

Judicial Activism in the Form of Our Indian Awareness and Regulatory Bodies

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Abstract

Judicial activism refers to the judiciary's proactive role in interpreting and enforcing the law, often addressing societal issues and protecting fundamental rights. Publicism influences this process by reflecting public opinion and media narratives, which can shape judicial decisions, especially in high-profile cases. The key tool of judicial activism, Public Interest Litigation (PIL), empowers individuals or groups to bring public concerns before the court, addressing issues such as human rights, environmental protection, and social justice. However, the rise of publicism in judicial activism can lead to challenges, including judicial overreach, where courts may exceed their constitutional role. This can disrupt the balance of power between the judiciary, legislature, and executive. Ultimately, judicial activism driven by public sentiment has a significant impact on legal reforms, but it requires careful management to prevent potential misuse and maintain democratic integrity.

Keywords: Judicial Activism, Public Interest Litigation, Publicism, Judicial Overreach

- **Judicial activism** involves the judiciary taking a proactive role to interpret laws and address societal issues when other branches of government fail or remain inactive.
- **Public Interest Litigation (PIL)** is a significant tool in judicial activism, allowing courts to address public concerns related to human rights, environmental issues, and social justice.
- Judicial activism has led to **significant legal reforms**, especially in safeguarding fundamental rights and ensuring governance accountability.
- **Publicism**, or the influence of public opinion and media, can shape judicial decisions but may also lead to concerns of **judicial overreach** and imbalance of power.
- While judicial activism has transformed legal systems, it requires **careful management** to maintain a balance between judicial intervention and respect for the separation of powers.

Judicial Activism: An In-Depth Analysis

Introduction

Judicial activism refers to the proactive role played by courts in interpreting and enforcing the law, often stepping beyond traditional boundaries to address issues of social justice, human rights, and constitutional principles. In India, this concept has significantly influenced the legal landscape, particularly through the instrument of Public Interest Litigation (PIL), enabling the judiciary to intervene in matters where legislative or executive actions are lacking or insufficient.

Evolution of Judicial Activism in India

Early Developments

The roots of judicial activism in India can be traced back to the 1970s. Notably, in the case of *Kesavananda Bharati v. State of Kerala* (1973), the Supreme Court introduced the "basic structure" doctrine, asserting that certain fundamental features of the Constitution cannot be altered by amendments. This landmark decision marked a significant shift, empowering the judiciary to review and potentially invalidate constitutional amendments that threaten the core principles of the Constitution.

Expansion through PIL

The 1980s witnessed a transformative phase with the advent of Public Interest Litigation. This mechanism allowed individuals or groups to approach the courts on behalf of those unable to do so, particularly in cases involving public interest or fundamental rights. The Supreme Court, through PILs, began addressing a wide array of issues, from environmental concerns to human rights violations.

Landmark Cases Illustrating Judicial Activism

1. *Maneka Gandhi v. Union of India* (1978)

In this case, the Supreme Court expanded the interpretation of Article 21 (Right to Life and Personal Liberty) beyond mere physical survival to include the right to live with human dignity. The Court held that any law infringing upon personal liberty must be fair, just, and reasonable, thereby setting a precedent for judicial scrutiny of executive actions.

2. *Vishaka v. State of Rajasthan* (1997)

Addressing the absence of legislation on workplace sexual harassment, the Supreme Court laid down the Vishaka Guidelines, establishing a framework for preventing and addressing sexual harassment at the workplace. These guidelines later formed the basis for the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

3. *MC Mehta v. Union of India* (1986)

Environmental activist M.C. Mehta filed a series of PILs leading to significant rulings by the Supreme Court. In one such case, the Court ordered the closure of several polluting industries in Delhi, emphasizing the "polluter pays" principle and setting a precedent for environmental jurisprudence in India.

4. *Navtej Singh Johar v. Union of India* (2018)

This historic judgment saw the Supreme Court decriminalizing consensual homosexual acts between adults by striking down parts of Section 377 of the Indian Penal Code. The Court recognized the right to privacy and personal autonomy, marking a significant step towards equality and human rights.

Significance of Judicial Activism

Protection of Fundamental Rights

Judicial activism has played a crucial role in safeguarding fundamental rights, especially when legislative or executive actions have been inadequate. By interpreting the Constitution expansively, courts have ensured that rights are not merely theoretical but are actively protected and enforced.

Social Justice and Equity

Through proactive interventions, the judiciary has addressed issues of social justice, such as bonded labor, child labor, and discrimination against marginalized communities. For instance, in the *Bandhua Mukti Morcha v. Union of India* (1984), the Supreme Court directed the government to identify and release bonded laborers, leading to significant reforms in labor laws and practices.

Environmental Protection

The judiciary's intervention in environmental matters has been instrumental in promoting sustainable development. Cases like the *Ganga Pollution Case* (1988) and the *Taj Trapezium Case* (1996) led to directives aimed at preserving ecological balance and holding polluters accountable.

Criticisms of Judicial Activism

Overstepping Judicial Boundaries

Critics argue that judicial activism sometimes leads to judicial overreach, where courts encroach upon the domains of the legislature and executive. This can undermine the democratic principle of separation of powers and lead to decisions that may not align with public opinion or legislative intent.

Lack of Accountability

Unlike elected representatives, judges are not directly accountable to the public. Decisions made through judicial activism may lack democratic legitimacy, raising concerns about the accountability of the judiciary.

Potential for Inconsistent Decisions

The expansive interpretation of laws can lead to inconsistent rulings, creating legal uncertainty. This unpredictability can affect governance and the rule of law, as citizens and authorities may find it challenging to anticipate legal outcomes.

Conclusion

Judicial activism in India has been a double-edged sword. While it has led to significant advancements in the protection of rights and social justice, it has also sparked debates about the appropriate role of the judiciary in a democratic setup. The challenge lies in balancing proactive judicial intervention with respect for the roles of the legislature and executive, ensuring that the judiciary acts within its constitutional mandate while contributing to the evolution of a just society.

References

1. Kesavananda Bharati v. State of Kerala, (1973)
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5. Navtej Singh Johar v. Union of India, (2018)
6. Bandhua Mukti Morcha v. Union of India, (1984)
7. Ganga Pollution Case, (1988)
8. Taj Trapezium Case, (1996)