

The federal judiciary

[History](#)



JUDICIAL REVIEW Judicial review refers to the powers that courts of law have to check an executive and legislative act and invalidate it if it is contrary to constitutional principles. Established in the United States by Article VI, clause 2 of the constitution called the supremacy clause which states that the constitution and the laws of the United States which shall be made pursuant thereto shall be the supreme law of the land. It determines whether acts carried out by the executive arm or by congress are valid and they did not violate the constitution. It's also through the judicial review that separation of powers is checked. In cases where an act of legislation is made by the legislature but it goes against the constitution the court has a right to rescind that act.

The executive is aimed at having more powers and advancing its authority as well as limiting the congressional powers. The legislative veto was the powerful mechanism that congress used for its oversight and was meant to make checks on the government and a policy-making instrument. They went beyond their powers and exercise duties or veto rules made by executive at times and the judicial review would come in like in the case of Chadha.

Chadha, an international student whose visa had expired, was due for deportation but applied for a suspension and an application was made by the Attorney General for suspension since Chadha would face hardships and did not have anywhere to go. The INS judge suspended the deportation and made a report to the congress under law. The house sub-committee recommended deportation but did not make submission to the members for vote. It was thus passed without vote or debate. After the veto by the house it was not submitted to the senate or president, but the INS judge reopened proceedings and Chadha was ordered deported. He filed a petition for review <https://assignbuster.com/the-federal-judiciary/>

and the court of appeal held that the house was without consultative authority and thus approved the suspension.

The INS argued in this case that the Immigration and Nationality Act had violated the separation of powers as it had authorized the legislature to revoke decisions made by the executive arm. It also found out that the particular section of the act was unconstitutional since it violated the principles bicameralism and the presentment clause. The court ruled that the house had taken action that meant to alter the duties of attorney general.

The ruling stroke down the legislative veto and the attorney general had the delegated duty of the executive and thus by vetoing the suspension of Chadha it had taken away his duty and right as the executive agency.

Judicial review was used to limit the legislature from performing and interfering with the duties of the executive arm. It meant to make sure that there was separation of powers between all the arms of government.

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