
BALANCING THE SCALES: JUDICIAL ACTIVISM VS. JUDICIAL OVERREACH IN THE INDIAN CONTEXT

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1. ABSTRACT

Indian judiciary has remained the sentinel of democracy as well as the guardian of fundamental rights for decades now. It is now an institution that could shape the public opinion, play a role in policy making, and contain the executive as well as legislature all these years. This change has been marked by the rise of judicial activism—a development where the judiciary interferes in a positive role to address social injustices, widen the scope of rights, and provide for effective governance, particularly when the other state institutions fail to do so. Judicial activism has produced numerous landmark judgments that have transformed Indian society, encouraged constitutional values, and empowered the downtrodden. It has also been a key in enforcing gender equality, transparency of governance, environment protection, and the right to life and dignity. The concept gained prominence in the post-Emergency era, specifically by striving for the development of Public Interest Litigation (PIL), due to which the gate of justice swung open for those who could not directly access the courts.

However, the assertive approach of the judiciary hasn't gone unrestrained. When judicial activity begins encroaching upon the rightful domain of the legislature or the executive, they are referred to as judicial overreach. This phrase implies overstepping constitutional boundaries in such a way that the judiciary begins performing functions outside what is considered appropriate for it under the regime of separation of powers. Judicial overreach can destabilize democratic governance, erode people's confidence in the workings of the institutions, and produce results that are not technologically or politically valid. Detractors argue that such events disrupt the equilibrium embedded in the constitution and foster judicial dominance rather than judicial independence.

The current research paper explores the thin line between judicial overreach and judicial activism within the Indian context. It provides a critical analysis of the judicial behavior over time, from one of strict judicial restraint to that of interventionist assertiveness. The paper discusses consequential constitutional doctrines such as the Basic Structure Doctrine and Article 142, which have vested greater powers in the judiciary but also created concern with untrammelled power. Through the analysis of landmark judgments—

classic and controversial—the paper illustrates the growing role of the judiciary in India's polity. Trends like *Maneka Gandhi v. Union of India*, *Vishaka v. State of Rajasthan*, and *Navtej Singh Johar v. Union of India* are analyzed for their progressive implications, while judgments like the prohibition of liquor along highways and the Sabarimala judgment are faulted for cases of overreach.

Moreover, the paper engages with scholarly literature on the necessity and dangers of judicial activism, debating points on both sides of the argument. The paper analyzes recent judicial rulings between 2015–2025 to determine if they constitute a genuine activism or excess. By situating these developments in the Indian constitutional framework, the paper attempts to make a principled distinction between judicial empowerment and judicial excess.

Finally, the research aims to give counsel on how the judiciary can play its role as the guardian of the Constitution without compromising the institutional sovereignty of the other branches of government. It pleads for an equilibrated, tempered, and principled approach to judicial action that preserves the confidence of the public, promotes justice, and maintains alive the spirit of the Constitution.

2. Introduction

The judiciary is the third pillar of democratic governance in India, along with the legislature and the executive. Its core function is interpretation and enforcement of law, protection of fundamental rights, and enforcement of the Constitution. Over time, however, the role of the judiciary has expanded from that of a passive interpreter of law to that of an active participant in governance and policy control. This transformation, while embraced by the majority as a restraint on state inertia and presidential abuses of power, has also raised concerns among the judiciary that it would overstep its constitutional mandate.

The Indian Constitution maintains a system for separation of powers between the three state branches, as well as a system of checks and balances to prevent an abuse of authority. While this division is not as strict in America, it serves to keep every branch independent and free. The judiciary with the power of judicial review under Articles 32 and 226 has been given the power to invalidate laws and executive actions that contradict the Constitution. Judicial activism has its basis in this power.

Judicial activism in India is characterized by purposive and liberal interpretation of law and

Constitution to ensure justice and protect rights. Judicial activism is often prompted by the judiciary as a counter action to legislative or executive inaction to address social ills or protect vulnerable sections. The advent of Public Interest Litigation (PIL) during the late 1970s revolutionized the judicial process as it became the means through which any individual or group could go to the courts in the name of marginalized sections of society, thereby democratizing the ability to gain access to justice. Innovative PILs have instituted path breaking change in areas like environmental regulation, gender justice, and governmental transparency.

With increasing frequency and assertiveness, the judiciary started to interfere in policy issues, giving rise to queries regarding the extent of its power. Judicial overreach implies situations where the judiciary oversteps its constitutionally demarcated role and enters areas that are clearly the province of the legislature or the executive. It generally involves formulating or enforcing policies, issuing guidelines where legislation is lacking, or dictating administrative functions.

The difference between judicial activism and judicial overreach is thin and often ambiguous. While activism is celebrated as a defender of justice and liberal values, overreach is criticized for hindering democratic ideals and institutional checks and balances. This confusion is compounded by the reality that there is no specific constitutional or legal line drawn between permissible judicial intervention and forbidden intrusion.

The distinction between activism and overreach is important because the integrity of and legitimacy of the judiciary are central. Excessive interference on the part of the judiciary will undermine the principle of separation of powers and shift political responsibility from elected parliament members to the unelected judges. Therefore, it is imperative within a representative democracy that the judiciary must respect the mandate of the parliament and avoid acting like a super-legislature or an alternative executive.

This essay addresses the origin, evolution, and consequences of judicial activism and overreach in the Indian legal system. It examines milestone judgments, constitutional canons, and scholarly literature to examine the role of the judiciary in Indian democratic governance. Based on a critical evaluation of laudable interventions as well as questionable verdicts, this essay tries to present a balanced picture of how the judiciary can uphold justice without derogating democratic standards.

3. Historical Evolution of Judicial Behavior in India

The development of judicial behavior in India is an interesting trajectory that embodies the interactive dynamic between the judiciary and the rest of the state organs. From a passive interpretation phase to aggressive activism and, in some cases, charges of overreach, the role of the judiciary has metamorphosed over time to accommodate changing socio-political realities and demands of the constitution. This section outlines the path of judicial behavior through its distinct phases that have molded it into its modern-day identity.

3.1 The Judicial Restraint Era (1950s–1970s)

During the initial years of the Republic, the Indian judiciary followed a policy of self-restraint. The focus then was on strictly following the letter of the law in interpreting statutes and refraining from interfering with matters that fell within the jurisdiction of the legislature and the executive. The argument was to uphold the doctrine of the separation of powers and give elected representatives the freedom to pursue their own policies.

One of the best examples of this restrained attitude is the judgment in *A.K. Gopalan v. State of Madras* (1950),¹ whereby the Supreme Court narrowed the interpretation of Article 21 and held that procedure for taking away a person's life or liberty need not be just, fair, or reasonable, provided it was fixed by law. The Court did not read basic rights together and refused to apply the idea of due process and therefore narrowed its own range of review.

At this time, the judiciary also confirmed the superiority of Parliament in a string of constitutional cases. It was felt that since the legislature was directly accountable to the people, they were in a better position to handle questions of policy. The role of the Court was mainly to act as an umpire in matters of disputes and not as a policymaker.

3.2 The Kesavananda Bharati Case and Its Aftermath (1973)

There was a monumental change in judicial philosophy with the judgment in *Kesavananda Bharati v. State of Kerala* (1973).² The Court held that even though Parliament enjoyed broad powers to amend the Constitution under Article 368, it could not make any modification in the

¹ AIR 1950 SC 2

² AIR 1973 SC 1461

'basic structure' of the Constitution. This judgment not only curtailed Parliament's powers but also brought the judiciary to a level higher than the final interpreter and protector of the Constitution.

The institution of the Basic Structure Doctrine was the first step towards a more aggressive judiciary. It signaled the Court's willingness to examine even constitutional amendments, thus establishing its dominance in constitutional interpretation. This was not a philosophical change but institutional—reshaping the judiciary's role in India's democratic framework.

3.3 The Emergency and the Urgency for Activism (1975–1977)

The Emergency of 1975–77 proclaimed by Prime Minister Indira Gandhi was a black chapter in Indian democracy and in the reputation of the judiciary. The notorious *ADM Jabalpur v. Shivkant Shukla* (1976) judgment, in which the Supreme Court majority upheld the suspension of habeas corpus, is generally condemned as the failure to protect civil liberties. The decision showed the weakness of judicial restraint in periods of authoritarianism.

This case led to a serious soul-searching by the judiciary, which resulted in an activist style of functioning in the post-Emergency period. It buttressed the notion that the judiciary has to function as a buffer against executive wrongdoing and cannot avoid asserting its powers when constitutional principles are at stake.

3.4 The Emergence of Public Interest Litigation (Late 1970s–1990s)

The 1970s and 1980s saw the emergence and growth of Public Interest Litigation (PIL)—a judicial device that transformed access to justice. Led by judges such as Justice P.N. Bhagwati and Justice V.R. Krishna Iyer, PIL enabled every public-minded person or group to file petitions in the interests of the downtrodden or the speechless.

This was based on the realization that the classical adversarial system was inappropriate in dealing with systemic injustices. PILs allowed the Court to deal with issues such as bonded labor (*Bandhua Mukti Morcha*), custodial violence (*Sheela Barse*), environmental pollution (*M.C. Mehta*), and corruption in public life.

The readiness of the Court to take suo motu cognizance, suspend procedural conventions, and issue continuing mandamus orders reflected the new era of judicial intervention. The judiciary

ceased to be a passive umpire but became an active transformer of society.

3.5 Judicial Expansion and Its Critics (1990s–2000s)

With the growing dependence on PILs, the role of the judiciary in administration also grew. The Court started issuing elaborate guidelines where the executive had not performed its role. For example, in *Vishaka v. State of Rajasthan* (1997), the Court issued guidelines to check sexual harassment in the workplace, which acted as a de facto legislation till Parliament passed a law.

Although these interventions were universally welcomed, they also sparked controversy for the reason that they involved sidestepping democratic procedures. The competency of the judiciary to resolve intricate questions of policy and the implications of these actions on the doctrine of separation of powers were questioned.

The historical development of judicial behavior in India thus marks a shift from restraint to activism—situationally it is influenced by historical necessities, constitutional dilemmas, and changing societal imperatives. While the judiciary continues to exercise enormous clout, it needs to walk a razor-thin line between invited intervention and institutional encroachment. This process, though tension-ridden, remains the hub of India's constitutional democracy.

4. Landmark Supreme Court Judgments'

The Indian judiciary has delivered numerous judgments that bear profound implications for the socio-political and constitutional landscape of the nation. Such judgments illustrate the power and risk of judicial interference alike. In this section, we categorize such judgments into two wide groups: those celebrated as acts of judicial activism and others criticized as instances of judicial overreach.

4.1 Judicial Activism in Action

Maneka Gandhi v. Union of India (1978)³

This path-breaking judgment departed from the narrow interpretation of Article 21 in *A.K. Gopalan*. The Supreme Court ruled that the 'procedure established by law' must be 'just, fair,

³ AIR 1978 SC 597

and reasonable,' hence enlarging the scope of the right to life and personal liberty. It provided the backdrop to the Court's later activism in construing fundamental rights broadly.

Hussainara Khatoon v. State of Bihar (1979)⁴

This case exposed the state of under trial prisoners in Bihar who were decaying in prisons for years without trial. The Court determined that the right to a speedy trial is a fundamental right under Article 21. This decision caused prison and judicial reforms nationwide.

Vishaka v. State of Rajasthan (1997)⁵

Following the gang rape of a social worker, the Court, in the absence of a law, developed guidelines for sexual harassment prevention at the workplace. Those guidelines stood until Parliament enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. It is an example par excellence of the judiciary rushing in to fill a legislative gap to protect fundamental rights.

M.C. Mehta v. Union of India (1986 onwards)⁶

In a series of environmental PILs filed by environmental lawyer M.C. Mehta, the Supreme Court passed several landmark judgments aimed at reducing pollution and promoting environmental sustainability. These include the closure of polluting industries near the Taj Mahal, orders to clean the Ganga River, and the conversion of Delhi's public transport fleet to CNG.

Navtej Singh Johar v. Union of India (2018)⁷

The Supreme Court of India legalized sexual intercourse between adults of the same sex through the reading down of Section 377 of the Indian Penal Code. The decision was greeted for reaffirming the constitutional values of dignity, privacy, and equality, and was a huge success for LGBTQ+ rights in India.

⁴ AIR 1979 SC 1360

⁵ AIR 1997 SC 3011

⁶ AIR 1988 SC 1037

⁷ (2018) 10 SCC 1

Shayara Bano v. Union of India (2017)⁸

In this case, the Court struck down the practice of instant triple talaq as being unconstitutional. The Court held that the practice was against the fundamental right of Muslim women guaranteed under Articles 14 and 21. The judgment was hailed as a move towards gender justice and equality.

The above cases demonstrate how judicial activism, if exercised with restraint and constitutional insight, can lead to path-breaking reforms and protection of fundamental rights.

4.2 Examples of Judicial Intrusion**Supreme Court's Liquor Ban near Highways (2016)**

The Supreme Court barred the sale of liquor within 500 meters of national and state highways in the interest of road safety. Although well-intentioned, the order was criticized for intruding into matters of state policy and economic regulation. It resulted in widespread disruption, especially in states whose tourism and hospitality industries were affected.

National Anthem Order (2016)

The Court directed the playing of the national anthem before movie screenings in theaters and all should rise in respect. The opponents argued the directive intruded into personal freedom and was judicial paternalism. The directive was later revised due to public criticism and doubts about its enforceability.

Sabarimala Temple Case (2018)

In *Indian Young Lawyers Association v. State of Kerala*, the Supreme Court ruled that the practice of prohibiting women of menstruating age from going to the Sabarimala temple violated their equality and religious freedom rights. The judgment, though on constitutional grounds, created massive protests and was perceived by most as judicial overreach in religious ritual and religious custom.

⁸ (2017) 9 SCC 1

Ban on Firecrackers (2017–2020)

The Court gave various orders governing the sale and consumption of firecrackers to address air pollution, especially during diwali. Although they accepted the issue of pollution, critics stated that such regulation consisted of complex policy choices that ought to be left to the legislature and administrative authorities.

Tamil Nadu Governor Assent Case (2025)

In a first-ever exercise, the Supreme Court directed the Governor of Tamil Nadu and the President of India to give their assent to bills pending for months. The move, while induced by fears of democratic paralysis, was seen by many as overreach by the judiciary into high offices' constitutional spheres.

These instances demonstrate the thin and often contentious line between activism and overreach. While judicial intervention may be essential to enforce constitutional principles, undue or hasty incursions in domains that are best relegated to the legislative or executive branch can jeopardize the institutional balance envisioned by the Constitution.

As the Indian judiciary expands, lessons from such judgments are important towards understanding the need for judicial courage and judicial restraint.

5. Constitutional Framework and Doctrinal Limits

The Indian Constitution does not mandate a strict separation of powers in the American format, but it certainly contemplates a division of functions between the legislature, the executive, and the judiciary. Structural separation to ensure a balance of power and avert authoritarianism is necessary. The Indian judiciary, nonetheless, is specifically endowed with a few constitutional weapons and concepts with the help of which it can step in if the action or inaction on the part of the other two government branches hampers constitutional values.

5.1 Separation of Powers and Checks and Balances

The doctrine of separation of powers, incepted albeit not expressly enunciated by the Indian Constitution, is innately ingrained in its texture. Articles 121 and 211 limit the legislature from debating the behavior of judges, whereas Articles 50 and 124-147 define the organization,

powers, and jurisdictions of the judiciary. The recurrences are there, but each of the branches has to prove respect for the other's jurisdiction. The judiciary's power to monitor the laws and executive measures is an expression of the system of checks and balances.

5.2 Judicial Review

Articles 32 and 226 are the constitutional basis of judicial review.

They confer power on the Supreme Court and High Courts, respectively, to issue writs and hold that laws or state action is unconstitutional if they are against the Constitution. Judicial review is not merely a power but a responsibility conferred on the courts to protect the Constitution and maintain the rule of law. It is on this premise that judicial activism is strong, most importantly the protection of fundamental rights.

5.3 The Basic Structure Doctrine

Arguably, the most important judicial development in India is the Basic Structure Doctrine, established in the seminal case of *Kesavananda Bharati v. State of Kerala* (1973). Under the doctrine, Parliament's constituent power to amend the Constitution is restricted in the sense that it cannot change or devastate its 'basic structure.' It encompasses features such as the rule of law, separation of powers, and independence of the judiciary, and fundamental rights as part of this essential framework.

This doctrine has been a robust safeguard against fanciful constitutional amendments all along and has consolidated the judiciary as the bulwark of constitutional morality. It is a double-edged sword, though, for its use has sometimes been the site of grievance against judicial overreach, particularly when courts invalidated politically controversial constitutional amendments.

5.4 Article 142: Complete Justice

Article 142 of the Constitution authorizes the Supreme Court to make any order which is required to do 'complete justice' in a case. This provision has been unprecedented in range and has been used in pathfinder cases to issue remedies where current laws were deficient or unclear.

Yet its wide scope has not been free from controversy.

For example, in the Ayodhya judgment and Tamil Nadu Governor Assent Case, the Court invoked Article 142 to plug gaps of law that it felt were existing or to enforce what otherwise would fall in the executive or legislative sphere. While Article 142 permits justice beyond technical rules of procedure, such exercise of Article 142 has to be balanced against judicial restraint lest the role of the other constitutionally required organs is undermined.

5.5 Doctrine of Justifiability and Political Questions

Indian courts have also struggled with the issue of the 'doctrine of political questions,' which assumes the position that some matters—namely those relating to the exercise of policy discretion or high constitutional functionaries—are not justifiable and should be left within the realm of politics. The doctrine is not followed in India in a strict sense, but courts are expected to be cautious before delving into matters of policy or administration without judicially manageable criteria.

In reality, Indian judges have already adjudicated numerous politically contentious issues, such as election reforms, orders of governors and even foreign policy disputes. These rulings are interpreted to raise questions about the judiciary overstepping the bounds of its constitutional mandate.

6. Scholarly Perspectives: A Debate

The controversy surrounding judicial overreach and activism in India is a rich one, involving legal scholars, political theorists, jurists, and practitioners. The debate focuses on the proper role of judicial power, the boundaries of judicial intervention, and the consequences of an aggressive judiciary on democratic governance.

6.1 In Defense of Judicial Activism

They contend that in a maturing democracy such as India, where the executive and legislature frequently fall short of their constitutional responsibilities, the judiciary has to intervene to ensure citizens' rights and uphold constitutional principles. Academics such as Upendra Baxi have famously called judicial activism a form of social engineering, particularly in the post-Emergency era.

The supporters argue that the judiciary has never ceased to be instrumental in widening the ambit of fundamental rights, enforcing environmental laws, and upholding government accountability. For example, the liberal approach to Article 21, from the case of *Maneka Gandhi* onwards, has equipped the judiciary with the authority to identify rights to privacy, shelter, education, and a healthy environment.

Justice V.R. Krishna Iyer and Justice P.N. Bhagwati were the key drivers of judicial activism and the creators of PIL jurisprudence. They visualized a judiciary that was available, responsive, and devoted to the mission of justice for the weak and vulnerable. They contended that constitutional morality and transformative constitutionalism made it necessary that the judiciary fulfill more than just the role of an umpire.

6.2 Critics of Judicial Overreach

However, critics also caution that over-judicial activism can lead to judicial overreach, hence destabilizing the balance of power under the constitution. Scholars such as Arun Shourie and Justice Ruma Pal have advised against the takeover by the judiciary of functions belonging to the legislature and executive.

They contend that judges are unelected representatives and have no democratic mandate to decide policy. As opposed to legislators, judges are not immediately answerable to the citizenry, which causes apprehension when they make sweeping directives or intrude on administrative operations. Excess authority could further result in the politicization of the judiciary, in which courts are often pulled into the arena of public policy and partisan politics.

The critics point to the National Anthem order and the Sabarimala ruling as instances where the judiciary's benevolent interventions might have overlooked cultural sensitivity, popular mandate, or practical enforceability. Further, the liberalization of Article 142 is seen by some as a 'sword of the judiciary' that can supplant due process, legislative will, and administrative discretion.

6.3 The Middle Ground

Most legal experts call for a middle ground, acknowledging that although judicial activism has played a crucial role in the development of contemporary constitutional jurisprudence, it must work within established constitutional limits. Justice D.Y. Chandrachud, for example, has

stressed the idea of 'judicial humility' that accepts the constraints of judicial authority and the necessity of respecting democratic institutions.

Scholars further point to the necessity of a uniform doctrinal framework to determine when judicial involvement is appropriate and where it veers into overstepping. This encompasses using the proportionality doctrine, being mindful of institutional capacity, and following precepts of restraint by the courts.

In sum, the academic controversy highlights the issue's nuance. Judicial activism is not intrinsically virtuous or necessarily perilous. Its legitimacy is context-dependent, and it requires necessity and adherence to constitutional values. A balanced approach—founded on judicial prudence and informed by democratic conventions—is necessary in order to ensure that the judiciary will still be a guardian and never a usurper of constitutional rule.

7. Contemporary Cases and Public Responses (2015-2025)

The last decade has witnessed an increasing frequency of high-profile interventions by the Indian judiciary, resulting in widespread public engagement and critical discourse. These contemporary cases demonstrate both the potency and controversy of judicial power in shaping social norms, state policy, and constitutional governance. This section explores select decisions between 2015 and 2025, highlighting instances of celebrated activism and alleged overreach, along with the public and political reactions they evoked.

7.1 Ayodhya Verdict (2019)

The Supreme Court's unanimous verdict in the Ram Janmabhoomi-Babri Masjid land dispute was arguably one of the most politically and socially charged judgments in recent times. Although the Court recognized that the demolition of the Babri Masjid in 1992 was illegal, it finally granted the disputed land to the Hindu litigants and provided alternative land for the mosque to be built.

Although legally justifiable and founded in comprehensive evidentiary examination, the verdict applied Article 142 to administer 'complete justice.' Critics suggest that this represented a pragmatic bargain instead of an absolutely legal one. Public reaction was generally peaceful, with the verdict being lauded for dissipating communal tensions, albeit secularism and faith-based adjudication remain contentious.

7.2 Electoral Bonds Case (2024)⁹

The Court's ruling to invalidate the Electoral Bonds Scheme, that facilitated anonymous political contributions, was a turning point in ensuring electoral funding transparency. The Court ruled that the scheme infringed citizens' right to information as enshrined under Article 19(1)(a). Civil society groups, campaigners, and the media welcomed the ruling as a triumph for electoral integrity and democratic accountability.

The decision also established a precedent for subjecting campaign finance mechanisms and financial instruments to stringent constitutional scrutiny, further reaffirming the commitment of the judiciary to clean governance.

7.3 Internet Shutdowns and Civil Liberties

In *Anuradha Bhasin v. Union of India* (2020), the Supreme Court tested the constitutionality of extended shutdowns of the internet in Jammu and Kashmir. The Court held that access to the internet is an aspect of the right to freedom of speech and expression and that the restrictions have to satisfy the test of necessity and proportionality.

It highlighted the judiciary's changing comprehension of digital rights, but its weak enforcement resulted in reproach regarding the disconnect between progressive verdicts and actual implementation.

7.4 Sabarimala Review and Continuing Resistance

Since its judgment in 2018 permitting women of all ages to visit the Sabarimala temple, the Court had to endure widespread public criticism, with people contending that the judgment undermined religious tradition. The subsequent filing of review petitions and the order that the issue be referred to a larger constitutional bench demonstrated the delicacy involved in reconciling religious freedom and gender equality.

This case illustrated challenges to the implementation of court orders in culturally delicate regions and raised debates over the judiciary's intervention in matters of reforming religious practices.

⁹ W.P. (C) No. 880/2017

7.5 Demonetization Judgment (2023)

The Supreme Court upheld the validity of the 2016 demonetization exercise in a divided verdict. While it acknowledged procedural flaws, the majority held that the policy choice remained within the executive's power and was subject to modest judicial review.

The public reaction was mixed. While judicial deference to policy choices was welcomed by some, others condemned the Court for failing to hold the government responsible for the economic implications of the policy. The case reopened the debate on the boundaries of judicial review in economic and fiscal issues.

7.6 Tamil Nadu Governor Assent Case (2025)

In an extraordinary intervention, the Court ordered the Governor of Tamil Nadu and the President to give assent to pending bills. Invoking constitutional duty and democratic delay, the Court applied Article 142 to compel action. While others celebrated it as a vindication of legislative supremacy, constitutional experts expressed concerns over the judiciary weakening the federal system and executive discretion.

8. Public Reception and Institutional Reflection

Public reaction to judicial actions during this time has been multifaceted and varied. While the citizens increasingly turn to the courts for relief in the face of legislative inaction, judicial overstepping, politicization, and inconsistency are also increasingly becoming concerns.

Social media, civil society, and academia have all been instrumental in framing public perception. Whereas judgments such as the decriminalization of homosexuality and electoral bond cancellations were lauded by all, judgments such as Sabarimala and prohibition of liquor exhibited a disconnect between legal requirements and social acceptance.

The past decade demonstrates that judicial activism is no longer limited to courtrooms—it is debated actively in the public arena. As the judiciary becomes increasingly involved with transformative constitutionalism, principled restraint, transparency of reasoning, and sensitivity to public opinion are more crucial than ever.

9. Conclusion

In following the long trajectory of judicial behavior in India—from restraint to activism, and sometimes overreach—one comes to the lasting constitutional question: How far is too far? The Indian judiciary, in taking on the role of a constitutional sentinel, has won enormous respect and legitimacy through its many interventions in the cause of rights, justice, and public interest. However, its growth of authority has also led to flashes of controversy, making academics, policymakers, and citizens alike wonder if the judiciary sometimes crosses its limits.

The reply lies neither in the simple distinction nor in the stark polarity but in the subtle comprehension of judicial behavior within its institutional, social, and political realms. Judicial activism, carefully employed, is not only allowable but even imperative for a constitutional democracy such as India. It bridges the gap left by legislative or executive default, upholds the rule of law, and consolidates the hopes enshrined in the Preamble. For example, decisions like *Maneka Gandhi*, *Vishaka*, *Navtej Johar*, and the Electoral Bonds case are all examples where judicial intervention propelled fundamental democratic values, set right institutional lethargy, and broadened the canvas of human rights and dignity.

Yet, judicial activism crosses into overreach if the Court starts executing functions or powers that, under the Constitution, are vested in the executive or legislature. These tensions are illustrated by the Sabarimala case, the ban on liquor along highways, and the ruling on the Tamil Nadu Governor Assent. In all these instances, the judiciary is criticized for shirking procedural formality, replacing the wisdom of elected representatives with its own, and disparaging the principle of popular sovereignty.

The real problem, therefore, is the absence of a clear doctrinal framework separating legitimate activism from unconstitutional overreach. In contrast to the United States, where the political questions doctrine serves as a brake on judicial overreach, Indian courts have taken a less reluctant approach to deciding politically contentious issues, invoking the necessity of maintaining constitutional morality. Although this boldness may be admirable in some circumstances, it is questionable when it undermines the boundaries of institutions and confidence in democratic processes.

The Indian constitutional arrangement contemplates a balance of powers among the executive,

legislature, and judiciary. This system of checks and balances is the foundation of our democracy. When the judiciary intrudes beyond its authority, it not only faces institutional resistance but also undermines public trust in the legality and impartiality of the courts. For example, overuse of Article 142 for enforcing directions or overriding statutory provisions gives the perception that the judiciary is above the law, and not part of it.

Furthermore, as recent events have shown, the public's response to judicial activism is complex and evolving. While there is increasing reliance on courts to remedy socio-economic and political injustices, there is also growing unease about judicial interference in domains traditionally governed by electoral politics or religious practices. The judiciary must therefore recognize that its legitimacy is not only derived from the text of the Constitution but also from public confidence and institutional integrity.

One central lesson of the post-2015 era is the enhanced role of the judiciary in crafting national policy and identity. From electoral openness to green governance, digital rights to gender justice, the courts have tended to intervene where political consensus was lacking. While such intervention can be a driver of change, it has to be driven by constitutional bounds, wisdom guided by expert advice, and carried out with procedural justice. Judges have to acknowledge their limitations, especially in situations that call for domain knowledge, logistic capacity, or extensive social acceptance.

The developing jurisprudence of the Supreme Court, then, must be one of principled balance—one grounded in constitutional fidelity, inspired by justice, yet modestly institutional. The appeal for 'judicial restraint' is not an appeal to inactivity or abdication. It is instead an affirmation of the judiciary's constitutional role—to act if and when necessary, but not with abandon; to shield, not to overreach.

Judges, for that matter, are not policymakers. They derive their legitimacy not from the will of the people but from their fidelity to the Constitution and the judicial reasoning underlying their rulings. Thus, the judiciary itself must avoid the temptation to prescript and rule by judgments. It should rather urge responsible behavior from democratic institutions and enhance mechanisms of accountability.

A solution could be discovered through institutional reforms: better guidelines for the interventions of the judiciary in policy areas, tighter application of the doctrine of separation

of powers, and intrabureaucratic checks so as to preclude judicial populism. Transparency in judicial appointments, uniformity of jurisprudence, and respectful interaction with the executive and legislature are also required to preserve constitutional harmony.

Concurrently, the legislature and the executive should not view judicial review as overreach. Instead, they should appreciate that the judiciary exists to protect constitutionalism, not to overstep bounds. Prompt passage of laws, government responsiveness, and compliance with constitutional principles will minimize the instances of judicial interventions in the first instance.

Finally, it is not only the judiciary's duty to draw the line between judicial activism and judicial overreach—it is a constitutional collective endeavor. A principled, balanced, and contextualized approach can help ensure that the judiciary is fearless in the face of injustice but also restrained in the use of power. Only with this balance will India's judiciary be able to remain a beacon of justice without sacrificing the fabric of democratic governance.

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3. The Representation of the People Act, 1951
4. The Indian Penal Code, 1860 – Section 377 (pre-2018 ruling)