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Judicial Activism and Public Interest Litigation in India: A Critical Review of Law and Governance

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ABSTRACT

Judicial activism has become a powerful force in shaping India's legal and governance landscape. With tools like Public Interest Litigation (PIL), the judiciary has stepped beyond its traditional role, tackling issues related to social justice, environmental protection, and administrative accountability. This review paper takes a close look at how judicial activism has evolved, its scope, and its impact in India, especially focusing on PIL as a key player in democratic governance. By diving into scholarly literature, landmark rulings, and institutional changes, the study sheds light on both the successes and challenges of judicial intervention. While judicial activism has improved access to justice and safeguarded fundamental rights, it has also sparked debates about judicial overreach and the separation of powers. The paper wraps up by emphasizing the need for a balanced approach to uphold the integrity of democratic institutions while ensuring justice and accountability.

Keywords

Judicial Activism; Public Interest Litigation; Supreme Court of India; Rule of Law; Governance; Fundamental Rights; Judicial Review

1. INTRODUCTION

The Indian judiciary has truly transformed the landscape of constitutional governance, especially with the rise of judicial activism. Unlike the traditional, more passive role that courts used to play, judicial activism takes a hands-on approach to interpreting laws and safeguarding constitutional values. This shift became particularly noticeable in the post-Emergency era, when the judiciary aimed to rebuild public trust and defend fundamental rights.

One of the key tools of judicial activism has been Public Interest Litigation (PIL). This allows individuals and organizations to bring cases to court on behalf of marginalized and disadvantaged groups. Judges like P. N. Bhagwati and V. R. Krishna Iyer championed this innovation, which has significantly broadened access to justice by easing procedural requirements and expanding the reach of judicial intervention.



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Over the years, the Supreme Court of India has utilized PIL to tackle a variety of pressing issues, from environmental protection and human rights abuses to prison reforms and corruption. This proactive stance has bolstered democratic governance by holding the executive and legislative branches accountable.

The growing influence of judicial activism has sparked important conversations about its limits. Critics caution that excessive judicial involvement might undermine the separation of powers and encroach on the duties of elected officials. Therefore, it's crucial to understand the scope and implications of judicial activism to accurately evaluate its effects on modern governance. This review paper seeks to provide a critical analysis of the evolution of judicial activism in India, highlighting its contributions, challenges, and future possibilities.

2. LITERATURE REVIEW

The idea of judicial activism has sparked quite a bit of discussion in both legal and political circles. Upendra Baxi paints a picture of judicial activism in India as a reaction to the social landscape, where courts step in as catalysts for social change (Baxi, 1980). His insights highlight how the judiciary plays a crucial role in advocating for justice, especially for marginalized groups, through creative legal interpretations.

On a similar note, S. P. Sathe sees judicial activism as an essential part of constitutional governance, especially in developing nations where other institutions might not be as robust (Sathe, 2002). He points out that judicial intervention often fills the gaps left by shortcomings in governance and administration.

However, there are voices like Mark Tushnet who warn against the dangers of too much judicial activism, stressing the potential for judicial overreach and the risk of undermining democratic accountability (Tushnet, 1999). This viewpoint highlights the importance of striking a balance between judicial action and institutional restraint.

Research has shown that Public Interest Litigation (PIL) has played a significant role in broadening fundamental rights in India, particularly under Article 21 of the Constitution. Yet, there are also worries about the misuse of PIL for personal or political gain, which could undermine its original intent.

In summary, the body of literature presents a wide range of opinions, from strong advocacy for judicial activism as a means of achieving social justice to serious concerns about its effects on democratic governance.

3. THEORETICAL FRAMEWORK OF JUDICIAL ACTIVISM

The idea of judicial activism is deeply rooted in how we interpret the constitution and the changing role of the judiciary in a democracy. It's not just about courts interpreting laws; it's also about them standing up for fundamental rights and driving social change. The concept of judicial review, which was established in the famous case of *Marbury v. Madison*, lays the



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groundwork for judicial activism by giving courts the power to strike down laws that go against constitutional principles.

In India, judicial activism is closely tied to the idea of a “living constitution,” which means that constitutional provisions should be understood in the context of evolving social realities. Judges like V. R. Krishna Iyer pushed for a more liberal and purposeful interpretation of laws to ensure justice for marginalized communities.

This approach also embraces the principles of social justice and the welfare state, as outlined in the Directive Principles of State Policy in the Indian Constitution. Judicial activism often aims to connect fundamental rights with socio-economic justice by broadening the interpretation of rights under Article 21.

Moreover, the theory of separation of powers is essential in setting the boundaries for judicial activism. While the judiciary has the power to review actions taken by the executive and legislative branches, too much interference can lead to judicial overreach. Scholars like Alexander Bickel have pointed out the “counter-majoritarian difficulty,” which highlights the tension between judicial review and democratic values (Bickel, 1962).

The concept of judicial activism is all about finding the right balance between pushing for new ideas in the judiciary and respecting the limits of institutional authority.

4. EVOLUTION AND GROWTH OF PUBLIC INTEREST LITIGATION (PIL) IN INDIA

Public Interest Litigation (PIL) has truly been a game-changer in the Indian legal landscape, making the judiciary more accessible to everyday people. This concept took root in the late 1970s and early 1980s, emerging as a response to the shortcomings of traditional legal processes that often left marginalized groups without a voice in their quest for justice.

Trailblazing judges like P. N. Bhagwati and V. R. Krishna Iyer were instrumental in broadening the definition of locus standi, which allowed any concerned citizen to file petitions on behalf of others. This shift empowered the judiciary to tackle pressing issues such as bonded labor, environmental harm, prison conditions, and human rights abuses.

Numerous landmark cases highlight the evolution of PIL in India. For instance, in the case of *Maneka Gandhi v. Union of India*, the Supreme Court expanded the interpretation of Article 21, setting the stage for future PIL developments. Likewise, cases focused on environmental protection and labor rights have further solidified PIL's role in governance.

As time has passed, PIL has emerged as a vital mechanism for holding the government accountable and fostering transparency. However, its growth has also sparked concerns about potential misuse, judicial overreach, and frivolous lawsuits. Courts have increasingly stressed the importance of regulating PIL to maintain its original purpose.



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In summary, the journey of PIL showcases the ever-evolving nature of the Indian judiciary and its dedication to social justice and democratic governance.

5. LANDMARK JUDGMENTS AND IMPACT OF JUDICIAL ACTIVISM

Judicial activism in India really comes to life when we look at landmark judgments that have had a profound impact on law and governance. The Supreme Court of India has played a pivotal role by interpreting laws in a progressive way, broadening the scope of fundamental rights and championing social justice.

Take the *Kesavananda Bharati v. State of Kerala* case, for instance. Here, the Court introduced the Basic Structure Doctrine, asserting that certain core features of the Constitution are off-limits for Parliament to change. This ruling firmly established the judiciary as the ultimate protector of constitutional values.

Another key case is *Vishaka v. State of Rajasthan*, where the Court stepped in to create guidelines aimed at preventing sexual harassment in the workplace, filling a legislative void. This really showcased the judiciary's proactive stance on pressing social issues.

Similarly, in the *Olga Tellis v. Bombay Municipal Corporation* case, the Court recognized the right to livelihood as an essential part of the right to life under Article 21. These decisions underscore how judicial activism has broadened the scope of fundamental rights and shaped governance.

These landmark rulings demonstrate that judicial activism has not only reinforced constitutional protections but also addressed gaps in legislation. However, some critics argue that these interventions can sometimes blur the lines between the roles of the judiciary and the legislature.

6. CHALLENGES AND CRITICISM OF JUDICIAL ACTIVISM

Judicial activism, while it has its merits, often finds itself under fire and facing various challenges. A major concern is the idea of judicial overreach, where courts seem to step into the territory of the executive and legislative branches. This situation raises important questions about the separation of powers, a cornerstone of democratic governance. Scholars like Mark Tushnet have pointed out that too much judicial involvement can actually weaken democratic accountability, as it allows unelected judges to make decisions that shape policy (Tushnet, 1999). There are also worries about the rising number of Public Interest Litigations (PILs) being filed more for personal or political reasons than for the true public good.

Another hurdle is the judiciary's limited capacity to effectively oversee and carry out its own directives. Often, court orders go unfulfilled due to administrative hiccups or a lack of coordination with government bodies. Moreover, judicial activism can sometimes result in inconsistent rulings, as different benches might take different stances on similar matters, leading to uncertainty in the legal landscape.



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Critics also point out the selective nature of judicial intervention, where some issues get more focus than others. This brings up concerns about what the judiciary prioritizes and how much media and public opinion sway judicial decisions. So, while judicial activism has undeniably played a vital role in promoting justice, it's crucial to strike a balance between being active and exercising restraint to uphold the integrity of our democratic institutions.

7. CONCLUSION

Judicial activism and Public Interest Litigation (PIL) have really changed the game when it comes to law and governance in India. Thanks to some forward-thinking interpretations and creative judicial approaches, the Supreme Court of India has broadened the reach of fundamental rights and worked to deliver justice for those who are often overlooked. Key rulings and PIL efforts have tackled vital issues like environmental protection, human rights, gender equality, and holding the administration accountable.

The impact of trailblazing judges like P. N. Bhagwati and V. R. Krishna Iyer shows just how judicial activism can be a strong force for social change. However, this study also points out the hurdles that come with judicial overreach, the potential misuse of PIL, and the friction with the principle of separation of powers.

So, it's crucial that judicial activism is approached with care and responsibility. We need a balanced strategy that honors institutional limits while still pushing for justice and accountability to keep our democratic governance thriving. In the end, the judiciary should remain a steadfast protector of the Constitution, all while upholding its legitimacy and independence.

8. RECOMMENDATIONS AND SUGGESTIONS

To make sure that judicial activism and Public Interest Litigation (PIL) work effectively in India, here are some suggested steps:

- **Practicing Judicial Restraint:**

Courts should show self-control and steer clear of unnecessary involvement in policy issues, honoring the distinct roles of the legislature and executive.

- **Regulating Public Interest Litigation:**

We need to set clear guidelines to stop the misuse of PIL for personal or political gain, while still keeping it open for genuine public interests.

- **Strengthening Institutional Capacity:**

The judiciary should boost its administrative and monitoring systems to ensure that its decisions are implemented effectively.

- **Promoting Legal Awareness:**

Raising awareness among citizens about their legal rights and available remedies can enhance access to justice and encourage responsible use of PIL.

- **Encouraging Collaboration:**



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Better coordination among the judiciary, government, and civil society can lead to more effective governance and smoother policy implementation.

- Ensuring Transparency and Accountability:

Judicial processes should be transparent to maintain public trust and confidence in the legal system.

- Balancing Activism with Democracy:

As Alexander Bickel pointed out, courts need to be aware of the “counter-majoritarian difficulty” and ensure their actions don’t compromise democratic values.

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