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**TRANSFORMATIVE OR INTRUSIVE? A CRITICAL ANALYSIS OF  
JUDICIAL ACTIVISM AND OVERREACH IN INDIA'S EVOLVING  
LEGAL LANDSCAPE**

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**Abstract**

Judicial activism has played a pivotal role in the transformation of Indian constitutional jurisprudence, especially in expanding fundamental rights and ensuring social justice. However, concerns over judicial overreach where the judiciary is seen to encroach upon the domains of the legislature and executive have sparked debates over the legitimacy and limits of judicial power. This research critically analyses the dual nature of judicial interventions in India: as both transformative and intrusive. Drawing from landmark cases, empirical data, and comparative analysis with other jurisdictions, this paper evaluates the impact of judicial activism and overreach on the justice system and democratic governance in India. It concludes by identifying the need for institutional checks, transparency, and restraint to maintain the constitutional balance.

**Keywords:** Judicial Activism, Judicial Overreach, Indian Constitutional Jurisprudence, Fundamental Rights, etc.

**1. Introduction**

The Indian judiciary, especially the Supreme Court, has emerged not just as an interpreter of the Constitution but also as a protector of public interest and constitutional morality. Over the years, the courts have taken an active role in addressing issues where the executive has failed to act decisively or the legislature has remained silent. This assertiveness, often termed as judicial activism, has led to significant developments such as the expansion of fundamental

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rights, enforcement of environmental safeguards, protection of marginalized communities, and even electoral reforms.

Judicial activism has empowered citizens, especially those who are socially or economically disadvantaged, by giving them access to justice through mechanisms like Public Interest Litigations (PILs). It has also led to landmark judgments that have shaped modern Indian jurisprudence.

However, this increasing judicial involvement has not come without criticism. In certain instances, the judiciary has been accused of judicial overreach where it has stepped beyond its constitutional role by interfering in policy decisions, administrative matters, or even law-making, which traditionally fall within the domain of the executive or legislature. This raises serious concerns about the balance of power among the three organs of the state, and whether the judiciary is overstepping its mandate under the doctrine of separation of powers.

This research paper aims to critically analyse the evolving role of the judiciary in India, specifically focusing on the thin line between judicial activism (as a force for positive change) and judicial overreach (as a potential threat to constitutional balance). It will assess how these judicial interventions have influenced the justice delivery system, governance, and democratic accountability in India.

## **2. Understanding Judicial Activism and Overreach**

### **2.1 Judicial Activism: Concept and Justification**

Judicial activism refers to the proactive and dynamic approach adopted by the judiciary to uphold constitutional values, especially when the legislature and executive fail to perform their duties effectively. It allows courts to go beyond literal interpretation of laws, using the Constitution as a living document to respond to contemporary societal needs.

In India, judicial activism became prominent after the Emergency period (1975–1977), when civil liberties were suspended and democratic institutions weakened. Post-emergency, the judiciary reinvented itself as a protector of rights and a check on arbitrary state power. This gave rise to the Public Interest Litigation (PIL) mechanism, which allowed any citizen or group to approach the court on behalf of the disadvantaged or in matters of public concern, even without being directly affected.

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A significant aspect of activism has been the expansive interpretation of Article 21 of the Constitution, which guarantees the right to life and personal liberty. The courts interpreted this article broadly to include several derivative rights like right to education, livelihood, health, clean environment, shelter, and privacy. *Maneka Gandhi v. Union of India (1978)*- The Supreme Court ruled that the "right to life and personal liberty" is not limited to mere physical existence but includes the right to live with dignity, thus setting a transformative precedent. Judicial activism is often seen as a necessary tool in a developing democracy like India, where legislative and executive inaction or failure to address key issues may leave citizens vulnerable. When used responsibly, it promotes social justice, good governance, and constitutional morality.

## 2.2 Judicial Overreach: When Activism Turns Excessive

While judicial activism plays a crucial role in advancing justice, problems arise when courts begin to encroach upon the functional domain of the legislature or executive, a phenomenon known as judicial overreach.

Judicial overreach occurs when the judiciary starts:

- Making laws instead of interpreting them
- Intervening in administrative decisions
- Issuing detailed policy directives
- Responding to popular opinion or media pressure rather than legal reasoning

In such cases, the courts are seen to exceed their constitutionally mandated role, thereby disrupting the separation of powers a foundational principle of India's democratic setup. The Supreme Court's ban on firecrackers in certain cases has been criticized as going beyond interpretation and entering policy territory, which is typically handled by environmental regulators or legislatures.

In the *BCCI (Board of Control for Cricket in India) case*, the court implemented reforms and restructured the cricket body based on recommendations of the Lodha Committee. Critics argue that the judiciary ventured into sports administration an area meant for executive supervision. Though courts often intervene with good intentions, unchecked judicial overreach may undermine democratic accountability by bypassing elected representatives and

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experts. It may also lead to policy confusion, implementation delays, and tension among the three organs of government.

### 3. Positive Impact of Judicial Activism in India

Judicial activism in India has had a transformative influence on constitutional governance, rights expansion, and public interest protection. The judiciary, particularly the Supreme Court, has used its powers to fill gaps left by the legislature and executive, and in doing so, has reshaped many aspects of Indian law and society. The following are key areas where judicial activism has had a significant impact:

#### 3.1 Expansion of Fundamental Rights

One of the most remarkable contributions of judicial activism has been the broad and liberal interpretation of Fundamental Rights, especially Article 21 (Right to Life and Personal Liberty). Earlier seen as a limited guarantee against physical detention, Article 21 has now evolved into a source of multiple socio-economic and personal rights, thanks to progressive judicial interpretations.

- **K.S. Puttaswamy v. Union of India (2017):** In this landmark judgment, a nine-judge bench of the Supreme Court unanimously held that the Right to Privacy is a fundamental right under the Constitution. The Court reasoned that privacy is intrinsic to life and liberty and thus protected under Article 21. This decision had major implications, including safeguarding citizens from surveillance and securing their personal data.
- **Unni Krishnan v. State of Andhra Pradesh (1993):** The Supreme Court held that Right to Education is implicit in the Right to Life under Article 21. This interpretation later paved the way for the Right to Education Act, 2009, making free and compulsory education a legal entitlement for children aged 6–14.

These judgments have deepened the meaning of fundamental rights, making them more inclusive, relevant, and enforceable in the everyday lives of citizens.

#### 3.2 Protection of Environment

The Indian judiciary has played a pioneering role in the development of environmental jurisprudence, especially through Public Interest Litigations (PILs) filed by activists and

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NGOs. Environmental activist *M.C. Mehta* filed a series of PILs that led to landmark judgments, including:

- Cleaning of the Ganga River
- Closure of polluting industries near the Taj Mahal
- Regulation of vehicle emissions in Delhi
- Shifting of hazardous industries from residential areas

These decisions made “Right to a Clean and Healthy Environment” a part of Article 21, thus making environmental protection a fundamental right. The judiciary also enforced the Polluter Pays Principle and Precautionary Principle, adding strength to environmental governance in India.

### 3.3 Promotion of Social Justice

The judiciary has been instrumental in protecting the rights of marginalized and vulnerable sections of society, including women, LGBTQ+ individuals, and sexual harassment survivors.

- ***Vishaka v. State of Rajasthan (1997)***: In the absence of specific legislation to prevent sexual harassment at the workplace, the Supreme Court issued guidelines (known as Vishaka Guidelines) that were to be treated as law until proper legislation was enacted. These guidelines laid the foundation for the POSH Act, 2013.
- ***Navtej Singh Johar v. Union of India (2018)***: The Court decriminalized homosexuality by striking down parts of Section 377 of the IPC, holding that criminalization of consensual same-sex relationships violated the right to equality and dignity under Articles 14, 15, and 21.

These cases enhanced dignity, equality, and safety for historically oppressed communities, pushing the state to act and legislatively respond.

### 3.3 Electoral Reforms

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Judicial activism in India has played a pivotal role in promoting transparency, accountability, and fairness in the electoral process, which is the backbone of a vibrant democracy. Given the recurring concerns about corruption, criminalization of politics, and lack of information for voters, the judiciary stepped in to ensure that elections remain free, fair, and informed. *PUCCL v. Union of India (2003)*, In this landmark case, the Supreme Court addressed the serious issue of criminalization and opacity in elections. The Court directed that every candidate contesting elections at the Parliament and State Assembly levels must publicly disclose important details such as:

- Criminal antecedents or pending criminal cases
- Assets and liabilities
- Educational qualifications

This ruling was a response to increasing instances of candidates with serious criminal charges contesting elections without voters having access to that information. By mandating such disclosures, the Court sought to empower the electorate to make informed choices based on transparency.

#### **Why this was important:**

Prior to this judgment, voters often lacked credible information about candidates' backgrounds, allowing individuals with dubious records to contest and win elections. This transparency requirement aimed to:

- Deter candidates with serious criminal charges from contesting elections
- Promote ethical and clean politics
- Strengthen democratic accountability by ensuring voters knew the full profile of candidates

The judgment led to the introduction of affidavits that candidates must file during nomination. These affidavits are scrutinized by the Election Commission and made publicly available.

- Media and civil society started actively using this data to educate voters and hold politicians accountable.

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- Over time, this ruling has encouraged a slow but steady movement toward greater electoral integrity and voter awareness.
- Several subsequent legal and legislative reforms, such as the Supreme Court's orders on criminal justice reforms and the Right to Information Act, complement this effort to promote transparency.

Through judicial activism, the Supreme Court significantly enhanced the democratic process by ensuring that voters are equipped with crucial information about candidates' backgrounds. This has not only empowered voters to make better decisions but has also placed pressure on political parties to field cleaner candidates, contributing to the gradual reduction of criminalization in Indian politics.

#### **4. Concerns of Judicial Overreach**

While judicial activism plays a crucial role in protecting rights and ensuring good governance, judicial overreach occurs when courts exceed their constitutional boundaries. This overstepping can lead to several challenges that threaten the functioning of constitutional democracy in India.

##### **4.1 Violation of Separation of Powers**

The Indian Constitution is founded on the principle of separation of powers, which clearly divides functions among the legislature (makes laws), the executive (implements laws), and the judiciary (interprets laws). Each branch is expected to respect the boundaries of the others.

*NJAC Case (2015)*, In this case, the Supreme Court struck down a constitutional amendment unanimously passed by Parliament, which sought to change the process of judicial appointments by introducing the National Judicial Appointments Commission (NJAC). The Court held that this amendment violated the independence of the judiciary. While this judgment asserted judicial supremacy, it also raised concerns about encroachment on the legislature's role, thus disrupting the balance of power among constitutional organs.

##### **4.2 Policy Interference**

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At times, the judiciary intervenes in matters of policy-making or executive administration areas traditionally within the purview of the elected branches. Such interference can cause uncertainty and disruption in governance.

**2G Spectrum Case (2012)**, The Supreme Court cancelled numerous 2G spectrum licenses due to corrupt allocation practices. While this was a step against corruption, it caused significant economic disruption and market instability, affecting businesses and investors. This case highlights how judicial intervention in economic policy can have far-reaching consequences beyond legal correction.

**Coal Block Allocation Case**, Similarly, the cancellation of coal block allocations led to widespread policy uncertainty and eroded investor confidence. These instances illustrate how judicial overreach in administrative decisions can negatively impact economic development and governance stability.

### 4.3 Lack of Accountability

Judges in India are unelected and operate with limited mechanisms for direct public accountability. When courts intervene beyond their expertise or mandate:

- It raises questions about the accountability of unelected judges making policy decisions.
- Unlike the legislature and executive, the judiciary lacks strong external checks and balances.
- Excessive judicial intervention can lead to a situation of judicial supremacy, where courts become the “final word” on all matters, potentially undermining democratic governance.

### 4.4 Populist Judgments

Sometimes, courts issue judgments that appear to be influenced more by media pressure, public opinion, or popular sentiment than by strict legal reasoning.

- Such populist rulings may provide short-term public satisfaction but can harm the judiciary’s long-term credibility and independence.

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- The judiciary is expected to be an impartial and neutral institution; if it starts catering to popular demands, its role as a balanced arbiter can be compromised.
- This trend may also strain the relationship between the judiciary and other branches, disrupting smooth governance and constitutional functioning.

The concerns around judicial overreach highlight that when courts exceed their constitutional limits, they risk disturbing the delicate balance of powers, causing governance challenges, and weakening their own institutional legitimacy. Therefore, it is crucial for the judiciary to exercise restraint and respect the roles and boundaries of the legislature and executive.

## 5. Conclusion

The Indian judiciary has played a transformative role in shaping the nation's legal and social fabric. However, unchecked judicial overreach can undermine the very constitutional principles it seeks to uphold. Judicial power must be exercised within the framework of constitutional limits, institutional accountability, and democratic ethics. The challenge ahead is to preserve judicial independence while ensuring that activism does not compromise governance, efficiency, and the rule of law.

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