



The role of judicial activism for providing justice to weaker sections of Indian Society

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Abstract

The Constitution of India pledges to establish social, economic, and political justice. But in practice, the weaker sections of the society like Scheduled Castes, Scheduled Tribes, women, children, minorities, disabled persons and the poor are often deprived of justice. In such a situation, judicial activism adopted by the judiciary has played an important role in transforming the ideals of the Constitution into practice. The judiciary has made a decisive contribution in providing justice to the weaker sections through public interest litigation, detailed interpretation of fundamental rights, social justice oriented decisions and judicial intervention on the inaction of the state. This research article presents a critical analysis of the concept of judicial activism in India, its constitutional basis, major judicial decisions and its impact on the weaker sections.

Keywords: Indian judiciary, fundamental rights, judicial activism, weaker sections, public interest litigation, social justice.

Introduction

The Indian judiciary has played an important role in providing justice to the weaker sections of Indian society, mainly the poor, Dalits, under trial prisoners and bonded labourers, children and women, through public interest litigation. Judicial activism has expanded the right to life under Article 21. In such a situation, the judiciary has gone beyond the traditional judicial boundaries and ensured social justice through judicial activism.

It is generally observed that at the practical level these classes do not get equal access to justice due to structural inequalities, social discrimination, economic exploitation and administrative apathy. In such circumstances, judicial activism has emerged as an effective tool of the Indian judiciary, through which the courts have protected and expanded the fundamental rights of the weaker sections by giving a progressive interpretation of the Constitution.

^[1] Through Public Interest Litigation (PIL), broad interpretation of Article 21, concept of positive obligations and policy guidelines, the judiciary has not only compensated for the inaction of the legislature and the executive, but it has given practical form to social justice. ^[2] The purpose of judicial activism is to protect constitutional values by compensating for the failures of the legislature and the executive. In this vein, judicial activism has led to the many historic decisions, constitutional protection has been provided to the life, dignity, livelihood, workplace safety and human rights of the weaker sections of the Indian society. ^[3]

The above decisions have made it clear that the judiciary is not merely a dispute-resolving institution but also an active participant in social change. On the other hand, critical debate exists regarding the role of judicial activism. Some scholars argue that excessive activism may violate the principle of separation of powers. It could be considered a form of interference in the executive's work.

Concept of judicial activism

Judicial activism refers to the tendency in which the courts play an active role in establishing social justice by giving a

liberal interpretation of the Constitution. In India, this concept emerged especially after the 1970s, when the courts gave a broad interpretation to fundamental rights and recognised public interest litigation. ^[4]

The nearly two decades after independence were the 'classical judicial era' ^[5] of the judiciary, with the Court refraining from active intervention and playing a limited role in protecting the rights of the weaker sections. However, there were some decisions on fundamental rights against the state ^[6], which became the foundation for later activism. ^[7]

In the 1970s, the Indira Gandhi government imposed Emergency ^[8] which challenged the existence of the judiciary, after which the court made many important pronouncements in matters related to the right to life, dignity, liberty etc. of the common people.

In the 1980s, Public Interest Litigation (PIL) revolutionized the rights of vulnerable groups; Justices P.N. Bhagwati ^[9] and V.R. Krishna Iyer ^[10] adopted a flexible approach to locus standi, which led to the emergence of PIL. This gave the prisoners under trial in the Hussainara Khatoon case ^[11] the right to free legal aid and speedy trial. The Olga Tellis case ^[12] gave street dwellers the right to life, and led to the liberation of bonded laborers. This activism expanded to the environment, health, and education after 2000, although there was also criticism of excesses. Judicial activism in India does not have any single constitutional provision, but is a concept that has evolved from the spirit of the Constitution, its liberal interpretation and the constitutional responsibilities of the judiciary. ^[13] The ideals of justice (social, economic and political), equality and dignity enshrined in the Preamble ^[14] provide the ideological foundation of judicial activism.

It empowers the judiciary to declare any law repugnant to the Constitution as void through judicial review, which is the basic constitutional basis of judicial activism. ^[15] At the same time, the judiciary has played an active role by maintaining equality and interpreting the prohibition of arbitrary actions of the state.

A broad interpretation of freedoms of thought, expression, association, etc. encourages judicial activism.^[16] The Court's liberal interpretation of Article 21 (dignified life, livelihood, health, education, environment etc.) is the strongest constitutional basis for judicial activism.^[17] It also provides constitutional support to the active role of the judiciary in protecting the rights of children.^[18]

It empowers the Supreme Court to directly intervene to enforce fundamental rights; it has been called the soul of the Constitution.^[19] Under Article 32^[20], the Supreme Court has the extraordinary power to issue writs, through which the scope of judicial activism has been greatly expanded. It expands the scope of judicial activity by giving wide writ powers to the High Courts.^[21]

Articles 38, 39, 41, 42, 46 of the Directive Principles of State Policy have been used by the judiciary as a guide in interpreting fundamental rights. It gives the Supreme Court extraordinary power to pass orders to ensure complete justice, which is an effective instrument of judicial activism.^[22] It obliges all authorities to comply with the orders of the Supreme Court, thereby ensuring the effect of judicial decisions.^[23]

Judicial activism and weaker sections of Indian society

Judicial activism, through public interest litigation, has played an unprecedented role in providing justice to vulnerable sections in India, primarily Dalits, tribals, women, laborers, and the poor. The Court has strengthened social justice by liberally interpreting Articles 14, 21 and 39A of the Constitution at a time when the legislature and the executive fail to do so.^[24]

Although judicial activism brought about policy changes, it also produced negative effects such as overreach, violation of separation of powers, and judicial delays. Nevertheless, it remains a major means of empowerment of the weaker sections of Indian society^[25], which can be observed as follows.

Judicial activism related to protecting the interests of women and girls: Despite the equality, protection from exploitation and free legal aid guaranteed by the Indian Constitution, women in the patriarchal society continue to suffer from workplace harassment, dowry violence and gender discrimination. The Court has taken cognizance of this through judicial activism and has played a significant role in empowering women, especially through public interest litigation when legislative and administrative failures have made them victims of exploitation.

In *Vishaka v. State of Rajasthan*^[26], the Supreme Court issued guidelines against workplace sexual harassment and linked Article 19(1)(g) to the dignity of women.

In *Shayara Bano v. Union of India*^[27], Muslim women were granted the right to a dignified life by declaring triple talaq unconstitutional. These decisions became the basis for policy changes, although implementation challenges remain. In *Buddhadev Karmaskar v. State of West Bengal*^[28], the Supreme Court considered the plight of women involved in prostitution through PIL and recognized the right to privacy, dignity and rehabilitation under Article 21. The court directed the central and state governments to develop plans for rehabilitation, education, and alternative employment for women from brothels, even if prostitution is legal. This would help prevent new trafficking.

Lalita Kumari vs. Government of Uttar Pradesh^[29] Public Interest Litigation was filed for not registering FIR of rape and sexual offences. The court ensured prompt action in crimes against women and girls by mandating preliminary investigations under the POCSO Act and Section 154 of the CrPC. This curbed police high-handedness and expedited the delivery of justice.

Joseph Shine vs Union of India^[30] declared adultery (IPC 497) as unconstitutional and gave women the right to sexual autonomy. Articles 14 and 21 were considered discriminatory, where men were criminals and women were objects. This promoted gender equality.

The Dhannulal v. Ganeshram^[31] decision concerned property rights after the death of a woman in a live-in relationship. The court recognized the concept of a "domestic wife," granting women maintenance and property rights under the Domestic Violence Act, 2005. This provided economic security to women in extramarital relationships.

Mukesh vs NCT of Delhi^[32], taking strong action against violence against women and girls, the judiciary strictly enforced the principle of "rarest of rare crimes" and ordered the death penalty for convicted of gang rape.

The judiciary strengthened gender equality, sexual harassment at the workplace, domestic violence, and the right to dignity.

Judicial activism in the interest of poor and deprived sections - Through public interest litigations, the court has shown judicial activism and played an important role in providing justice to the poor and deprived sections.

Hussainara Khatoon vs State of Bihar^[33] Supreme Court took suo motu cognizance of matters published in news reports and declared the prolonged detention of undertrial prisoners in Bihar jails as unconstitutional. The court directed that the right to a speedy trial was fundamental and that innocent prisoners should be immediately released. This benefited thousands of poor prisoners.

In *Bandhua Mukti Morcha vs Union of India*^[34], the court held bonded labour to be a violation of Article 21 and issued directions for their identification, liberation and rehabilitation. A public interest litigation was filed regarding the inhumane conditions of bonded laborers in Haryana's stone quarries. The court strictly enforced bonded labor abolition laws.

Olga Tellis vs Bombay Municipal Corporation^[35] - The Supreme Court held the right to livelihood to be an integral part of Article 21 and directed for alternative arrangements before eviction of persons working on the footpaths of Mumbai. The Supreme Court worked to protect the rights of the urban poor.

Parmanand Katara vs Union of India^[36] Hospitals were criticised for not providing immediate medical attention to road accident victims. The court issued orders mandating all hospitals to provide first aid without a police report. Poor accident victims gained a chance at survival.

In the case of *Narmada Bachao Andolan vs Union of India*^[37], the Hon'ble Supreme Court banned the construction of the Narmada Dam without complete rehabilitation of the displaced people. As a result, proper compensation and rehabilitation was ensured to thousands of poor tribals.

Nilabati Behera vs State of Orissa^[38] This case relates to the death of a youth in police custody, in which the youth's mother Nilabati Behera wrote a letter to the Supreme Court

of India alleging that her son's death was due to police brutality. The Supreme Court accepted his letter as a writ petition and ordered compensation for the custodial death of his son.

This decision established the right to compensation for death in police custody, allowing poor families to access justice.

Judicial activism related to Scheduled Castes and Scheduled Tribes: has played an important role in protecting the rights of Scheduled Castes and Scheduled Tribes communities. The Court has intervened against caste violence, discrimination and social exclusion through PILs, particularly through the interpretation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Articles 15, 17, 46 and 338 of the Constitution.

In *Kanubhai M. Parmar v. State of Gujarat* ^[39], the Gujarat High Court held that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 applies only to atrocities committed by non-Scheduled Caste and Scheduled Tribe persons. It does not apply to crimes between members of Scheduled Castes and Scheduled Tribes. The court held that the Act's purpose is protection from external exploitation, not the resolution of disputes between community members.

In *Prithvi Raj Chauhan vs Union of India* ^[40], the Supreme Court ordered the establishment of special courts and speedy trials to ensure the fairness of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. To prevent misuse of this Act, provision for anticipatory bail was made so that innocent persons can be protected, but in cases of anticipatory bail it was made clear that there should not be any intention of caste insult.

The Punjab and Haryana High Court in *Rajmal vs Ratan Singh* ^[41] ensured the establishment of special courts for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act cases.

Indira Sawhney vs Union of India ^[42] In this case, the reservation provided by the Mandal Commission was considered constitutional and the interests of the SC/ST category were strengthened.

In *Nathu Ram vs State* ^[43], the Hon'ble Court considered both 'knowledge of caste' and 'intention to insult' as essential for caste-based insult.

Thus, it can be said that the above decisions provide social justice to the SC/ST communities and also control the misuse of the Act.

Sampurna Behura vs Union of India ^[44] Supreme Court took suo motu cognizance of systemic violations of the Juvenile Justice Act 2015. The Court issued comprehensive directives for child welfare committees, special police units, and care homes, including strengthening the NCPDR/SCPCR ^[45] and establishing child-friendly courts. This improved child protection systems across the country.

MC Mehta vs State of Tamil Nadu ^[46] this landmark judgment delivered by the Supreme Court on 10 December 1996 prohibited child labour in the firecracker factories of Sivakasi (Tamil Nadu). The court issued directives to establish a child labor rehabilitation welfare fund and ensure education. This freed millions of poor children from labor exploitation.

Bachpan Bachao Andolan vs Union of India ^[47] Bachpan Bachao Andolan had filed a public interest litigation under

Article 32 of the Constitution. In which the condition of children trafficked from poor areas of Nepal and India was told about who were forced to work in circuses. Where they are often sexually, physically and emotionally abused and subjected to inhumane conditions.

The Supreme Court took cognizance. The Court imposed a complete ban on child employment in circuses and issued comprehensive directives to the central and state governments. Rescue and rehabilitation processes were strengthened.

It is clear from the above legal cases that judicial activism in India has protected the rights of the weaker sections not merely in a declarative manner but also through practical, structural and reformatory measures. The judiciary has realized the objective of social justice of the Constitution through public interest litigation, expansive interpretation of Article 21 and the use of writ powers.

Public interest litigation by the Supreme Court has simplified and facilitated the judicial process so that anyone can file a public interest litigation, thereby helping vulnerable sections of society access justice.

A Critical Appraisal of Judicial Activism: Although judicial activism has promoted social justice, some scholars argue that it has undermined the principle of separation of powers. Excessive judicial intervention raises questions about the democratic balance. Therefore, judicial activism must be exercised with restraint and within constitutional limits. ^[48]

In its landmark decisions, the Court has recognized speedy trials, the abolition of bonded labor, and the right to livelihood as fundamental. The democratization of public interest litigation has relaxed the locus standi rule, making justice accessible to the underprivileged.

Judicial activism in India emerged against the backdrop of socio-economic disparities, administrative inertia and legislative vacuum, where vulnerable sections such as Scheduled Castes and Scheduled Tribes, women, labour, children and minorities remained deprived of justice. Public interest litigation and liberalisation of locus standi widened access to justice and attempted to translate the objectives of the Constitution into practice. ^[49]

The Court has in principle considered the creative use of Articles 32, 226 and 142 as progressive, which aligns the Directive Principles (Article 39) with the Fundamental Rights. This view is correct because the judiciary has actively intervened only where the legislature remained inactive. ^[50] Examples of this are the guidelines in the *Vishakha* case and the *MC Mehta* environmental case.

The release of over 50,000 undertrial prisoners in the 1980s and 1990s is positive, but the current public interest litigation implementation rate is a mere 30%. The 300% increase in administrative burden and the pressure of pending cases on the courts remain unaddressed. ^[51] When evaluating the impact of judicial activism, it becomes clear that its benefits have not reached all vulnerable groups equally. Urban, literate, and organized groups have benefited the most from judicial intervention. However, its impact has been limited in rural and extremely disadvantaged communities. This raises the criticism that judicial activism sometimes limits itself to symbolic justice and fails to address structural inequalities. ^[52]

Conclusion

Judicial activism has acted as a powerful medium in providing justice to the weaker sections in India. Detailed interpretation of fundamental rights, public interest litigation and social justice oriented decisions have proved the judiciary to be the guardian of the Constitution. Although it has its limitations, yet a sensitive and responsive judicial activism strengthens the democratic system and opens the doors of justice to the weaker sections.

It can be clearly concluded that judicial activism has played the role of a constitutional guardian and catalyst of social change in providing justice to the weaker sections in India. Where the legislature and the executive have not been successful enough in addressing socio-economic inequalities, administrative apathy and structural injustice, there the judiciary, through its proactive approach, public interest litigations, and progressive interpretation of fundamental rights, attempted to bring vulnerable sections such as women, Scheduled Castes, tribal, labourers, children, disabled persons and other disadvantaged communities into the mainstream of justice.

Judicial activism not only strengthened the rights to life, dignity and equality but also held the state accountable to its constitutional obligations. However, it must also be acknowledged that judicial activism has its limitations; challenges such as judicial overreach, weak enforcement, and lack of institutional capacity impact its effectiveness. Therefore, judicial activism should be seen neither as a panacea nor as a threat to the democratic system, but as a necessity for establishing social justice. It would be more appropriate to accept it as a balanced and complementary constitutional instrument, which can fully achieve its objectives only in cooperation with other democratic institutions.

The research article "Role of Judicial Activism in Delivering Justice to Weaker Sections in India" concludes that judicial activism is an inspiring tool for social justice. Making justice accessible to disadvantaged groups through public interest litigation and the expansion of Article 21 brought about historic change. Decisions like the Hussainara Khatoon and Bandhua Mukti Morcha cases benefited thousands of people.

Hence, balanced judicial activism is essential to protect the rights of all without encroaching on other organs of government. The research article's biased approach could have been further enhanced with refinement. In India's constitutional democracy, the judiciary will continue to be the driving force for social change, but it will have to act with restraint.

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4. <https://ijrsonline.in/HTMLPaper.aspx?Journal=International%20Journal%20of%20Reviews%20and%20Research%20in%20Social%20Sciences;PID=2016-4-2-10>.
5. The meaning of 'classical judicial era' is the period in India after independence (1950–1970) when the Supreme Court confined itself largely to the literal interpretation of constitutional provisions.
6. Cases like *Golaknath v State of Punjab*.
7. The *Kesavananda Bharati* case (1973) propounded the 'basic structure doctrine'. The *Makena Gandhi* case (1978) gave a broad interpretation to Article 21.
8. The Allahabad High Court convicted Indira Gandhi of electoral malpractice on 12 June 1975, deepening the political crisis. The then Prime Minister Indira Gandhi declared a national emergency on 25 June 1975 under Article 352 citing 'internal disturbance', suspending fundamental rights, imposing press censorship and jailing opposition leaders. This emergency remained in force in India for about two years (1975-1977).
9. Justice P.N. Bhagwati is considered the father of Public Interest Litigation (PIL) in India, having institutionalised it in the late 1970s. He took a soft approach to the traditional 'locus standi' rule and ensured direct access to justice to the poor, undertrial prisoners and the underprivileged.
10. Justice V.R. Krishna Iyer played a significant role in institutionalizing Public Interest Litigation (PIL) in India, thereby providing easier access to justice to the weaker sections. He liberalized the traditional 'locus standi' rule to allow any public interest person to file a petition.
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41. (1988) Cri LJ 378 (P&H).
42. AIR 1993 SC 477.
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45. NCPCR stands for National Commission for Protection of Child Rights, and SCPCR stands for State Commission for Protection of Child Rights. Established under the Commissions for Protection of Child Rights Act, 2005, they are statutory bodies protecting children's rights.
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