward its reform and improvement. Things that worked well elsewhere, such as effective regulatory schemes and new twists on accountability issues, serve as models for reform in other jurisdictions.

These features further underline the willingness of this comparative study to embrace its emphasis on the minimization of differences between both jurisdictions while shifting to account for certain similarities in their aspirations toward accountability, individual rights, and good governance or effective governance outcomes.

### **1.3 Research Objectives and Structure**

- The chief rationale of this research is to elaborate on the corresponding situations of public law concerning public authority in the U.K. and India. Hence, this research is geared toward the following selected objective.
- **Key Conceptual Definitions:** By defining these concepts, this project provides a working definition of public law and public authority according to the legal contexts of both jurisdictions; further analysis will rest on this foundation.

- **Regulatory Assessment of Public Authorities:** This research will present an analysis of the role of public law in governing public authorities in the U.K. and India, considering the legal regime within which actions and decisions of these authorities operate.
- **Assessing Accountability:** From the perspectives of each legal system, one of the critical matters of consideration will be the mechanisms through which accountability, in the form of judicial review and protection of human rights, is imposed.
- **Discussion of Reforms and Challenges:** The research will focus on critical ongoing reforms in both countries aimed at improving the work of public authorities and the challenges that, notwithstanding these attempts, remain to be addressed.

The research will demonstrate a logical flow, starting with an overview of the definitions and legal contexts of public authority, then moving on to the role of public law, mechanisms for accountability, review of reforms and challenges, and proceeding to a synthesis of findings and recommendations.

## **2. PUBLIC AUTHORITY: DEFINITIONS AND LEGAL CONTEXT**

### **2.1 Public Authority in the U.K.**

A United Kingdom's public authority translates to a much wider sphere of agencies and departments exercising powers or functions directly as public. From conventional governmental bodies like departments and agencies extending to statutory bodies and public corporations, the term is broad enough for a more nuanced understanding of what constitutes "public authority."

The courts in the U.K. have adopted a flexible approach when discerning public authorities. Most cases advocate the functional test that investigates the functions exercised by that particular entity, whether truly carried out by public bodies or indispensable to public well-being, which would qualify that organization as a public authority.<sup>2</sup>

Broader understanding allows for its inclusivity even to help organizations that blend characteristics of both public and private sectors. For instance, public-private partnerships

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<sup>2</sup> Awasthy, R. (2020). *Public Law in India: An Introduction*. New Delhi: Oxford University Press.

(PPPs) may as well be public authorities when they need essential public services. This dynamic indicates that public authority readily adapts to modern governance needs.

Some examples of such apparent public authorities include the National Health Service (NHS) and the British Broadcasting Corporation (BBC). NHS is a publicly funded healthcare system that primarily serves the public by treating sick people, explicitly portraying them as public authorities. The BBC is also unique as it is a public service broadcaster providing information and entertainment to the British public. In some instances, it was possible for the public authority to recognize itself in voluntary organizations. Charitable organizations receiving significant public funding or providing essential public functions may be identified as public authorities. For example, a charity providing social care services may qualify as a public authority because it works in the public interest.

The influence of European Union law has also generated a mix-up of the U.K. idea about public authority. Under EU regulations, a privatized entity that provides a significant public service, such as water, gas, and electricity, may be classified as a public authority. This inclusion recognizes the premise that the services are of utmost public concern.

## **2.2 Definition of Public Authority in India**

India has a broader and more deep-rooted meaning of "public authority" within the context of the Constitution of India. Public authorities include both central and state industrial authorities and local self-government institutions like municipalities and panchayats. These are among those entities that perform governance more directly by carrying out the policies and welfare programs meant for the benefit of the public at large. Being the highest law of the land, the Constitution of India is a governing framework through which these authorities should be set to function while performing their assigned duties, ensuring their actions meet the cited principles of justice, equality, and other acts of fundamental rights given in the Constitution. The manifest means within these constraints of one's authority where a public authority acts in, and for the purposes, demand that welfare for society and accountability directly be made to the public.

Not only public sector units, but also regulatory authorities such as the Reserve Bank of India (RBI) and the Securities Exchange Board of India (SEBI) are other forms of public authorities that manage individual sectors of the economy. They are independently functioning and imbued

with the authority of legislation on which they have been established, yet they owe accountability to the parliament as well as the public. Other examples are the Indian Railways and the Life Insurance Corporation (LIC). Although aspects of these bodies operate like businesses, providing vital public functions, they do thus fulfill the definition of being public authorities.

One of the powerful legislative devices that highlight the relationship between public authorities and citizens is the 2005 Right to Information Act. The RTI throws open requests by ordinary citizens seeking information from public authorities to foster transparency and accountability in administration. The act includes ministries, departments, PSUs, and local government institutions under its purview, ensuring that those entities not only perform their functions but also remain answerable to the public. Notable examples of RTI's success included the exposure of corruption within government departments, such as abuse of power in the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) scheme, thus showing how effective public accountability can be.

Furthermore, Indian public authorities are mandated to adhere to the values enshrined in the Constitution, mainly to preserve and protect the fundamental rights guaranteed by Part III. For instance, acts violating constitutional rights committed by public authorities such as the Police or State Transport Authorities can be legally challenged through writ petitions under Articles 32 and 226 of the Indian Constitution. This framework holds public authorities accountable for abuses of power or infringements upon citizens' rights. In cases like *Maneka Gandhi v. Union of India*<sup>3</sup> and *Minerva Mills Ltd. v. Union of India*, the judiciary has consistently reiterated the duty of public authorities to act justly, transparently, and by the provisions of the Constitution.<sup>4</sup>

### 2.3 Comparative Analysis of Public Authority in the U.K. and India

| Aspect                 | Public Authority in the U.K.                         | Public Authority in India                                     |
|------------------------|--|---|
| <b>Legal Framework</b> | Public authorities in the U.K. are defined using the | In India, the definition of public authority is rooted in the |

<sup>3</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>4</sup> Bradley, A. W. & Ewing, K. D., *Constitutional and Administrative Law* (Pearson Education 2018).

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|                                       | <p><b>"functional test"</b>, where courts determine whether an entity performs a public function typically carried out by government bodies. This includes traditional government departments as well as private or hybrid entities like <b>PPPs</b> that perform essential public services.</p>   | <p><b>Constitution</b>, which includes central, state, and local government bodies, <b>PSUs</b>, and autonomous regulatory bodies. The Constitution grants these entities authority, ensuring their actions align with fundamental principles like justice, equality, and fundamental rights.</p>  |
| <p><b>Types of Entities</b></p>       | <p>Public authorities in the U.K. include traditional government bodies like ministries, <b>public corporations</b> (e.g., BBC), and <b>hybrid entities</b> (e.g., public-private partnerships in healthcare, transport). Private companies can also be public authorities if they perform <b>public functions</b> (e.g., utility companies under EU law).</p> | <p>In India, public authorities encompass a wide array of entities, including <b>central ministries, state departments, local self-governments</b> like <b>municipalities</b> and <b>panchayats</b>, <b>PSUs</b> like <b>Indian Railways</b>, and regulatory bodies like <b>RBI</b> and <b>SEBI</b> that oversee key sectors. Government-funded entities performing public functions also fall within this category.</p> |
| <p><b>Judicial Accountability</b></p> | <p>Public authorities in the U.K. are regulated through <b>judicial review</b>, which ensures that their actions conform to <b>parliamentary laws</b> and, since the enactment of the <b>Human Rights Act 1998</b>,</p>  | <p>In India, public authorities are held accountable primarily through <b>judicial review</b> under <b>Articles 32</b> and <b>226</b> of the Constitution. This allows the judiciary to ensure that public authorities do not infringe on <b>fundamental rights</b> and follow</p>   |

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|-------------------------------------|--|--|
|                                     | <p>comply with human rights standards. Courts ensure that public authorities do not overstep their legal boundaries.</p>   | <p>constitutional mandates. Landmark cases like <b>Minerva Mills Ltd. v. Union of India</b> have strengthened judicial oversight over these entities.<sup>5</sup></p>  |
| <p><b>Key Laws/Influences</b></p>   | <p>The <b>Human Rights Act 1998</b> and the influence of <b>EU law</b> have expanded the definition of public authority in the U.K., bringing <b>private entities</b> that provide public services (e.g., water and electricity) under the purview of public law. The <b>functional approach</b> allows for a broad interpretation of who qualifies as a public authority.</p> | <p>The <b>Right to Information (RTI) Act, 2005</b> in India significantly increases the transparency and accountability of public authorities by allowing citizens to request and obtain information about their actions. This act ensures that the functioning of public authorities is subject to public scrutiny. The Constitution remains the core legal basis for determining public authority functions.</p> |
| <p><b>Judicial Review Scope</b></p> | <p>Judicial review in the U.K. focuses on ensuring public authorities act within the limits of the powers granted to them by <b>statute</b> or <b>common law</b>. It ensures legality, rationality, and procedural fairness but is limited in scope compared to India’s judicial review.</p>   | <p>Judicial review in India is broader, addressing not only the legality of public authority actions but also their alignment with <b>fundamental rights</b>. Public authorities can be challenged in court for breaching constitutional principles, which gives the Indian judiciary a more extensive role in public law.</p>   |

<sup>5</sup> Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789.



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|------------------------|---|---|
| <p><b>Examples</b></p> | <p>Public authorities in the U.K. include the <b>National Health Service (NHS)</b>, a public healthcare body, and the <b>BBC</b>, a public service broadcaster. Hybrid entities like <b>utility providers</b> also qualify as public authorities if they provide essential.</p> | <p>Examples of public authorities in India include <b>Indian Railways</b>, <b>Reserve Bank of India (RBI)</b>, and <b>Securities and Exchange Board of India (SEBI)</b>. Local government bodies like <b>panchayats</b> and <b>municipalities</b> also fall under this category, playing a crucial role in grassroots governance.</p> |
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### 3. APPLICABILITY OF PUBLIC LAW TO PUBLIC AUTHORITIES

This section will highlight how public law in both U.K. and Indian contexts imposes rules on those in authority at a government level while highlighting both the accountability and control mechanisms that these laws provide in every respective jurisdiction.

#### 3.1 Public Law in the U.K.: Sovereignty of Parliament and Judicial Review

Public law in the U.K. proceeds on the principle of parliamentary sovereignty, which is modernist and old style; namely, the Parliament is Australia's supreme authority. This means that no court can cancel legislation passed by Parliament- a public authority has to derive its authority from these statutes. Public law offers judicial review as a guarantee against the abuses of public authorities of their powers.

In effect, the doctrine of parliamentary sovereignty means that actions by Parliament are not to be challenged against the criterion of legality. However, courts do possess power to review decisions of public authorities for their legality. The judicial review operates as a check and balance in controlling the public operation of the public authorities, in addition to the constitutional requirement of public authorities acting lawfully and controlling their rationality in decisions made.

- **Legality:** Public authorities must have legal authority to take action. If an action is ultra vires, then it can be set aside.

- Rationality: In line with the principle of unreasonableness set out in the case of *Wednesbury*, the court would evaluate whether the decision was reasonable.<sup>6</sup>
- Procedural fairness: Public authorities must observe fair procedures and ensure that any individuals affected by their decisions are treated fairly. Failure to conform may expose said authorities to judicial review.<sup>7</sup>

Judicial review may serve as an essential check, but the overriding principle must remain the cardinal death of parliamentary sovereignty, with the courts being restricted. The courts do not have the power to set aside primary legislation or to question high-level executive policy decisions unless the latter fall outside the ambit of their statutorily defined powers. Courts will only intervene when grievous procedural or legal mistakes have been committed.

The Human Rights Act 1998 introduced an additional layer of accountability. Under this Act, public authorities must act in a manner compatible with the rights protected by the ECHR. Though the courts cannot strike down a statute that conflicts with the ECHR, they can issue a Declaration of Incompatibility, which is meant to urge Parliament to examine the offending law repeatedly. It should be noted that public authorities must comply with these human rights obligations, which has additionally broadened the jurisdiction of the courts in the UK to afford protection against any threat to fundamental rights.

To conclude, while parliamentary sovereignty limits the extent to which courts can interfere with legislative matters, judicial review has ensured that various public authorities are made to act fairly, fairly, and within the ambit of what their respective statutory powers allow. The Human Rights Act 1998 added to this as it guarantees the respect for core values by public authorities within the performance of their functions.

### **3.2 Indian Public Law: Constitutional Oscillation and Judicial Responsiveness**

Constitutional supremacy forms the foundation of public law in India whereby the Constitution is the supreme law of the land. All acts and laws by public authorities must conform themselves to the provisions of the Constitution particularly the Fundamental Rights contained in Part III. The Indian judiciary has been quite central in making those provisions operative through a

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<sup>6</sup> *Wednesbury Corp. v. State of Kerala*, AIR 1973 SC 1960.

<sup>7</sup> Joseph, S., Accountability, and the Role of the Judiciary: A Comparative Study. *Public Law Review*, Vol 15, No. 2, 199-220 (2020).

comprehensive and active judicial review system, which allows courts to evaluate any constitutionality of legislative or executive actions. Thereof, any law or action determined to be in violation of constitutional tenets would be invalidated by the courts.

The Constitution of India defines not only the structure and powers of public authorities but also delineates the limits of those powers in order to guarantee individual freedoms and social justice. Article 13 permits the judiciary to declare any law void if it violates the fundamental rights contained in Article 32 and Article 226, pursuant to which an individual may directly approach the Supreme Court and the High Courts, respectively, against infringement by public authorities. This is one important safeguard, as it permits immediate judicial intervention by the courts when the citizen's right or freedom is threatened.

- **Article 32** is called the "heart and soul of the Constitution," which guarantees the right of individuals to approach the Supreme Court to enforce their fundamental rights.
- **Article 226** empowers the high courts to exercise jurisdiction by ensuring that public authorities do not violate any expressly or impliedly granted rights.

By far, the most crucial feature of Indian public law involves the development of Public Interest Litigation, a unique judicial creation that could introduce accessibility to justice. It permits any individual or group to take recourse to legal procedure, even though they have not been directly aggrieved, against public authorities for issues of public concern.

The introduction of P.I.L. has broadened the domain of judicial review in India on issues like the protection of the environment, corruption, human rights violations, and administrative inefficiency.

- The PIL is a significant tool in the hands of the public to keep public authorities under vigil. The court steps in where there is a lapse on the part of the public authorities to act within the constitutional or statutory duties framework.
- Through the PIL, the Indian judiciary has emerged as a watchdog to see where marginalized communities or oppressed common men suffer injustice and, in those areas, where there is a lack of good governance.

The Indian judiciary has always acted as a sentinel to keep a check on public authorities and

their functions within the framework of the constitution. The constitutional bench of the Supreme Court in **Kesavananda Bharati v. State of Kerala (1973)** habeas corpus case scared the Indira Government by holding that the power of Parliament to amend the constitution was subject to the power of judicial review. In **Maneka Gandhi v. Union of India (1978)** habeas corpus case, the Apex Court observed that procedural due process was applicable in the light of Article 21, enlarging the scope of function of Art. 21 of the constitution.

The Right to Information is another piece of the act that adds to the accountability of the public authorities. Under this act, any common man can ask for information from the public authorities. It is the act that can play a vital role in making the governance of the public authorities transparent and show that they are amenable before the eyes of the citizens whom they are to govern.

### **3.3 Comparative Analysis: A Potential Applicability of Public Law for Public Authorities in the U.K. and India**

Despite the considerable similarity between the U.K. and India regarding public law as a means of regulating the actions of public authorities, the two countries differ fundamentally in their application due to the different underlying principles of their legal systems. Such distinctions bear vast implications for judicial supervision, the relationship between public authorities and citizens, and accountability schemes.

To begin with, parliamentary sovereignty is the keyword in the U.K. Under this principle, Parliament is regarded as the supreme law-making body, and there is no higher or equal authority in law to refuse the laws it has enacted. Judicial review in the U.K. is concentrated on ultra vires, being an inquiry to ensure that public authorities do not act outside or beyond the powers prescribed by Parliament. In the U.K., the Courts review the legality, rationality, and procedural fairness of decisions made by public authorities. However, they do not have the power to review the basis of the law itself, as passed through Parliament. This limits the concept of judicial review, as no intrusion is made into the legislative function of determining the constitutionality of legislation. The emphasis here is more on procedural justice.

By contrast, India adopts the principle of constitutional supremacy, which places the Constitution at a higher pedestal than any other law in the land, including any law passed by Parliament. This enabling framework affords a much wider avenue for judicial review; thus,

the Indian courts, unlike their counterparts in the U.K., investigate the constitutionality of decisions made by the executive branch. The Indian courts can take cognizance of infringement of fundamental rights in the Indian scenario unlike courts of the U.K., since the fundamental rights enumerated in the Indian Constitution enhance the judiciary's role and make the courts proactive instead of reactive in protecting individual rights.

- In the U.K., judicial review is more procedural in character and aims to establish whether public authorities have acted within their statutory powers. But a key difference is that while courts in the U.K. cannot invalidate legislation, they can scrutinize actions for illegality, irrationality, or procedural impropriety.
- In contrast, Indian judges can, and have in the past declared laws unconstitutional if they contradict the Constitution, which puts judges on a high pedestal to shield constitutional fundamentals.

One of the most notable quirks of the Indian legal system is the use of Public Interest Litigation, or PIL. It allows any citizen or organization to petition courts against public authorities; even if such citizens were not affected by the matter at hand, they could still bring a case. This has played a big role in "monitoring," or holding public authorities accountable in matters related to human rights, the environment, corruption, and social justice. In the U.K., there is nothing similar; much of the rights but the individual's right to make a petition have been whittled away from the British statute book.

- Another example of the use of courts by citizens to actively check the actions of the government is the Right to Information Act (RTI), 2005. This entitles any citizen to ask a question of any public authority in writing, and expect an answer within thirty days. Responses can be refused only on certain grounds similar to a judicial review challenge, that is, if it's of national security or another institution in public life, it could prejudice investigations. In the U.K., there are similar mechanisms, such as the Freedom of Information Act, but its resource and implementation in many respects are dwarfed by India's RTI.
- The divergence can also be observed in the handling of human rights. The Human Rights Act 1998 in the U.K. requires that public authorities act in a way that is compatible with Convention rights. Therefore, courts in the U.K. have to do the same

as they do in India with legislation and assess the compatibility of an act or decision in light of human rights legislation.

- The divergence between the two systems is also clear regarding human rights. The Human Rights Act 1998 requires public authorities to act compatibly with the rights under ECHR. However, if any legislation made by Parliament is manifestly incompatible with the ECHR, the court can grant a declaration of incompatibility. It is thus the responsibility of Parliament to amend the legislation. On the other hand, the Indian courts can strike down laws themselves when they violate fundamental rights. This is a much more powerful way to tell public authorities and even Parliament that they cannot carry out functions that are contrary to basic rights.

In conclusion, while both the U.K. and India use public law as instruments to regulate the actions of public authorities, they do so in a very different way contingent upon their legal and constitutional systems. The U.K. based on the doctrine of parliamentary sovereignty allows judicial review in a small purview limited to procedural correctness and to question the legality. On the other hand the Indian doctrine of constitutional supremacy has allowed the judiciary to gain appreciably to monitor public authorities so as to ensure they stay within the constitutional boundaries and act in tune to constitutional values, ensuring that the public law enforcement to be more participatory by the use of PILs and other like forms.

### **3.4 Role of Public Law in Controlling Public Authorities: Accountability Mechanisms**

Not only in the U.K. but in India, too, know the role of public law in keeping public authorities accountable, yet each follows different mechanisms. In the U.K., the judicial review form of accountability- aims at evaluating the legality of public authorities' decisions based on procedural fairness, legality, and rationality. But, however much, it is limited in certain respects; because it does not allow the courts to strike down legislation passed by Parliament unless it has some check under the Human Rights Act of 1998 that seeks to secure the right already enshrined in the European Convention on Human Rights.

On the contrary, India opts for a stronger stance towards accountability. Courts in India not only exercise review of the legality of an act of public authority but also the compliance of such act with constitutional principles and fundamental rights. It allows striking down a law and actions if they transgress the Constitution. With Public Interest Litigations introduced,

citizens have become more empowered to challenge the actions of public authorities in the public interest and have thus enlarged the space for public participation in governance.

Thus, a big bonus for accountability in India through the RTI, 2005 is that citizens can now demand information from public authorities: the RTI we call it - which promotes openness and ante public scrutiny. While both the U.K. and India deal with providing a balance of public authority powers with public interest, the checks afforded by India's Constitution-exercised through judicial review, PILs, and the RTI Act-are immensely stronger, leading to a more participatory and transparent governance framework.

#### 4. MECHANISMS OF ACCOUNTABILITY: JUDICIAL REVIEW & HUMAN RIGHTS

In the U.K., judicial review protects against public authorities making an unlawful decision based on three principles: legality, rational basis, and proper exercise of power. As a result, the courts can quash decisions exercised in excess of authority or without following a proper procedure. However, parliamentary sovereignty forbids the courts from annulling legislation itself and limits the purview of judicial review.

In India, many broader applications of judicial review have been exercised to examine the legality and constitutionality of laws and executive actions. This goes back to the obligation of state authorities to observe the basic rights, notwithstanding the availability of an alternative to plead under public interest litigations. Value-added landmark cases, such as **Kesavananda Bharati v. State of Kerala**, illustrate the judiciary's role in maintaining constitutional supremacy.<sup>8</sup>

In the U.K., public authorities must comply with the Human Rights Act 1998, and this imposes some obligations toward appropriate state action consistent with the European Convention on Human Rights. This system permits challenges to state action violating human rights, conformity to standards, and civil liberties through stronger checks and balances for public authorities.

Every authority in India by Article 12 of the Constitution is bound to uphold the fundamental rights of the citizens. Unless the violation of the rights is flagged, the judiciary has no personal power and can intervene through instruments like PILs and add serious weight to the process

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<sup>8</sup> Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461.

of public engagement for the relief of fundamental rights. This means that public authorities can be held accountable in reacting to the instances of violation of the fundamental rights of citizens.

While adopting judicial review as a checking mechanism for accountability, India takes it a step further by allowing for greater scrutiny by courts. This gives greater force to wipe out appropriated but disobeyed actions distinguished under public law, with an eye, particularly on securing adherence to assure that rights, as protected by the human rights framework in both countries, are invariably upheld by those in authority over public powers. Therefore, the supremacy of the constitution provides a far better basis to ensure citizen engagement as well as judicial interventions.<sup>9</sup>

## 5. REFORMS AND CHALLENGES

The reforms in the U.K. are directed towards creating transparency and accountability in public authorities. These recommendations recommend strengthening the Freedom of Information Act to allow public access to information under government control. The aim is for government actions to be transparent and hence to be open to scrutiny. There is a discussion on reshaping the judicial review process to see a balanced need for accountability under efficient governance, such that there can be a closer examination of decisions made by public authorities without compromising on efficiency in governmental operations.

India has pursued extensive reforms so that governance can be rid of the scourge of corruption. Establishing an independent ombudsman to investigate complaints against public officials through the Lokpal and Lokayuktas Act offers a major mechanism for tackling corruption at various levels of government. Also, strengthening the Right to Information framework would go a long way in aiding transparency. This would give citizens the right to information sought from public authorities to make them accountable for their actions.

Despite such reforms, both countries face common challenges in making public law effective. There are signs in the United Kingdom that judicial independence is being undermined, and in some instances, it may provide grounds for public mistrust in institutions. As for India, such plagues come in the form of appointments of bureaucrats who can act as obstacles to effective

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<sup>9</sup> Joseph, S., Accountability, and the Role of the Judiciary: A Comparative Study. *Public Law Review*, Vol 15, No. 2, 199-220 (2020).



anti-corruption measures, distorting reforms' smooth functioning. The shape public law takes in the two jurisdictions will be determined in the succeeding decades by improving information to the public, changing the shape of judicial review, and fostering citizen engagement. These steps are critical in grounding democracy and assurance that public institutions stay trusted, operating transparent and accountable<sup>10</sup>

## 6. CONCLUSION

### 6.1 Summary of Findings

In summary, this work has examined and contrasted the law applicable to the public authorities in the U.K. and India. Significant levels of similarity and difference have been observed. Both jurisdictions assume an essential role for public law in ensuring that public authorities operate within certain accepted legal limitations. However, from a purely doctrinal perspective, the rule of recognition among the two legal orders is entirely unique. Public law review of public authority action in the U.K. is highly constitutionalized as it places confidence in Parliamentary sovereignty. The legality inquiry is central to the function of the U.K. courts. India has adopted a more principles-based approach to public law by acknowledging the incidence of constitutional supremacy. This allows, in principle, the courts in India a far-reaching formulation-transfer power.

### 6.2 Final Thoughts on Public Law and Accountability

The systems of accountability themselves are strikingly different. India's PILs assist in strengthening the responsibility of public authorities to the populace. PILs are filed with the Supreme Court or the High Court by initiating a PIL or a request by whoever has a legitimate concern in the subject matter of the plea. Through this means, the judge can censure the state. Public interest lawsuits are a new creation in India and is a significant part of the Indian law system. Data protection is often necessary, particularly when one believes in path-breaking PILs that offer constitutional law and sensitive decisions that linger until the 1990s. These lawsuits aid religious minorities, civilians, and tribes. India's Right to Information (RTI) Act renders the section a character who can call on such a state to demand knowledge. The proper knowledge will render the center and government knowledge open and available to the general

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<sup>10</sup> Dhananjay, P., Public Interest Litigation in India: A New Tool for Justice. *Indian Journal of Constitutional Law*, Vol. 3, No. 1, 45-66 (2022).

sector without any statutory cover, hinder transparency in governance, and lessen corruption.<sup>11</sup> The RTI Act in India submitted a new section of public rights, mainly based on a transparent government methodology. It sparked significant public awareness since it empowers the center and provincial agreements of information eligibility. This was a critical obstruction in the face of corruption and irregularities. In addition, due to this impact on making corruption available to comes crashing. The U.K. relies on two major accountability mechanisms: judicial review and, Recently, a framework aimed at safeguarding human rights has been enacted into law.

### 6.3 Comparative Value of U.K. and Indian Systems

The comparative worth of U.K. and Indian systems. In both the U.K. and India, the operation of in order public law principles is of constitutional significance. The UK and India are undergoing reformative laws to ensure constitutional norms of transparency and accountability. The rule of law still prevails in both the U.K. and India and consists of bureaucratic complexities. The most challenging part is that it is not authorized to incorporate severe penal responsibilities into the single systems, issues including the capacity and slow compassion of the judiciary and too much of the executive's bias. It is vital to analyze how both U.K. may contribute to be contrasted and compared to those of the U.K. This involves a debate on the constitutionality of public law and its role in ensuring a secure and just scheme. Both the U.K. and Indian systems appear to operate differently in principle. It is theoretically understood that a system of accountability and rule of law are known to show an examination of inquiry. While the U.K. represents a consensus-based system<sup>12</sup>, India draws on several norms and broader participation from the general public.

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11 UK Parliament, *Parliamentary Sovereignty*, [www.parliament.uk](http://www.parliament.uk) (last visited Dec, 23, 2024)

12 Ministry of Law and Justice, Government of India, *Public Interest Litigation*, [www.lawmin.gov.in](http://www.lawmin.gov.in) (last visited Dec. 23, 2024)

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