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Separation of Powers and Limits of Judicial Legislation

Debates emerge on the boundary between judicial interpretation and judicial legislation when filling constitutional silences.

A constitutional law issue concerning how courts interpret legal vacuums without encroaching upon legislative powers.

KEY EXAM POINTS

- **Constitutional silence** occurs when explicit legal provisions are absent on specific emerging issues.
- **Judicial interpretation** clarifies ambiguous statutory provisions to protect constitutional governance and rights.
- **Judicial legislation** happens when courts create new laws and rules, straying into legislative jurisdiction.
- India follows a functional **separation of powers** where law-making authority primarily rests with **Parliament**.
- The judiciary invokes **Article 142** to issue interim guidelines only until formal legislation is enacted.
- **Institutional restraint** requires the judiciary to respect the democratic legitimacy of elected representatives.

DID YOU KNOW..!?

Article 50 under Directive Principles directs the State to separate the **Judiciary** from the **Executive**.

The Supreme Court issued guidelines under **Article 142** in **Vishaka v. State of Rajasthan** (**1997**) to fill a legal vacuum.

The **Doctrine of Basic Structure** was propounded by the Supreme Court in the **Kesavananda Bharati case** (**1973**).

Article 13 of the Indian Constitution provides the power of **Judicial Review** over laws violating **Fundamental Rights**.

Articles 121 and 211 prohibit discussions in legislatures regarding the conduct of Supreme Court and High Court judges.

Articles 122 and 212 restrict courts from inquiring into the validity of proceedings inside Parliament and State Assemblies.

In **Asif Hameed v. State of J&K** (**1989**), the Supreme Court held that judicial review cannot override constitutional separation of powers.

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Article 50 mandates separation of Judiciary from Executive; Article 142 empowers complete justice.

Syllabus Relevance: High relevance for Unit 5 polity questions on Judicial Review, Article 50, Article 142, and landmark rulings.

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