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JUDICIAL ACTIVISM VS. JUDICIAL INDEPENDENCE: THE SUPREME COURT'S SUO MOTO ACTION ON STRAY DOGS

AUTHORED BY - TRACEY SEHGAL¹

INTRODUCTION

The recent tirade by the Supreme Court of India on stray dog bites caught my eye and it is now really bugging me. It's not just about the issue itself but about what it represents, the enduring, evolving tectonic forces in the relationship between judicial activism and judicial independence. The first time I read the Court's order to capture and move stray dogs throughout Delhi and the NCR, and ultimately arrange for their permanent comfort², I was taken by its gall. On one side it seemed like a positive response to protect public safety and the Right to Life as enshrined in **Article 21**³ of our Constitution. On the other side it appeared to interfere with the powers of the executive, and there began a running debate on whether the judiciary was encroaching upon the executive⁴.

Before I dived into the case at drill level, I just wanted to add a bit of clarification on what is meant by these two big concepts, judicial activism and judicial independence, as far as they apply here.

Judicial Activism is the concept that courts play an active role in ensuring justice is served, even if it means going beyond a plain reading of the law. This is seen as the judiciary's moral reaction to inaction from the legislature or executive. Judicial activism is a doctrine which enables courts to interpret the Constitution in a way that relates it to among others public welfare, fundamental rights, social justice etc.

And **Judicial Independence** rather refers to freedom from external or outside sources

¹ Student School of Law Bennet University

² *Supreme Court Suo Moto In re: Stray Dog Attacks*, Suo Moto Writ Petition (Civil) No. 2 of 2025 (India).

³ INDIA CONST. art. 21.

⁴ Press Trust of India, *SC Takes Suo Moto Cognizance of Stray Dog Attacks; Seeks Responses from Centre and States*, *The Hindu* (Aug. 12, 2025), <https://www.thehindu.com>.

influence, legislative, executive or public opinion on the judiciary. Judges then have no incentive but to render their decisions rooted in the law and the values of the Constitution and not responding to political or public pressure. As a result, independent judges serves as a check, telling the judiciary that it can interpret law, but not create or enforce policy.

The Supreme Court's sua sponte decision in the stray dog matter exemplified both of these. I have gone through two distinct stages of reaction to it, first admiration for the Court's activism, then appreciation for its return to judicial independence⁵.

Stage I: Judicial Activism

In August 2025, the Supreme Court of India suo moto took cognizance of the increasing number of attacks by stray dogs in Indian cities, with a bias towards attacks on school children. The Court also appears keen, as usual, to protect the rights of the underdog, rather than wait for a plaintiff to seek its intervention. By taking matters into its own hands, the judiciary played an active role in the politics of a silent executive in a matter of great social urgency.

In its first order, the Court instructed that stray dogs should be captured, relocated, and given permanent shelters to protect the Right to Life guaranteed under **Article 21**⁶. The development underscored the apex court's humanitarian concern and the moral obligation it cherished toward public safety and welfare.

Nevertheless, it has caused considerable confusion in determining the limits of the justiciable executive functions. The court order to contain the stray dogs permanently flies in the face of the **Animal Birth Control (ABC) Rules 2023**⁷, which advocates the **humane catch-neutervaccinate-release (CNVR) method**. While the order was indeed well-intentioned, it also seemed to be straying into a territory of excessive judicial interference, with the Court apparently taking on administrative responsibilities which are considerably beyond its jurisdiction. Hence, the judicial activism in this case was the Court's decision to suo moto protect public safety, which ultimately worked for good and shows even sympathetic urgency that may be the stuff of activism must be reflective of legality and institutional boundaries.

⁵ P.N. Bhagwati, *Judicial Activism and Public Interest Litigation*, 23 J. Indian L. Inst. 579 (1981).

⁶ INDIA CONST. art. 21.

⁷ *The Prevention of Cruelty to Animals (Animal Birth Control) Rules, 2023*, Gazette of India, Ministry of Fisheries, Animal Husbandry and Dairying.

Stage II: Judicial Independence

In the end a larger three-judge bench of the Supreme Court reviewed and altered its previous order and once again, take on the case changed. This was true judicial independence, the Court could act on its own without having to answer to the pressure or having to realign itself with its own constitutional values. Repealing the *Animal Birth Control (ABC) Rules, 2023*⁸ and endorsing the *Catch–Neuter–Vaccinate–Release (CNVR) method*, the Court signaled that independence is akin to self-mastery. It understood that even with the best of intentions, one must work within the law. It was not abdication, but recognition of wisdom and fidelity to the Constitution.

Here, judicial independence was the very courage in the Court to re-examine its prior activist posture and remind that justice should not be equated with might, but with moderation. The Court ruled that independence should be understood as a measure of compassion tempered by legality, in balancing *Article 21*⁹ (Right to Life) and *Article 51A(g)*¹⁰ (Duties to have compassion on other living creatures). It was a “coming of age” decision for me, the highwater mark of the judiciary as it moved from emotionalism to constitutionalism. It reminded me that true judicial independence is not just being independent of but also being willing to say what the law requires when it is most inconvenient.

My Reflections

While mulling over the two aspects of the case, I came to the conclusion that it had both judicial activism and a judicial independent streak but was more of the former. The Supreme Court’s suo moto on its own motion in the matter was initiated in the absence of any formal petition, a plan, or prior assessment of the practical consequences, which made it an ideal type of activism. Concerned for public safety and the preservation of the Right to Life under *Article 21*¹⁰ The Court took the executive to task for its silence. This was compassion and urgency motivated activism, but it also exposed the dangers of judicial overreach, of acting before fully understanding the legal or administrative consequences.

⁸ *The Prevention of Cruelty to Animals (Animal Birth Control) Rules, 2023*, Gazette of India, Ministry of Fisheries, Animal Husbandry and Dairying.

⁹ INDIA CONST. art. 21.

¹⁰ INDIA CONST. art. 51A(g).

¹⁰ INDIA CONST. art. 21.

Yet the trend among the judiciary seemed to turn towards judicial independence as the proceedings progressed. Through its subsequent revision of its own order, the Court demonstrated both self-correction and restraint, telling us that even the most noble of good intents need to be exercised in accordance with constitutional legality. This progress from unbridled activism to measured independence symbolized judicial maturity, a softening of the compassionate heart that was still tethered to the constitutional mind. In many ways, this case was an example of the most aggressive form of judicial activism as it demonstrated the Court's willingness to intervene to serve the public good, but at the same time, it was also an example of judicial independence as it showed that the strength of the judiciary is found not simply in its boldness but also in its restraint. That the change in approach from a robust activist methodology to that of judicial restraint matters for what it teaches us is: ***"the power of the judiciary is not just in what it can do, but in knowing what it should not do"***.

Conclusion

The Supreme Court suo moto case on stray dog attacks is a sensational example of how judicial activism and judicial independence can co-exist in the Indian constitutional set up. The Court's first move was in the spirit of activism, a judiciary unmindful of whether it was invading the province of the executive. It was a case of moral imperative coinciding with constitutional duty, inspired by both compassion and public anxiety. However, the later revision of its order portrayed the qualities of true judicial independence. The Court, in the process, was teaching us that justice is not to be found in the chest-beating in maverick decisions but in balanced and constitutionally sound decisions. Judicial activism gives the law a heart, so that it speaks to actual human concerns, and judicial independence gives it a backbone, so that it holds fast to the rule of law instead of disintegrating when challenged.

At its core, this litigation teaches us that the power and the prudence of the judiciary are most operative both when the judiciary is most active and least so when it is most reticent. Neither power nor passion alone, then, do engender true justice, but rather it is the judiciary's continuing negotiation between compassion and constitutionality that produces genuine justice.

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