

Role of Judicial Activism in Strengthening Constitutional Democracy in India

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Abstract: *Judicial activism in India has emerged as a significant tool for upholding the Constitution, protecting fundamental rights, and ensuring accountability of the executive and legislature. This review examines the evolution of judicial activism, its forms, and its impact on strengthening constitutional democracy in India. By analyzing landmark judgments, public interest litigations (PILs), and academic literature, the paper highlights how judicial intervention has shaped the democratic framework while also addressing the debates surrounding its limits.*

Keywords: Judicial Activism, Constitutional Democracy, Public Interest Litigation

I. INTRODUCTION

Judicial activism refers to the proactive role played by courts in interpreting laws and the Constitution to address societal issues, fill legislative gaps, and protect citizens' rights. In India, the judiciary has increasingly assumed a transformative role, especially in instances where legislative and executive actions fail to uphold constitutional values. Constitutional democracy in India is anchored on the principles of separation of powers, rule of law, and protection of fundamental rights. Judicial activism has, over the decades, strengthened these principles by ensuring that government actions remain accountable and responsive to public needs (Basu, 2019).

EVOLUTION OF JUDICIAL ACTIVISM IN INDIA

Judicial activism in India gained momentum after the 1970s, particularly following the landmark judgments of the Supreme Court. The Kesavananda Bharati case (1973) reinforced the "basic structure" doctrine, limiting parliamentary powers to amend the Constitution in ways that could undermine democracy (Seervai, 2018). Subsequently, the development of Public Interest Litigation (PIL) in the 1980s and 1990s enabled courts to address grievances of marginalized sections, further reinforcing the judiciary's democratic role (Bhattacharya, 2017).

Judicial activism in India has evolved as a significant feature of the Indian legal and political system, shaping the democratic landscape over the decades. The concept broadly refers to the proactive role of the judiciary in interpreting the Constitution, enforcing fundamental rights, and ensuring that the executive and legislature act within their constitutional boundaries.

The roots of judicial activism in India can be traced to the early years of the Supreme Court, but it gained prominence particularly after the 1970s, during a period of political instability and socio-economic transformation (Basu, 2019). The landmark Kesavananda Bharati v. State of Kerala (1973) case marked a turning point, establishing the "basic structure doctrine," which limited the amending powers of Parliament and underscored the judiciary's role as the guardian of the Constitution (Seervai, 2018). This doctrine laid the foundation for a more assertive judiciary that would actively interpret the Constitution to protect democratic principles.

The 1980s witnessed a significant expansion of judicial activism with the advent of Public Interest Litigation (PIL). Traditionally, the courts followed the rule of locus standi, which restricted individuals without a direct stake from filing petitions. However, in the late 1970s and 1980s, courts, particularly the Supreme Court and High Courts, relaxed this

principle, allowing socially concerned citizens and organizations to file petitions on behalf of marginalized groups (Bhattacharya, 2017).

This shift democratized access to justice and enabled the judiciary to address issues related to human rights, environmental protection, and socio-economic inequalities. Cases such as *Hussainara Khatoon v. Home Secretary of Bihar* (1979), which addressed the plight of undertrial prisoners, and *S.P. Gupta v. Union of India* (1981), dealing with judicial independence, exemplified the judiciary's expanded scope in enforcing constitutional guarantees.

The 1990s further consolidated judicial activism as the Supreme Court adopted an increasingly interventionist stance in matters involving governance, policy, and social justice. Courts began issuing directives to the executive and legislatures, emphasizing accountability and transparency in public administration (Ramachandran, 2020). For instance, in cases related to environmental protection, like the *Vellore Citizens Welfare Forum v. Union of India* (1996), the judiciary applied the "polluter pays" principle, showcasing its willingness to address emerging societal challenges beyond traditional legal boundaries. During this period, judicial activism was also evident in the protection of fundamental rights under Articles 21 and 19, where courts interpreted the right to life and liberty expansively to include environmental rights, privacy, and gender justice.

In recent years, judicial activism in India has continued to evolve, balancing its proactive role with restraint. The judiciary has emphasized the importance of separation of powers while remaining a vigilant guardian of constitutional democracy (Sharma, 2019). Contemporary cases involving corruption, transparency, and socio-economic rights reflect the judiciary's ongoing commitment to social justice and democratic values. While debates about overreach persist, judicial activism in India remains a dynamic mechanism to strengthen constitutional governance, ensure accountability, and protect citizens' rights.

FORMS OF JUDICIAL ACTIVISM

Judicial activism in India has evolved as a dynamic tool enabling the judiciary to play an active role in upholding the Constitution, protecting fundamental rights, and promoting social justice. One of the most significant forms of judicial activism is the expansion of fundamental rights. Indian courts, particularly the Supreme Court, have interpreted Articles 14, 19, and 21 of the Constitution expansively to include rights that were not explicitly mentioned. For instance, the right to privacy, recognized in *Justice K.S. Puttaswamy v. Union of India* (2017), and environmental rights established in *M.C. Mehta v. Union of India* (1987), showcase the judiciary's proactive approach in responding to contemporary societal challenges (Austin, 2016; Basu, 2019). By broadening the scope of fundamental rights, the judiciary ensures that constitutional guarantees remain relevant and responsive to evolving social realities.

Another prominent form is the development of Public Interest Litigation, which emerged in the 1980s as a mechanism for courts to address grievances affecting marginalized or disadvantaged communities. PIL allows any individual or organization to approach the judiciary on issues of public importance, even if they are not directly affected. Landmark cases, such as *Hussainara Khatoon v. Home Secretary* (1979), highlighted the plight of undertrial prisoners, compelling legislative and executive reforms. PIL has transformed the judiciary into a forum for social justice, bridging gaps in governance and empowering the underrepresented sections of society (Bhattacharya, 2017; Ramachandran, 2020).

Judicial review constitutes another critical form of activism. The power of judicial review enables courts to examine the constitutionality of legislative and executive actions, ensuring adherence to the Constitution and maintaining the separation of powers. Cases like *Kesavananda Bharati v. State of Kerala* (1973) reinforced the basic structure doctrine, limiting parliamentary amendments that could undermine constitutional democracy. Judicial review serves as a check against arbitrary or unconstitutional government action, thus reinforcing democratic principles (Seervai, 2018).

In addition, policy intervention through judicial directives represents a more proactive dimension of judicial activism. Courts have occasionally guided or influenced policy in areas such as environmental protection, anti-corruption measures, and human rights. The Supreme Court's intervention in *Vishaka v. State of Rajasthan* (1997), which laid down guidelines to prevent sexual harassment at the workplace, exemplifies how judicial activism can complement legislative gaps to protect citizens' rights and reinforce democratic governance (Sharma, 2019).

Furthermore, judicial activism often manifests in suo motu actions, where courts initiate proceedings on their own cognizance without a formal petition. This form of activism allows the judiciary to respond promptly to urgent social issues, such as pollution, human trafficking, or prison reforms, where immediate intervention is necessary to protect public interest. Such proactive engagement underscores the judiciary's role as a guardian of democracy and constitutional values (Bhattacharya, 2017).

Judicial activism in India takes multiple forms—expansion of fundamental rights, public interest litigation, judicial review, policy intervention, and suo motu actions each contributing to the strengthening of constitutional democracy. By adopting a flexible and responsive approach, the judiciary ensures that governance remains accountable, rights are protected, and social justice is advanced, all while upholding the foundational principles of the Constitution.

Judicial activism manifests in several ways

Expansion of Fundamental Rights Courts have interpreted Articles 21 and 19 expansively to cover rights such as privacy, environment, and gender equality.

Public Interest Litigation PIL has empowered individuals and groups to approach courts on issues of public importance, making the judiciary a vehicle of social justice.

Judicial Review Courts scrutinize the constitutionality of legislative and executive actions, maintaining the balance of power and preventing arbitrary governance.

Policy Intervention Through judgments on issues like corruption, environmental protection, and human rights, courts have sometimes influenced policy, reflecting a dynamic approach to democracy (Ramachandran, 2020).

IMPACT ON CONSTITUTIONAL DEMOCRACY

Judicial activism has profoundly influenced the consolidation and functioning of constitutional democracy in India by ensuring the protection of fundamental rights, enhancing government accountability, and fostering social justice. One of the primary ways judicial activism has impacted democracy is through the expansion and protection of fundamental rights. The Indian judiciary, particularly the Supreme Court, has interpreted Articles 14, 19, and 21 of the Constitution in a broad and dynamic manner to include rights not explicitly mentioned, such as the right to privacy, environmental protection, and the right to health (Austin, 2016).

For instance, in the landmark *Maneka Gandhi v. Union of India* (1978) case, the Court expanded the interpretation of Article 21, establishing that the procedure for depriving an individual of personal liberty must be “just, fair, and reasonable,” thereby reinforcing the rule of law and due process in democratic governance (Seervai, 2018).

Public Interest Litigation has been another critical instrument through which judicial activism has strengthened constitutional democracy. PILs have enabled the courts to address issues affecting marginalized and disadvantaged communities, thereby democratizing access to justice and promoting social equity (Bhattacharya, 2017). Cases such as *Vishaka v. State of Rajasthan* (1997), which laid down guidelines to prevent sexual harassment at the workplace, reflect the judiciary's proactive role in protecting human rights and shaping policies consistent with democratic principles. By allowing citizens and organizations to approach the courts directly on matters of public interest, judicial activism has ensured that governance remains accountable and responsive to societal needs (Ramachandran, 2020).

Furthermore, judicial activism has reinforced the system of checks and balances by scrutinizing legislative and executive actions. Through the doctrine of judicial review, the courts have the authority to strike down laws or executive orders that violate constitutional provisions, thereby maintaining the supremacy of the Constitution and preventing arbitrary exercise of power (Basu, 2019). For example, in *Indira Gandhi v. Raj Narain* (1975), the Supreme Court reviewed the constitutional validity of certain executive actions, thereby asserting its role as a guardian of constitutional norms. Such interventions strengthen democratic processes by ensuring that no organ of the government exceeds its mandate or undermines citizens' rights.

Additionally, judicial activism has promoted transparency and accountability in governance, which are essential elements of constitutional democracy. Activist interventions in cases related to corruption, environmental protection, and education policies have compelled the government to act within legal and constitutional frameworks (Sharma, 2019). By clarifying

constitutional ambiguities and setting legal precedents, the judiciary has also contributed to the evolution of democratic norms, fostering a culture of constitutionalism and civic responsibility.

While critics argue that excessive judicial activism may encroach upon legislative and executive domains, it is undeniable that the proactive role of the judiciary has strengthened India's constitutional democracy by protecting rights, empowering marginalized communities, and promoting accountability. Judicial activism, therefore, serves as both a guardian and enabler of democratic governance, ensuring that the principles of justice, equality, and liberty remain central to the functioning of the Indian state.

Judicial activism has strengthened Indian democracy in multiple ways

Protection of Fundamental Rights Activist judgments have safeguarded citizens' rights against state excesses (Austin, 2016).

Empowerment of Marginalized Communities Through PILs and affirmative judicial interventions, disadvantaged groups have gained access to justice and socio-economic rights.

Accountability and Transparency Judicial scrutiny has compelled governments to act in accordance with law and constitutional principles.

Evolution of Democratic Norms The judiciary has clarified ambiguities in constitutional provisions, enhancing democratic governance and the rule of law (Sharma, 2019).

CRITIQUES AND CHALLENGES

Judicial activism in India, while widely recognized for its role in strengthening constitutional democracy and protecting fundamental rights, has not been without its critiques and challenges. One of the primary criticisms revolves around the issue of judicial overreach. Critics argue that courts, in assuming a proactive role, sometimes encroach upon the domains of the legislature and the executive, disrupting the delicate balance of power enshrined in the Constitution (Bhattacharya, 2017). For instance, judicial interventions in areas such as environmental regulations, education policy, and economic decisions have been viewed by some scholars and policymakers as stepping into the realm of policy-making, which traditionally belongs to elected representatives. This has raised concerns about the erosion of the principle of separation of powers, which is fundamental to constitutional governance (Ramachandran, 2020).

Another significant challenge is the blurring of lines between judicial and legislative functions. In several landmark cases, including matters related to the implementation of welfare schemes or the formulation of administrative guidelines, courts have issued directions that are essentially policy-oriented. While these interventions are often aimed at upholding citizens' rights, they have sparked debates regarding whether the judiciary is overstepping its constitutional mandate (Sharma, 2019). Scholars note that when courts engage in such policy-making, it may lead to conflicts with the executive, create administrative confusion, and potentially compromise the accountability of elected officials, who are directly answerable to the public (Austin, 2016).

Judicial activism has also been criticized for overburdening the judiciary. The advent of Public Interest Litigation (PIL) in the 1980s opened the doors for citizens and activists to approach courts directly for redressal of social, economic, and political grievances. While this has democratized access to justice, it has also resulted in an excessive inflow of cases, including some that may lack legal merit or are politically motivated (Basu, 2019). This surge of litigation can delay the adjudication of routine matters, thereby straining judicial resources and impacting the efficiency of justice delivery.

Furthermore, concerns have been raised regarding the predictability and consistency of judicial activism. Since judicial decisions often involve interpreting broad constitutional principles in novel contexts, there can be a lack of uniformity across judgments. Such unpredictability can create uncertainty in governance and complicate the formulation of policies, especially in areas like economic regulation and environmental management (Seervai, 2018).

Lastly, critics argue that judicial activism can sometimes reflect the personal philosophy of judges, rather than objective legal reasoning. This subjectivity can lead to questions about the neutrality of judicial interventions and may undermine public confidence in the judiciary if decisions are perceived as politically motivated or ideologically driven (Bhattacharya, 2017).

while judicial activism has been instrumental in promoting social justice, protecting fundamental rights, and enhancing accountability, it faces inherent challenges related to overreach, separation of powers, judicial workload, consistency, and perceived subjectivity. Addressing these critiques requires a balanced approach, where courts exercise activism judiciously, respecting the constitutional boundaries of the legislature and executive while continuing to safeguard democratic principles.

Despite its benefits, judicial activism faces criticisms

Overreach Critics argue that courts sometimes intrude into legislative or executive functions, undermining separation of powers (Bhattacharya, 2017).

Policy-Making Role Some contend that courts are not equipped to make policy decisions, which may lead to governance inefficiencies.

Judicial Overload Excessive PILs and activism can burden courts, delaying other essential justice delivery.

II. CONCLUSION

Judicial activism has played a crucial role in strengthening constitutional democracy in India by ensuring the protection of rights, enhancing government accountability, and promoting social justice. While debates regarding its limits persist, it remains a cornerstone of India's democratic framework, reflecting the judiciary's commitment to uphold constitutional values. A balanced approach, combining activism with restraint, can further consolidate democracy while preserving the separation of powers.

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