



Judicial Activism Vis A Vis Judicial Overreach: Navigating The Thin Line Of Difference

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ABSTRACT

Judicial activism has long acted as a vital corrective force within India's constitutional framework, allowing the judiciary to step in where legislative shortcomings or executive inaction leave pressing issues unaddressed. Through progressive interpretations of fundamental rights, the expansion of Public Interest Litigation, and vigilant oversight of governmental functioning, the courts have strengthened democratic values and widened access to justice—especially for marginalized communities. Yet, this proactive stance has also sparked debates around judicial overreach, a term used when courts appear to move beyond their constitutional authority and enter spheres traditionally reserved for the legislature or executive.

This paper examines the subtle but significant boundary between judicial activism and judicial overreach by engaging with constitutional principles, judicial philosophy, and key Supreme Court decisions. It considers how activism, when guided by constitutional morality and social need, can advance justice, whereas overreach risks unsettling the separation of powers and generating institutional tensions. Using doctrinal and analytical methods, the study evaluates judgments that illustrate both constructive judicial intervention and instances viewed as exceeding judicial competence. It also discusses the broader implications of such interventions for democratic governance, institutional legitimacy, and the balance of power among the State's three organs. Ultimately, the paper seeks to clarify where judicial responsibility ends and judicial excess begins, and to suggest ways of maintaining judicial restraint without diluting the pursuit of constitutional justice.

1. Introduction

The Indian judiciary has evolved into one of the most influential constitutional institutions, entrusted with the protection of fundamental rights and the preservation of the rule of law. Its expanded authority has developed through dynamic interpretations of constitutional provisions, particularly in the field of Public Interest Litigation (PIL)¹. After the Emergency period², PIL jurisprudence opened new pathways for courts to address systemic injustices, enhance access to justice, and intervene in matters affecting the broader public³. Over time, this approach positioned the judiciary both as a guardian of constitutional morality and as a driver of social transformation.⁴

At the same time, the growth of judicial activism has prompted important questions about the limits of judicial authority. When courts appear to step into roles meant for the legislature or executive, concerns of judicial overreach arise, challenging the delicate balance envisioned by the doctrine of separation of powers. Excessive intervention can unsettle democratic processes and distort institutional boundaries. The present study

¹ Dhavan, R. (2008). The Supreme Court of India and public interest litigation. *Journal of the Indian Law Institute*, 50(3), 375–419.

² Bhuwania, A. (2016). *Courting the people: Public interest litigation in post-emergency India*. Cambridge University Press.

³ Bhagwati, P. N. (1984). Judicial activism and public interest litigation. *Columbia Journal of Transnational Law*, 22(3), 561–578.

⁴ *State of Uttar Pradesh v. Jeet S. Bisht*, (2007) 6 SCC 586.

therefore aims to examine where legitimate judicial activism ends and overreach begins, and how this distinction affects India's constitutional framework.

1.1 Evolution of Judicial Activism in India

Judicial activism in India gained momentum through landmark decisions that expanded the meaning of Article 21 and introduced PIL as a tool for advancing social justice. These judgments reflected the view of the Constitution as a "living document," adaptable to contemporary challenges such as environmental protection, prisoner rights, and gender equality. By stepping in when the executive or legislature failed to act, the judiciary helped strengthen democratic accountability and ensured that constitutional promises translated into real outcomes⁵.

This shift from a passive to a proactive judicial role also included efforts to hold state institutions accountable. Courts scrutinized government actions, filled gaps in public administration, and developed innovative procedures to allow marginalized communities to approach the judiciary even without traditional standing. Judicial activism gradually expanded into areas such as child protection, labor rights, and public health—fields where lack of state attention made judicial intervention necessary. This progression highlights how the judiciary responded to evolving social needs while attempting to balance rights protection with institutional oversight.

1.2 Emergence of Concerns About Judicial Overreach

Although activism strengthened constitutional governance, apprehensions surfaced when courts began issuing directives that resembled policymaking or administrative control. These included overseeing government programs, prescribing detailed guidelines on governance matters, or instructing the enactment of legislation. Critics argue that such steps blur the constitutional separation of powers and risk weakening democratic decision-making.

In several cases, the judiciary's intention to uphold constitutional morality led to actions that encroached upon the traditional domains of the legislature and executive. By issuing exhaustive orders on policy execution or directly monitoring administrative schemes, courts sometimes ventured beyond adjudication. While these interventions often stemmed from a desire to protect rights and correct governance failures, they raised concerns about the judiciary assuming quasi-legislative or quasi-executive functions.

Such overreach can disrupt institutional accountability and create uncertainty about which branch of the State is responsible for policy outcomes. It may also give rise to conflicts between institutions, potentially affecting democratic legitimacy. The central challenge, therefore, lies in distinguishing necessary judicial intervention from excessive involvement in areas constitutionally assigned to other branches. Preserving this balance is essential to ensuring that judicial authority strengthens, rather than destabilizes, India's constitutional structure.

Shyam Narayan Chouksey (2016), the Supreme Court of India addressed the issue of accountability and efficiency in the implementation of public welfare schemes. The case highlighted that mere existence of government programs is insufficient unless authorities actively ensure their proper execution. The Court emphasized that citizens have a right to timely and effective delivery of benefits under such schemes, and any negligence by public officials amounts to a violation of this right. This judgment reinforced the role of the judiciary in safeguarding citizens' interests and ensuring good governance. By holding authorities accountable, the case exemplified judicial activism, demonstrating how courts can intervene to protect social justice, strengthen administrative responsibility, and uphold constitutional rights.

The Liquor Ban Case (2017) was a significant example of judicial activism in India, where the courts intervened to address public health and social welfare concerns. Several states had imposed prohibition measures to reduce alcohol-related social problems, but enforcement was inconsistent and often ineffective. The judiciary stepped in to ensure proper implementation of the ban, emphasizing the government's responsibility to protect citizens from the harmful effects of alcohol. The Court highlighted that laws or policies aimed at public welfare must be executed effectively, and administrative negligence cannot be tolerated. This case reinforced the judiciary's proactive role in upholding social justice, protecting vulnerable communities, and ensuring that legislative objectives, particularly those concerning health and safety, are meaningfully realized.

The Arun Gopal (2017) case is a landmark example of judicial activism in environmental and civic rights in India. The Supreme Court emphasized the fundamental right of citizens to a clean, safe, and healthy environment, holding public authorities accountable for negligence in urban planning and environmental protection. The case addressed issues such as pollution, waste management, and illegal encroachments, directing authorities to take corrective measures to safeguard public health and ecological balance. By actively monitoring implementation and enforcing compliance, the Court reinforced the principle that environmental protection is integral to the right to life under Article 21. *Arun Gopal* demonstrates how judiciary can intervene proactively to promote sustainable development, protect citizens' rights, and ensure accountability in governance.

⁵ Austin, G. (1999). *Working a democratic constitution: The Indian experience*. Oxford University Press.

The MC Mehta (2018) case is a landmark instance of judicial activism in India, focusing on environmental protection and sustainable development. The Supreme Court, responding to public interest litigation filed by environmental activist MC Mehta, addressed severe industrial pollution affecting air, water, and public health. The Court directed strict compliance with environmental laws, closure of non-compliant industries, and adoption of cleaner technologies. Emphasizing the right to a healthy environment as part of the fundamental right to life under Article 21, the judgment reinforced accountability of both government authorities and private enterprises. This case exemplifies how the judiciary actively intervenes to safeguard ecological balance, enforce legal standards, and ensure sustainable development, reflecting the proactive role of courts in upholding social and environmental justice.

3. Literature Review

Judicial activism in India has generated extensive academic debate, particularly regarding its strong emergence after the Emergency period (1975–77). This phase marked a decisive shift in judicial thinking, with the Supreme Court adopting broader interpretations of Article 21 and expanding it to include rights to livelihood⁶, dignity, health, education, and a clean environment⁷. The introduction and subsequent evolution of Public Interest Litigation (PIL) further strengthened the judiciary's capacity to address structural injustices and provide remedies to groups historically deprived of meaningful access to courts. For scholars such as⁸, PIL represented a transformative moment—it democratized access to justice and reshaped the judiciary's role in advancing social change.

At the same time, literature also reveals growing concerns about judicial overreach, reflected in situations where courts have intervened in policy matters traditionally belonging to the legislature or executive⁹. Sathe (2002) argues that activism becomes overreach when courts issue extensive administrative directions or compel legislative action, thereby disturbing the constitutional balance of power. Similarly, Mehta (2007) notes that although judicial interventions often arise from democratic shortcomings within other branches, such interventions can gradually extend too far, weakening accountability and raising questions about democratic legitimacy.

Contemporary scholarship highlights the need for a careful balance between judicial initiative and institutional restraint. Many scholars stress that while judicial activism is crucial in safeguarding constitutional rights, it must operate within well-defined constitutional limits to prevent institutional conflict. Gadbois¹⁰ (2011), for instance, emphasizes that maintaining harmony among the branches of government is essential for the smooth functioning of constitutional democracy. Overall, the literature reflects an ongoing tension between the judiciary's duty to protect rights and the necessity of respecting the structural boundaries of judicial authority.

Article 13: Article 13 forms the constitutional foundation for judicial activism in India by empowering courts to protect fundamental rights. It declares that any law inconsistent with or abridging fundamental rights is void, giving the judiciary authority to review, interpret, and strike down such laws. Judicial activism emerges when courts proactively apply this power to address legislative or executive shortcomings and ensure justice. Through expansive interpretations of rights and innovative remedies, the judiciary has used Article 13 to strengthen constitutional governance. This provision thus enables courts not only to safeguard rights but also to evolve them in response to social and legal challenges.

Article 21: Article 21 guarantees the right to life and personal liberty, ensuring that no person shall be deprived of these except according to a procedure established by law. Over time, judicial interpretation has expanded its meaning, transforming it into a broad source of numerous human rights. The Supreme Court has held that the right to life includes dignity, livelihood, health, education, clean environment, privacy, and fair procedure. Through judicial activism, Article 21 has evolved from a narrow procedural guarantee into a powerful protector of individual freedoms. It stands as one of the most important and dynamic provisions of the Constitution.

Article 32: Article 32 guarantees the right to constitutional remedies, allowing individuals to directly approach the Supreme Court for enforcement of fundamental rights. Dr. B.R. Ambedkar called it the “heart and soul” of the Constitution because it ensures that rights are meaningful and enforceable. Under Article 32, the Court can issue writs such as habeas corpus, mandamus, prohibition, certiorari, and quo warranto. This provision empowers citizens to challenge state actions that violate their rights and has enabled the judiciary to play an active role in protecting liberties. Through public interest litigation, Article 32 has become a powerful tool for social justice and accountability.

Article 226: Article 226 empowers High Courts to issue writs for the enforcement of fundamental rights and for any other purpose. Unlike Article 32, which is limited to the Supreme Court and fundamental rights, Article 226 provides broader jurisdiction, allowing High Courts to address violations of statutory or legal rights as well.

⁶ Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.

⁷ MC Mehta v. Union of India, (1987) 1 SCC 395.

⁸ Baxi, U. (1985). *Courage, craft and contention: The Indian Supreme Court in the eighties*. N.M. Tripathi.

⁹ Chandrachud, A. (2017). *Due process of law*. Eastern Book Company.

¹⁰ Gadbois, G. (2011). *Judges of the Supreme Court of India: 1950–1989*. Oxford University Press.

It enables citizens to challenge unlawful actions of the state, ensuring accountability and rule of law at the regional level. Through judicial activism, Article 226 has been instrumental in expanding access to justice, protecting rights, and addressing public grievances, often through public interest litigation, thereby strengthening democratic governance.

Article 142

Article 142 empowers the Supreme Court to pass any decree or order necessary to do “complete justice” in a case. This provision gives the Court extraordinary powers to go beyond strict legal rules to ensure fairness and equity, filling gaps where existing laws may be inadequate. It has been widely used in matters of public interest, fundamental rights, and social justice, including disputes involving government, corporations, and individuals. Judicial activism under Article 142 allows the Court to implement practical solutions, enforce its judgments effectively, and uphold the spirit of the Constitution, reinforcing the role of the judiciary as a guardian of justice.

Theoretical Framework: Judicial Activism vis-à-vis Judicial Overreach

Judicial activism and judicial overreach, although related, represent distinct constitutional concepts that shape the broader debate on the judiciary’s role in a democratic system. Judicial activism is rooted in the view that courts function not only as dispute-resolving bodies but also as institutions responsible for defending constitutional values, expanding rights protections, and addressing governmental shortcomings. This approach is closely linked to the doctrine of the “living constitution,” which holds that constitutional interpretation must evolve alongside changing social, economic, and political circumstances (Waldron, 2006). In India, landmark cases such as *Kesavananda Bharati v. State of Kerala*¹¹ (1973) and *Maneka Gandhi v. Union of India* (1978)¹² are commonly cited examples where judicial activism broadened fundamental rights and enabled the use of PIL as a mechanism to advance social justice¹³.

Judicial overreach, in contrast, occurs when courts exceed their constitutional mandate and intrude into domains meant for the legislature or executive. It represents a deviation from the principle of separation of powers and is most often criticized when judicial directives effectively create new policy, supervise administrative programs, or dictate governance measures in ways that extend beyond judicial interpretation (Barber, 2012)¹⁴. Examples include judicial directives on environmental regulation, educational reform, and public administration that require continuous monitoring or detailed managerial oversight.

The theoretical framework adopted in this study draws on constitutional theory, public law, and normative debates concerning judicial behavior. It distinguishes between legitimate judicial intervention—aimed at upholding rights and ensuring governmental accountability—and instances where intervention crosses into policymaking or administrative control. This framework thus provides the conceptual tools needed to examine how courts navigate the thin boundary between activism that promotes constitutional justice and overreach that risks destabilizing democratic governance.

3.1 Scope of the Study

This study focuses on the Indian judiciary, with primary attention on the Supreme Court and its influential role in shaping the discourse on judicial activism and judicial overreach. The timeframe extends from 1975, the beginning of the post-Emergency era when judicial activism gained prominence, to 2024, thereby capturing both historical developments and recent trends. Central to this examination is the Supreme Court’s authority to interpret constitutional provisions—particularly Articles 21, 32, 141, and 142—which lie at the core of debates surrounding judicial intervention.

Although notable High Court decisions are referenced for context, the study’s emphasis remains on understanding evolving patterns in Supreme Court jurisprudence. To situate judicial reasoning within a broader institutional perspective, the research also considers academic scholarship, reports of the Law Commission of India¹⁵, and relevant parliamentary debates.

1.4 Separation of Powers– judicial overreach

The doctrine of **separation of powers** divides the functions of the state among three organs: the legislature makes laws, the executive enforces them, and the judiciary interprets them, ensuring that no branch becomes supreme. Judicial activism, when used appropriately, safeguards fundamental rights and addresses governance

¹¹ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

Shankar, S. (2011). *Scaling justice: India’s Supreme Court, anti-terror laws and judicial review*. Oxford University Press.

¹² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹³ Shankar, S. (2011). *Scaling justice: India’s Supreme Court, anti-terror laws and judicial review*. Oxford University Press.

¹⁴ Barber, N. W. (2012). *The constitutional state*. Oxford University Press.

¹⁵ Law Commission of India. (2008). Report No. 239: Judicial statistics. Government of India.

gaps. However, **judicial overreach** occurs when courts encroach upon legislative or executive functions, potentially disturbing this balance¹⁶.

Proponents argue that courts must step in when the legislature or executive fails in their duties, exercising judicial review to uphold constitutional rights (Basu, 2015)¹⁷. Critics, however, warn that overreach undermines the autonomy of the other branches. Courts may issue broad directives or monitor administrative functions, effectively performing legislative or executive roles, which challenges the doctrine of separation of powers.

A key concern is accountability. While legislatures and executives are directly answerable to the electorate, the judiciary is relatively insulated. Overreach may result in significant policy influence without democratic legitimacy. Nonetheless, judicial activism is necessary for enforcing rights, and the Constitution anticipates this tension. Scholars emphasize maintaining a “fine balance” between protecting rights and respecting other branches’ mandates (Kaushik, 2019)¹⁸.

Powers like **Article 142** allow the Supreme Court to pass orders for “complete justice,” granting extraordinary authority. Yet, excessive use risks encroaching on legislative or executive domains. Overreach can generate public perception that the judiciary is substituting its own policy judgment for elected authorities, raising concerns in a democratic system.

Judicial overreach **can violate** the doctrine of separation of powers. Judicial activism remains essential for enforcing constitutional rights and remedying institutional failures, but unchecked intervention risks disturbing the balance between the branches. A responsible judiciary must intervene to uphold justice while respecting the distinct roles of the legislature and executive.

4. Research Methodology

This study adopts a doctrinal research method, which involves a structured analysis, interpretation, and organization of legal principles commonly used in legal scholarship. The research draws primarily from authoritative legal materials such as constitutional provisions, statutory texts, judicial precedents, and established commentaries to examine the growth of judicial activism and instances of judicial overreach in India. Close examination of landmark Supreme Court and High Court judgments forms the core of the analysis, enabling the study to trace patterns of judicial reasoning, interpretative methods, and constitutional justifications invoked when courts intervene in areas traditionally reserved for the legislature or executive.

Secondary literature—including scholarly books, peer-reviewed articles, and expert commentaries—helps situate judicial conduct within broader theoretical and normative debates. This multidimensional approach allows a detailed understanding of shifting boundaries and ongoing discussions surrounding activism and overreach. Data collection involves a comprehensive review of primary and secondary sources such as case law, constitutional provisions, parliamentary debates¹⁹, Law Commission reports, and online legal databases to capture judicial trends accurately. The analytical framework employs comparative reasoning to examine decisions across different periods, identifying developments in judicial authority. Foundational doctrines such as separation of powers, judicial restraint, constitutional morality, and checks and balances serve as evaluative tools for distinguishing between justified activism and excessive intervention. The methodology thus integrates doctrinal rigor with comparative insight, combining qualitative case analysis with broader institutional and democratic considerations.

4.1 Research Design

The study follows a doctrinal research design, a method widely relied upon in legal scholarship to analyse, interpret, and systematise legal principles. Doctrinal research draws from authoritative sources such as constitutional provisions, statutory frameworks, judicial precedents, and recognised legal commentaries. Accordingly, this study examines landmark judgments of the Supreme Court and significant rulings of various High Courts to understand the evolution of judicial activism and identify cases where judicial intervention may be viewed as overreach. Through detailed case analysis, the research explores judicial reasoning, interpretative techniques, and the constitutional basis invoked when courts enter areas constitutionally reserved for the legislative or executive branches.

Secondary literature—comprising academic books, journal articles, and expert analyses—provides wider context for assessing judicial behaviour. These sources help trace scholarly critiques, theoretical developments, and shifting trends in judicial authority. The doctrinal approach therefore offers a structured and coherent framework for examining legal developments, enabling a nuanced understanding of the delicate boundary separating judicial activism from judicial overreach.

4.2 Data Collection

¹⁶ Seervai, H. M. (2017). *Constitutional law of India* (4th ed.). Universal Law Publishing.

¹⁷ Basu, D. D. (2015). *Introduction to the Constitution of India* (22nd ed.). LexisNexis.

¹⁸ Kaushik, S. (2019). Judicial activism and the doctrine of separation of powers: A constitutional perspective. *Indian Journal of Legal Research*, 5(2), 45–60.

¹⁹ Parliament of India. (2015). Constitutional provisions and the judiciary:

The data for this study is obtained through an extensive review of primary and secondary legal sources to ensure a comprehensive understanding of judicial activism and judicial overreach. Primary sources include authoritative judicial decisions of the Supreme Court and various High Courts, which form the basis for analysing the evolution of judicial trends and interpretative approaches. Key constitutional provisions—especially Articles 21, 32, 141, and 142—are examined to understand the scope of judicial authority and the constitutional foundation for judicial intervention.

Secondary data is gathered from academic books, peer-reviewed journals, and authoritative commentaries that offer scholarly insights into the theoretical and practical dimensions of judicial conduct. Reports of the Law Commission of India, parliamentary debates, and expert committee findings provide an institutional perspective on the role and functioning of the judiciary. Online legal databases such as SCC Online²⁰, Manupatra,²¹ and JSTOR supply updated case law and academic literature. This multi-source method ensures reliability, depth, and accuracy, supporting a detailed examination of the distinction between judicial activism and judicial overreach.

4.3 Analytical Framework

The analytical framework of this study is based on a case-centred comparative approach, which allows for systematic evaluation of judicial decisions to determine when judicial intervention constitutes legitimate activism and when it crosses into overreach. This involves a close reading of landmark judgments of the Supreme Court²² and High Courts, assessing the constitutional principles relied upon and the reasoning offered to justify judicial involvement. Each case is analysed in light of key constitutional doctrines such as separation of powers, checks and balances, judicial restraint, and constitutional morality. These principles serve as evaluative benchmarks to assess whether the judicial action aligns with constitutional limits or encroaches into legislative or executive domains.

The framework further incorporates a comparative analysis across different judicial periods to identify trends in the expansion or restriction of judicial power. This helps contextualise shifts in judicial philosophy and the circumstances prompting activism or overreach. The analysis also draws from scholarly critiques and theoretical writings on judicial decision-making to evaluate judicial interventions not only on doctrinal grounds but also from broader democratic and institutional perspectives. By combining doctrinal scrutiny with comparative reasoning, the framework provides a holistic understanding of the narrow boundary between judicial activism and judicial overreach.

4.4 Comparative Analysis: Activism vs Overreach

- **Judicial Activism** enhances access to justice, strengthens constitutionalism, and protects fundamental rights.
- **Judicial Overreach**, in contrast, risks unsettling the democratic balance and weakening institutional competence.

Illustrative case studies include:

- *Vishaka v. State of Rajasthan*²³ – is a landmark judgment that reflects strong rights-based activism in India. The case arose after **Bhanwari Devi**, a grassroots worker in Rajasthan, was gang-raped while attempting to stop a child marriage. The absence of any legal framework to address workplace sexual harassment pushed several women's rights groups, under the banner "Vishaka," to approach the Supreme Court. Treating the issue as a violation of **Fundamental Rights under Articles 14, 15, 19(1)(g), and 21**, the Court emphasized that dignity and safe working conditions are integral to equality and life. Using international conventions like **CEDAW**, the Court framed the **Vishaka Guidelines**, laying down mandatory standards for employers to prevent and redress sexual harassment. This judgment demonstrated how public interest litigation can expand constitutional protections, filling legislative gaps through judicial activism. It ultimately paved the way for the **POSH Act, 2013**, institutionalizing workplace safety for women in India
- **Prakash Singh v. Union of India (2006)** is a crucial example of **mixed activism**, combining rights-based and structural reform to transform India's policing system. Former DGP Prakash Singh filed a PIL highlighting deep political interference, lack of accountability, and outdated colonial policing practices that violated citizens' fundamental rights to equality, life, and fair treatment. Recognizing the systemic nature of the problem, the Supreme Court issued **seven binding directives** aimed at depoliticizing, professionalizing, and strengthening police governance. These included establishing **State Security Commissions**, ensuring **transparent appointment and fixed tenure for police chiefs**, creating **Police Establishment Boards**, separating **investigation from law and order**, and setting up **Police Complaints Authorities** for public grievances.

²⁰ SCC Online. (n.d.). Supreme Court Cases database. <https://www.sconline.com>

²¹ Manupatra. (n.d.). Judgments & statutory materials. <https://www.manupatra.com>

²² Supreme Court Advocates-on-Record Association v. Union of India, (2015) 6 SCC 408 (NJAC case).

²³ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

The case is “mixed activism” because it protected individual rights while also restructuring institutions. The judgment had far-reaching structural implications, forcing states to initiate reforms and redefining the relationship between police, executive power, and citizens’ constitutional protections.,

- *NCT of Delhi v. Union of India* and the *Firecracker Ban* cases – frequently cited in debates on overreach. In the *NCT* case, the Supreme Court clarified the distribution of powers between the Delhi government and the Union, holding that the Lieutenant Governor cannot act independently on matters within the elected government’s domain. Critics argue that later rulings, especially on services control, tilted too far toward the Union, raising concerns about undermining federalism and democratic mandate.

Similarly, in the *Firecracker Ban* cases, the Court imposed broad restrictions on the sale and use of firecrackers to curb pollution. While framed as a public health necessity, detractors viewed the Court’s intervention as excessive, entering policy domains reserved for the legislature and executive.

6. Judicial Activism: Concept and Evolution

Judicial activism refers to the judiciary’s proactive role in interpreting laws and the Constitution to advance justice, protect fundamental rights, and address gaps left by the other branches of government. Unlike judicial restraint—which emphasizes limited interference—judicial activism encourages courts to adopt a dynamic approach, especially when legislative or executive shortcomings threaten constitutional values. This approach often involves broad interpretations of rights, expanding legal remedies, and developing innovative jurisprudence to address social and economic inequalities.

In India, judicial activism gained prominence after the Emergency, when the Supreme Court began taking a more assertive stance on rights protection and constitutional accountability. The development of Public Interest Litigation (PIL) transformed the judiciary’s access landscape. Justice P.N. Bhagwati’s liberalisation of locus standi enabled marginalized communities to bring issues before the court, while Justice V.R. Krishna Iyer’s socially sensitive judgments emphasized equity and justice. Through these interventions, the judiciary addressed administrative inaction, monitored welfare schemes, and shaped environmental and human rights jurisprudence.

Over the years, judicial activism has expanded into areas such as environmental regulation, gender justice, prison reforms, and public accountability. Although widely praised for advancing constitutional ideals, it has also prompted questions about judicial boundaries. These debates highlight the need to strike a balance, ensuring the judiciary remains a guardian of rights without extending beyond its constitutional mandate ²⁴.

6.1 Judicial Overreach: Meaning and Concerns

Judicial overreach arises when courts exceed their constitutionally defined role and intrude into the domains reserved for the legislature or executive. While judicial activism seeks to uphold rights within constitutional limits, overreach involves inappropriate or excessive intervention in policy-making, administration, or governance. This occurs when courts issue directives that shape government policy, supervise executive functions in detail, or recommend the enactment of specific laws—actions that traditionally fall within the responsibility of elected representatives.

Instances of judicial overreach in India include prolonged court monitoring of administrative tasks and orders that effectively substitute judicial judgment for executive action. Although such steps may be motivated by a desire to address public grievances ²⁵ or fill governance gaps, they raise concerns about institutional legitimacy and the separation of powers ²⁶. Critics argue that overreach can dilute democratic accountability by shifting decision-making from elected bodies to the judiciary²⁷.

At the same time, supporters of assertive judicial intervention contend that in situations of governmental failure, the courts may be compelled to act to protect rights and uphold constitutional values. This tension highlights the narrow and sensitive boundary between necessary judicial activism and unwarranted overreach. Assessing each intervention carefully is essential to maintaining constitutional balance and preserving institutional harmony.

6.2 Origin of Judicial Activism: Judicial activism refers to the proactive role of the judiciary in interpreting the Constitution and laws to protect rights, ensure justice, and check the excesses of the legislature and executive. The concept of judicial activism originated in the United States, particularly with the landmark 1803 case *Marbury v. Madison*. In this case, the U.S. Supreme Court, under Chief Justice John Marshall, established the principle of judicial review, empowering courts to strike down laws that violated the Constitution. This set a precedent for courts to actively safeguard constitutional provisions rather than merely interpret them

²⁴ Mehta, P. B. (2007). The rise of judicial sovereignty. In *The Oxford companion to politics in India* (pp. 80–97). Oxford University Press.

²⁵ personnel, public grievances, law and justice. Rajya Sabha Secretariat.

²⁶ Khosla, M. (2012). Addressing judicial overreach: Indian constitutionalism and the limits of judicial power. *International Journal of Constitutional Law*, 10(2), 345–367.

²⁷ Waldron, J. (2006). The core of the case against judicial review. *The Yale Law Journal*, 115(6), 1346–1406.

passively. Inspired by this model, Indian judiciary adopted a similar approach, especially after independence. Through provisions like Article 13, Article 32, and Article 226, the Indian courts have exercised judicial activism to expand fundamental rights, enforce constitutional guarantees, and provide remedies for social and legal injustices, ensuring the Constitution's spirit is upheld.

6.2 Limitations

1. Dependence on Secondary Data

This study relies mainly on secondary sources such as judicial decisions, scholarly works, books, and online legal databases. Although these materials provide substantial information, depending on existing literature means the research reflects the interpretations and perspectives of earlier writers. As a result, certain nuances of judicial behaviour may remain unexplored, especially those not captured in published work. Secondary data offers reliability and accessibility, but it limits the study's ability to incorporate real-time observations, field insights, or unique experiential viewpoints that could strengthen the empirical foundation of the findings²⁸.

2. Absence of Empirical Interviews or Surveys

The research does not include empirical tools such as interviews, surveys, or questionnaires with judges, lawyers, or academics. Without these firsthand perspectives, the study cannot capture subjective experiences or professional insights that might shed light on judicial reasoning and institutional behaviour. Consequently²⁹, the conclusions are largely doctrinal and analytical, grounded in textual interpretation rather than experiential evidence³⁰. This limits the practical depth of understanding regarding the judiciary's internal decision-making processes.

3. Limited International Comparative Analysis

Although the study occasionally refers to foreign practices for context, it does not conduct a structured comparative examination of judicial activism and overreach across other jurisdictions. The focus remains primarily on India's constitutional framework, jurisprudence, and institutional dynamics. While this ensures depth and precision in the national context National Judicial Academy. (2016). Judicial restraint and activism: Training module. Bhopal.³¹, it limits opportunities to draw broader lessons from global experiences or identify similarities and contrasts that could enrich the analysis.

7. Conclusion & Suggestions

Conclusion

The examination of judicial activism and judicial overreach highlights the complex and evolving role of the Indian judiciary in shaping constitutional governance. Judicial activism has had a profound impact on strengthening democracy, protecting fundamental rights, and advancing social justice. Through Public Interest Litigation (PIL) and expansive constitutional interpretation³², the courts have provided a voice to marginalized communities, addressed governmental inaction, and reinforced the principles of dignity, equality, and liberty. These interventions have helped bridge gaps where the legislative or executive branches have been slow or ineffective.

At the same time, the study brings attention to the challenges posed by judicial overreach. When judicial decisions extend into policymaking or administrative matters, the balance among the three branches of government may be disturbed. Such interventions can blur institutional boundaries, reduce democratic accountability, and spark debates about the judiciary's proper role. While judicial activism remains essential for upholding constitutional morality, it must be accompanied by caution and sensitivity toward the institutional responsibilities of the legislature and executive.

Ultimately, the difference between judicial activism and overreach is subtle and context-dependent. Courts must navigate this boundary carefully, intervening where constitutional rights require protection while respecting the limitations imposed by the separation of powers. Preserving this equilibrium is vital for democratic stability, institutional legitimacy, and sustained public trust. The study concludes that the judiciary should continue to uphold rights vigorously but remain mindful of constitutional limits.

Suggestions

1. Strengthening Legislative Responsiveness

²⁸ Waldron, J. (2006). The core of the case against judicial review. *The Yale Law Journal*, 115(6), 1346–1406.

²⁹ Hirschl, R. (2004). *Towards juristocracy: The origins and consequences of the new constitutionalism*. Harvard University Press.

³⁰ Austin, G. (1999). *Working a democratic constitution: The Indian experience*. Oxford University Press.

³¹ National Judicial Academy. (2016). *Judicial restraint and activism: Training module*. Bhopal.

A key way to reduce judicial overreach is by improving the efficiency and responsiveness of the legislature. When lawmakers address social issues promptly and effectively, the need for judicial intervention decreases. Strengthening legislative processes through timely lawmaking, better oversight, expert consultation, and broader stakeholder participation can reduce policy gaps that courts often attempt to fill. Ensuring more effective implementation of laws also helps reinforce the separation of powers. When the legislature functions proactively, the judiciary can focus on its core functions without being compelled to take on administrative or policy-oriented roles.

2. Promoting Judicial Restraint and Guidelines

Judicial restraint is essential for preserving the balance between necessary activism and excessive intervention. Courts can adopt internal guidelines on when and how to intervene in policy matters, ensuring decisions stay within constitutional boundaries. This includes emphasizing principles rather than detailed administrative directions, avoiding routine supervision of executive tasks, and acknowledging institutional competence. Judicial training programs, academic engagement, and continuous dialogue within the legal community can help reinforce awareness of constitutional limits. Such restraint maintains public confidence in the judiciary while ensuring that activism remains proportionate and principled.

3. Enhancing Coordination Between Branches of Government

Improving coordination between the judiciary, legislature, and executive can reduce conflict and mitigate concerns about overreach. Establishing structured mechanisms for consultation, dialogue, and feedback can help resolve issues before they escalate into judicial intervention. Advisory opinions, expert panels, or joint committees can facilitate cooperation without undermining the independence of any branch. Such coordination fosters transparency and mutual respect, allowing the judiciary to perform its oversight role effectively while avoiding unnecessary encroachment. Strengthening inter-institutional communication ultimately helps maintain democratic balance and ensures that judicial activism serves its true constitutional purpose.

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2. Baxi, U. (1985). *Courage, craft and contention: The Indian Supreme Court in the eighties*. N.M. Tripathi.
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