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JUDICIAL ACTIVISM IN INDIA: A NECESSARY GUARDIAN OF THE CONSTITUTION

AUTHORED BY - ANSHUL SINGH

Abstract:

In the intricate matrix of constitutional governance, the judiciary has evolved as a critical institution guaranteeing the checks and balances necessary for democracy to thrive. Judicial activism, though contentious in certain quarters, has acted as a potent reaction to legislative and executive inertia in India. This paper analyzes the function of judicial activism within the context of India, particularly considering the doctrine of separation of powers. Based on landmark judgments and a constitutional framework, the essay contends that judicial activism is not only warranted but is actually required to protect the rights of the people and promote constitutional morality. The discussion also sheds light on how the Indian judiciary has managed to balance its activist role with its constitutional role and demonstrate itself to be a defender of justice in a democratic state.

I. Introduction

In a rule of law governed democratic society, the judiciary is the sentinel of the Constitution to ensure that the actions of the executive and legislature fall within the constitutional boundary. Judicial activism, despite being much debated, has in India proven to be a mighty tool to enforce constitutional values, obtain justice, and tide over legislative and executive lacunae. It means the role taken by courts in actively interpreting laws in a way that not just safeguards personal rights but also advances social justice.

Judicial activism gained momentum in India in the post-Emergency era when the judiciary deliberately lost its pre-Emergency reputation of restraint and started interpreting constitutional provisions liberally. As opposed to judicial restraint, which insists on strict conformity with legal texts and precedent, judicial activism permits the courts to take into account wider socio-political contexts and moral obligations while issuing judgments.

The Indian judiciary, especially the Supreme Court, has redefined its constitutional guardian role by issuing binding guidelines, broadening the ambit of Fundamental Rights, and keeping

the government on its toes. Although criticized over its legitimacy regarding the separation of powers, judicial activism has also served as a corrective force where other state branches have failed. It is submitted here that judicial activism, rather than being a source of danger, is an indispensable partner of constitutional democracy, especially for a society as diverse and unequal as ours.

II. Constitutional Mandate and the Rise of Judicial Activism

The Indian Constitution inculcates the doctrine of constitutional supremacy and has enough flexibility for judicial interpretation. Article 32 and Article 226 empower the Supreme Court and High Courts respectively to issue writs for the enforcement of Fundamental Rights. These provisions not only form the foundation of judicial review but also establish the foundation of judicial activism.

Indian judicial activism came into its own in the later 1970s and 1980s with the courts being willing to entertain the right to come before them even by postcards or letters initiating the start of the Public Interest Litigation (PIL) era. The access to justice for poor and marginalized segments of society who otherwise could not have afforded formal legal actions was heightened.

The judiciary read the Constitution as a living document, which could evolve with changing social circumstances. In *Maneka Gandhi v. Union of India* [*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.], the Supreme Court declared that Article 21 procedure has to be "right, just and fair," not arbitrary, thus opening the floodgates for a rights-oriented reading of the Constitution. The Court therefore extended the field of Article 21 to encompass the right to live with dignity, education, health, clean environment, and shelter.

III. Milestone Indian Case Laws Upholding Judicial Activism

A number of Indian constitutional landmark cases underscore the role of the judiciary as a transforming force. In *Kesavananda Bharati v. State of Kerala* [*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.] (1973), the Supreme Court established the basic structure doctrine, holding that certain essential features of the Constitution could not be amended even by Parliament. This decision forms the pillars of judicial activism in India.

In *M.C. Mehta v. Union of India* [*M.C. Mehta v. Union of India*, (1987) 1 SCC 395.], the Court issued a number of orders which were designed to safeguard the environment, and illustrate how the judiciary can act in defense of essential environmental concerns if the executive does not do so. In *Vishaka v. State of Rajasthan* [*Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.], the Court formulated guidelines for the prevention of sexual harassment in the workplace, since no law existed then. The ruling was subsequently enshrined in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

In *Vineet Narain v. Union of India* [*Vineet Narain v. Union of India*, (1998) 1 SCC 226.], the Court provided accountability and transparency in the CBI and other investigation agencies' working. It reaffirmed the judiciary's determination to combat corruption in public life. These cases highlight that judicial activism tends to overcome governance lacunae in a democracy.

IV. Separation of Powers and the Indian Context

The Indian Constitution, as opposed to the absolute separation in America, follows a flexible doctrine of separation of powers. While Articles 121 and 211 limit the discussion of judicial behavior in Parliament and state legislatures, the Constitution also requires each organ not to encroach upon the domain of the others.

But when the legislature does not pass laws or the executive does not execute them, the judiciary has, on occasion, given directions in the spirit of justice. The critics contend that this erodes the separation of powers. Nevertheless, judicial activism has acted more as a balancing mechanism, only intervening when the constitutional machinery is poised for collapse.

Far from usurping power, the judiciary has preserved constitutional governance. In *State of Bihar v. Bal Mukund Sah* [*State of Bihar v. Bal Mukund Sah*, (2000) 4 SCC 640.], the Court held that judicial review is the heart and soul of the Constitution. Thus, the Indian model of separation of powers accommodates a more responsive and responsible judiciary.

V. Contemporary Relevance of Judicial Activism

Over the years, judicial activism has been influencing India's legal and political environment. Right from establishing the right to privacy as a fundamental right in *Justice K.S. Puttaswamy v. Union of India* [*Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.], to

advocating electoral reforms and clean governance, the judiciary has been dealing with issues concerning the country's democratic fabric.

The interventions of the judiciary in environmental matters, refugee protection, pandemic management during COVID-19, and digital freedom highlight its timeliness in contemporary society. In an increasing society where there are fears about the independence of institutions, judicial activism is still a bulwark against democratic regression.

VI. Criticism and Rebuttal

Judicial activism is not without its detractors. Some say it contributes to judicial overreach, where the courts start doing jobs that are supposed to be left to other institutions. Former Chief Justice R.M. Lodha cautioned against "judicial adventurism." Detractors also refer to the absence of accountability and lack of institutional checks on judges.

But these charges overlook the constitutional vacuum frequently generated by legislative inertia and executive lethargy. Judicial activism has to be viewed not as an assumption of authority but as an extension of the Court's role to safeguard fundamental rights and promote justice. As held in *Supreme Court Advocates-on-Record Association v. Union of India* [Supreme Court Advocates-on-Record Assn. v. Union of India, (2016) 5 SCC 1.], judicial independence and activism go hand in hand to safeguard democracy.

VII. Conclusion

Judicial activism has, repeatedly, saved Indian democracy from constitutional crises. As much as it is important to uphold the separation of powers, inaction by the other two branches of government often leaves nothing short of intervening by the judiciary. Judicial activism, judiciously employed, has enriched constitutional jurisprudence and protected public interest.

In a fast-changing society, where new challenges to justice and liberty keep arising every day, the judiciary should always be dynamic, sensitive, and fearless. Judicial activism is not dangerous to democracy it is its best defense.