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ROLE OF JUDICIAL ACTIVISM IN SHAPING INDIAN CONSTITUTIONAL LAW

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ABSTRACT

This paper examines the evolving role of judicial activism in developing and shaping constitutional law in India. Through a doctrinal (secondary-source) methodology the study traces key Supreme Court and High Court decisions where courts expanded rights, enforced constitutional values, and intervened in policy-areas traditionally occupied by the legislature and executive. The study situates Indian judicial activism in comparative perspective, identifies its principal instruments (public interest litigation, expansive interpretation of Article 21, writ jurisdiction), and analyses its effects - positive (rights-protection, minority safeguards, remedial justice) and negative (democratic tensions, separation-of-powers concerns). The paper concludes with measured suggestions for balancing judicial activism with democratic accountability.

Keywords: Judicial activism, judicial review, Article 21, Public Interest Litigation, separation of powers, constitutional adjudication, India.

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INTRODUCTION

Judicial activism has emerged as one of the most significant forces in the evolution of Indian constitutional law, particularly in the post-Emergency era. Although the Constitution of India envisages a system of separation of powers, it simultaneously entrusts the judiciary with the responsibility of acting as the guardian of fundamental rights and the final interpreter of the Constitution. Over time, Indian courts especially the Supreme Court have moved beyond a narrow, literal interpretation of constitutional provisions and adopted a purposive and expansive approach to constitutional adjudication. This transformation has enabled the judiciary to respond effectively to legislative inertia, executive arbitrariness, and structural inequalities embedded in Indian society².

The concept of judicial activism in India is closely linked with the constitutional mandate of judicial review under Articles 32 and 226. While judicial review was originally intended as a mechanism to test the constitutionality of laws and executive actions, it gradually evolved into a tool for social transformation. The Supreme Court's historic decision in *Kesavananda Bharati v. State of Kerala* marked a turning point by propounding the Basic Structure Doctrine, which placed substantive limitations on Parliament's amending power to preserve the core values of the Constitution³. This judgment not only strengthened constitutional supremacy but also established the judiciary as an active constitutional sentinel capable of restraining majoritarian excesses.

A defining dimension of judicial activism in India has been the expansion of fundamental rights, particularly under Article 21 of the Constitution. In *Maneka Gandhi v. Union of India*, the Supreme Court rejected a narrow procedural interpretation of the right to life and personal liberty and held that any law affecting life or liberty must be "just, fair and reasonable"⁴. This judgment laid the foundation for a series of activist rulings through which the Court read into Article 21 a wide range of unenumerated rights, including the right to dignity, livelihood, health, education, privacy, and a clean environment. Such interpretive innovation reflects the judiciary's commitment to substantive justice rather than formal legality.

² Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company 1980).

³ *Kesavananda Bharati Sripadagalvaru v. State of Kerala*, AIR 1973 SC 1461.

⁴ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

Judicial activism has also been institutionalised through the development of Public Interest Litigation (PIL), which significantly diluted the traditional rules of locus standi. In *S.P. Gupta v. Union of India*, the Supreme Court legitimised PIL as a constitutional device to enable access to justice for disadvantaged and marginalised groups⁵. This innovation empowered courts to take suo motu cognisance of violations affecting large sections of society and to issue continuing mandamus for the enforcement of socio-economic rights. High Courts have similarly employed PIL to address state-specific concerns, such as environmental degradation, custodial violence, and failures in public administration, thereby reinforcing the activist role of the judiciary at the regional level.

Further, judicial activism is evident in cases where courts have stepped in to fill legislative and executive voids. In *Vishaka v. State of Rajasthan*, the Supreme Court framed binding guidelines on sexual harassment at the workplace in the absence of statutory law, invoking international conventions and constitutional principles⁶. This decision exemplifies how judicial creativity has shaped normative standards and compelled subsequent legislative action. High Courts have followed similar approaches in enforcing environmental norms and protecting civil liberties, as seen in decisions such as *Naz Foundation v. Government of NCT of Delhi*, where the Delhi High Court upheld constitutional morality and individual autonomy against discriminatory criminal provisions⁷.

At the same time, judicial activism has generated intense constitutional debate. Critics argue that excessive judicial intervention risks undermining democratic accountability and encroaching upon the policy-making domain of elected branches. Proponents, however, contend that in a constitutional democracy marked by socio-economic disparities and governance deficits, an active judiciary is indispensable for preserving constitutional values and protecting vulnerable communities. Against this backdrop, the present study seeks to critically examine the role of judicial activism in shaping Indian constitutional law, focusing on its doctrinal foundations, judicial techniques, and long-term implications for constitutional governance.

⁵ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

⁶ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

⁷ *Naz Foundation v. Government of NCT of Delhi*, 160 (2009) DLT 277 (Delhi High Court).

REVIEW OF LITERATURE

The literature at the state level primarily examines the role of High Courts in exercising judicial activism within their constitutional jurisdiction under Article 226 of the Constitution of India. Scholars note that High Courts, due to their proximity to regional socio-economic realities, often act as the first forum where constitutional rights are asserted against state action. Studies analysing High Court jurisprudence highlight how judicial activism has been employed to address issues such as environmental protection, police excesses, land acquisition, tribal rights, and administrative arbitrariness⁸.

Several High Court decisions demonstrate an activist approach in safeguarding fundamental rights and enforcing directive principles of state policy. For instance, in *Naz Foundation v. Government of NCT of Delhi*, the Delhi High Court adopted a rights-oriented interpretation of Articles 14, 15 and 21 to strike down the discriminatory application of Section 377 of the Indian Penal Code, emphasising constitutional morality and human dignity⁹.

This judgment has been widely discussed in state-level legal scholarship as an example of progressive constitutional interpretation by a High Court, later affirmed in principle by the Supreme Court. Similarly, environmental jurisprudence emerging from High Courts, such as the Madras High Court and Bombay High Court, reflects judicial activism in enforcing sustainable development and public trust doctrines. Academic commentary suggests that High Courts often issue continuing mandamus to ensure compliance with environmental norms, thereby expanding the practical reach of constitutional protections at the grassroots level¹⁰. However, some state-level studies caution that uneven judicial standards across states may lead to inconsistency and uncertainty in constitutional governance.

At the national level, judicial activism has been extensively analysed through the jurisprudence of the Supreme Court of India. Foundational constitutional texts by scholars such as Granville Austin and H.M. Seervai examine how the Supreme Court transformed itself from a conservative interpreter in the early years to an activist institution committed to social justice¹¹. The emergence of the Basic Structure Doctrine in *Kesavananda Bharati v. State of Kerala* is widely regarded in national literature as the most significant manifestation of judicial activism,

⁸ M.P. Jain, *Indian Constitutional Law* (8th edn., LexisNexis 2018).

⁹ *Naz Foundation v. Government of NCT of Delhi*, 160 (2009) DLT 277 (Delhi High Court).

¹⁰ Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* (Oxford University Press 2001).

¹¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1966).

ensuring the supremacy of the Constitution over transient political majorities¹². Another dominant theme in national-level scholarship is the expansion of Article 21 through judicial interpretation. Following *Maneka Gandhi v. Union of India*, the Supreme Court adopted a substantive due process approach, enabling the recognition of a wide array of rights not explicitly enumerated in the Constitution¹³.

Scholars argue that this interpretive shift allowed the judiciary to respond to evolving societal needs and human rights standards, thereby reshaping the content of Indian constitutional law. The development of Public Interest Litigation (PIL) has also received extensive academic attention. In *S.P. Gupta v. Union of India*, the Supreme Court relaxed the rule of locus standi, allowing public-spirited individuals to approach the Court on behalf of disadvantaged groups¹⁴. PIL as both a democratizing force and a powerful instrument of judicial activism, enabling courts to intervene in matters of bonded labour, prison reforms, environmental degradation, and governance failures. At the same time, critics such as Seervai warn that excessive judicial intervention risks converting courts into supervisory administrators, thereby blurring constitutional boundaries¹⁵.

Judicial activism provides a comparative framework for understanding the Indian experience. The origin of judicial review is often traced to the United States Supreme Court decision in *Marbury v. Madison*, where Chief Justice Marshall asserted the judiciary's authority to interpret the Constitution¹⁶. Comparative constitutional scholars draw parallels between this foundational doctrine and the Indian judiciary's power of judicial review under Articles 32 and 226. Studies on constitutional courts in jurisdictions such as South Africa and Canada further illuminate the role of judicial activism in enforcing socio-economic rights. The South African Constitutional Court's jurisprudence on housing and health rights is frequently cited in Indian scholarship to justify judicial intervention in welfare governance¹⁷. Indian courts themselves have relied on international conventions and comparative constitutional principles, as seen in *Vishaka v. State of Rajasthan*, where the Supreme Court invoked the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹⁸.

¹² *Kesavananda Bharati Sripadagalvaru v. State of Kerala*, AIR 1973 SC 1461.

¹³ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

¹⁴ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

¹⁵ H.M. Seervai, *Constitutional Law of India* (4th edn., Universal Law Publishing 1996).

¹⁶ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).

¹⁷ S. Liebenberg, *Socio-Economic Rights: Adjudication under a Transformative Constitution* (Juta 2010).

¹⁸ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

International scholars recognise the Indian judiciary as one of the most powerful constitutional courts in the world, particularly due to its broad remedial powers and acceptance of PIL. However, comparative literature also cautions that sustained judicial activism must be balanced with institutional legitimacy and democratic accountability. The Indian experience is thus often described as a unique blend of transformative constitutionalism and pragmatic adjudication, shaped by the country's socio-economic realities.

STATEMENT OF THE PROBLEM

Judicial activism has become a defining characteristic of Indian constitutional adjudication, yet its expanding scope has generated significant constitutional and institutional concerns. While the judiciary has played a transformative role in protecting fundamental rights and advancing social justice, the increasing frequency and depth of judicial intervention in legislative and executive domains raise critical questions regarding constitutional balance, democratic legitimacy, and institutional competence. The problem lies not merely in identifying instances of judicial activism, but in understanding the constitutional justification and limits of such intervention within the framework of separation of powers envisaged by the Constitution of India.

The Supreme Court's proactive interpretation of fundamental rights particularly under Article 21 has substantially altered the substantive content of constitutional law. Decisions such as *Maneka Gandhi v. Union of India* expanded the scope of personal liberty beyond procedural formalism, enabling courts to introduce standards of fairness, reasonableness, and proportionality¹⁹. While this expansion has strengthened individual rights, it has also resulted in courts adjudicating matters involving policy choices, resource allocation, and administrative priorities areas traditionally reserved for the executive and legislature. This creates a constitutional dilemma as to whether judicial creativity, though rights-enhancing, risks substituting judicial discretion for democratic decision-making.

Another dimension of the problem arises from the institutionalisation of Public Interest Litigation (PIL). Although PIL has improved access to justice for marginalized and disadvantaged groups, its unstructured expansion has led to inconsistent standards and selective intervention. In *S.P. Gupta v. Union of India*, the relaxation of locus standi transformed courts

¹⁹ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

into forums for governance review²⁰. However, subsequent jurisprudence reveals instances where courts have assumed supervisory roles through continuing mandamus, thereby blurring the distinction between adjudication and administration. High Courts, exercising similar powers under Article 226, have also issued wide-ranging directions that sometimes exceed their enforcement capacity, resulting in compliance deficits and prolonged judicial monitoring.

Further, judicial activism has increasingly involved the judiciary stepping into legislative vacuums by framing guidelines and norms, as seen in *Vishaka v. State of Rajasthan*²¹. While such interventions are justified as temporary measures to uphold constitutional values, the absence of clear legislative follow-up often results in courts performing quasi-legislative functions for extended periods. This raises concerns regarding accountability, enforceability, and the long-term impact on democratic institutions. The Delhi High Court's decision in *Naz Foundation v. Government of NCT of Delhi* similarly illustrates how constitutional courts have undertaken normative law-making functions to protect individual autonomy and dignity²².

Moreover, the lack of uniform doctrinal limits governing judicial activism has led to unpredictability in constitutional adjudication. Judicial restraint and activism often coexist without clearly articulated standards, making it difficult to determine when judicial intervention is constitutionally warranted and when it constitutes overreach. Critics argue that excessive activism may undermine public confidence in democratic institutions, while proponents view it as a necessary response to systemic governance failures in a developing constitutional democracy like India.

Therefore, the core problem addressed in this study is the absence of a clearly defined constitutional framework for evaluating the legitimacy, scope, and limits of judicial activism in India. The study seeks to analyse whether judicial activism functions as a corrective mechanism to uphold constitutional morality and fundamental rights, or whether it risks destabilising the separation of powers by allowing courts to assume roles beyond their constitutional mandate. Addressing this problem is essential for ensuring that judicial activism remains a principled instrument of constitutional governance rather than an ad hoc exercise of judicial authority.

²⁰ S.P. Gupta v. Union of India, AIR 1982 SC 149.

²¹ Vishaka v. State of Rajasthan, AIR 1997 SC 3011.

²² Naz Foundation v. Government of NCT of Delhi, 160 (2009) DLT 277 (Delhi High Court).

OBJECTIVES OF THE STUDY

The primary objective of this study is to critically examine the role of judicial activism in shaping Indian constitutional law and to assess its impact on the interpretation, enforcement, and evolution of constitutional principles. The study seeks to analyse how judicial creativity and interpretive innovation have transformed the scope of fundamental rights and constitutional governance in India, particularly in response to legislative inaction and executive inefficiency.

A key objective of the study is to identify and evaluate landmark judicial decisions of the Supreme Court of India and various High Courts that exemplify judicial activism. Through an in-depth doctrinal analysis of cases such as *Kesavananda Bharati v. State of Kerala*, *Maneka Gandhi v. Union of India*, *Vishaka v. State of Rajasthan*, and relevant High Court judgments, the study aims to trace the development of activist jurisprudence and its contribution to the expansion of constitutional protections and constitutional morality.

Another important objective is to examine the judicial tools and mechanisms employed to operationalise judicial activism. This includes an analysis of judicial review under Articles 32 and 226, the evolution of Public Interest Litigation, the use of continuing mandamus, and the framing of judicial guidelines in the absence of legislation. The study aims to understand how these mechanisms have enabled courts to intervene in matters of governance while simultaneously raising concerns regarding institutional overreach.

The study further aims to assess the constitutional legitimacy of judicial activism by analysing its compatibility with the doctrine of separation of powers and democratic accountability. By engaging with scholarly critiques and judicial observations on restraint and activism, the research seeks to evaluate whether judicial intervention strengthens constitutional democracy or disrupts the balance among constitutional organs.

Finally, the study aims to propose a principled framework for the exercise of judicial activism in India. By synthesising doctrinal insights and judicial trends, the research seeks to suggest measures that ensure judicial activism remains a constitutionally grounded and rights-oriented tool, capable of promoting social justice and constitutional governance without encroaching upon the core functions of the legislature and executive.

HYPOTHESES

This study is based on the following hypotheses, which are framed to examine the constitutional role, scope, and impact of judicial activism in India through doctrinal legal analysis:

Hypothesis I: Judicial activism has played a decisive role in expanding the substantive content of Fundamental Rights under the Constitution of India, particularly through the liberal interpretation of Article 21.

Hypothesis II: Judicial activism in India has functioned as a corrective constitutional mechanism in situations where the legislature and executive have failed to discharge their constitutional obligations.

Hypothesis III: While judicial activism has strengthened rights-based constitutionalism, excessive judicial intervention in policy and administrative matters poses challenges to the doctrine of separation of powers.

Hypothesis IV: Judicial activism in India has contributed to the development of constitutional morality and rule of law by reinforcing accountability, transparency, and fairness in public governance.

Hypothesis V: The effectiveness and legitimacy of judicial activism depend upon a balanced and principled exercise of judicial power.

RESEARCH QUESTIONS

The present study seeks to examine the role of judicial activism in shaping Indian constitutional law through the following research questions, framed to guide doctrinal analysis and critical evaluation of judicial trends:

1. How has judicial activism influenced the interpretation and expansion of fundamental rights under the Constitution of India, particularly Article 21?
2. What institutional tools and mechanisms have constitutional courts employed to exercise judicial activism in India?

3. To what extent has judicial activism functioned as a corrective response to legislative inaction and executive failure in Indian constitutional governance?
4. What are the constitutional and democratic implications of judicial activism in India?
5. What normative principles and constitutional limits should govern the exercise of judicial activism in India?

RESEARCH METHODOLOGY

This study adopts a doctrinal research methodology, which is widely recognised in legal scholarship as the most appropriate approach for analysing constitutional law and judicial practice. Doctrinal research, also referred to as “library-based” or “desk research,” involves a systematic examination of legal sources, principles, doctrines, and precedents to interpret and evaluate existing law. The focus is on understanding the conceptual and analytical framework of judicial activism and its impact on Indian constitutional jurisprudence, without collecting primary empirical data²³.

The research primarily relies on secondary sources, including books, scholarly articles, law journals, and commentaries by eminent jurists such as Upendra Baxi, H.M. Seervai, Granville Austin, and M.P. Jain. These sources provide insights into the historical evolution of judicial activism, its doctrinal underpinnings, and scholarly debates on its normative implications. The study also incorporates primary sources, particularly authoritative judgments from the Supreme Court of India and various High Courts, to illustrate the practical application and consequences of judicial activism. Key cases such as *Kesavananda Bharati v. State of Kerala*, *Maneka Gandhi v. Union of India*, *S.P. Gupta v. Union of India*, *Vishaka v. State of Rajasthan*, and *Naz Foundation v. Government of NCT of Delhi* have been critically analysed to trace jurisprudential developments and doctrinal trends²⁴.

The methodology involves qualitative analysis of legal principles, statutory provisions, and case law. The researcher examines the interpretation of fundamental rights, the exercise of judicial review, the use of Public Interest Litigation (PIL), and other judicial mechanisms to identify patterns of activism, remedial strategies, and institutional implications. Comparative references to international jurisprudence, such as *Marbury v. Madison* (USA) and South

²³ M.P. Jain, *Indian Constitutional Law* (8th edn., LexisNexis 2018) 12–15.

²⁴ *Kesavananda Bharati Sripadagalvaru v. State of Kerala*, AIR 1973 SC 1461; *Maneka Gandhi v. Union of India*, AIR 1978 SC 597; *S.P. Gupta v. Union of India*, AIR 1982 SC 149; *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011; *Naz Foundation v. Government of NCT of Delhi*, 160 (2009) DLT 277.

African Constitutional Court decisions on socio-economic rights, are employed to provide a contextual understanding of judicial activism within global constitutional practices²⁵.

Further, the study applies critical doctrinal evaluation to examine both the positive and negative implications of judicial activism. Positive aspects include rights protection, accountability, and enforcement of constitutional morality, while potential drawbacks include overreach, executive-legislative tension, and institutional challenges. By synthesising doctrinal insights from cases and scholarly literature, the methodology enables the researcher to develop an analytical framework for understanding the legitimacy, scope, and limits of judicial activism in India.

In summary, the doctrinal research methodology adopted in this study provides a rigorous, structured, and evidence-based approach to analyse judicial activism, focusing on principles, precedents, and scholarly interpretation. It allows the researcher to generate normative insights and policy suggestions grounded in established law, without the limitations or variability associated with empirical research methods.

LIMITATIONS OF THE STUDY

While this study provides a comprehensive doctrinal analysis of judicial activism in India, it is subject to certain limitations inherent to the chosen methodology and scope of research. First, as a doctrinal study, the research relies primarily on secondary sources, including scholarly literature, books, journal articles, and reported case law. This reliance limits the study to the interpretation of existing legal materials and judicial pronouncements, without empirical data from field studies, interviews, or surveys. Consequently, the study may not capture the practical implementation challenges or socio-political reactions to judicial activism in real-world governance contexts²⁶.

Second, the research focuses on landmark Supreme Court and selected High Court judgments, which, while representative of the broader trends of judicial activism, do not encompass every instance of activist judicial intervention across all states. As such, regional variations, minor cases, and unreported decisions that may influence the interpretation and application of judicial activism could be underrepresented. This limitation may affect the comprehensiveness of

²⁵ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803); S. Liebenberg, *Socio-Economic Rights: Adjudication under a Transformative Constitution* (Juta 2010).

²⁶ M.P. Jain, *Indian Constitutional Law* (8th edn., LexisNexis 2018) 12–15.

conclusions regarding uniformity and consistency in the application of judicial activism at the state level²⁷.

Third, while comparative references to international jurisprudence are employed to situate the Indian experience in a global context, the study does not engage in a systematic cross-country empirical analysis. Thus, the comparative insights are illustrative rather than exhaustive, and may not fully account for differences in socio-political, legal, and institutional frameworks between jurisdictions²⁸.

Fourth, the study acknowledges the dynamic and evolving nature of judicial activism. Since judicial pronouncements and constitutional interpretation continue to develop over time, new decisions may influence the doctrinal understanding of activism after the completion of this research. Therefore, the findings represent a snapshot of judicial trends up to the time of writing and may require future updates to reflect emerging jurisprudence.

Finally, as the study focuses on normative and doctrinal evaluation, some subjective interpretation of judicial motives, the effectiveness of remedial measures, and the broader social impact of activist decisions are inevitable. While efforts have been made to ground observations in authoritative judgments and scholarly commentary, certain conclusions regarding the normative legitimacy and institutional impact of judicial activism may reflect the researcher's analytical perspective.

Despite these limitations, the study provides a systematic, rigorous, and evidence-based examination of judicial activism in India, offering insights into its constitutional foundations, mechanisms, and implications for governance and rights protection.

RESULTS

The doctrinal analysis of judicial activism in India reveals several significant outcomes in terms of constitutional interpretation, rights protection, and institutional impact. First, the Supreme Court and various High Courts have substantially expanded the scope of fundamental rights, particularly Article 21, which guarantees the right to life and personal liberty. Landmark

²⁷ Kesavananda Bharati Sripadagalvaru v. State of Kerala, AIR 1973 SC 1461; Maneka Gandhi v. Union of India, AIR 1978 SC 597; S.P. Gupta v. Union of India, AIR 1982 SC 149; Vishaka v. State of Rajasthan, AIR 1997 SC 3011.

²⁸ S. Liebenberg, Socio-Economic Rights: Adjudication under a Transformative Constitution (Juta 2010).

decisions such as *Maneka Gandhi v. Union of India* demonstrated a shift from formalistic procedural interpretations to a substantive due process approach, enabling courts to recognise unenumerated rights including the right to dignity, privacy, health, education, and livelihood²⁹. This expansion has strengthened individual autonomy and enhanced the protective reach of the Constitution.

Second, judicial activism has emerged as a corrective mechanism in cases of legislative or executive inaction. The liberalisation of locus standi through Public Interest Litigation, as established in *S.P. Gupta v. Union of India*, and the proactive exercise of writ jurisdiction under Articles 32 and 226 have empowered courts to address systemic governance failures³⁰. Courts have issued continuing mandamus, framed guidelines, and monitored implementation in areas such as environmental protection, social welfare, prison reforms, and protection against workplace harassment, thereby ensuring the practical realisation of constitutional rights³¹.

Third, the analysis indicates that judicial activism has contributed to constitutional morality and accountability. Decisions like *Vishaka v. State of Rajasthan*, where the Supreme Court framed binding guidelines to prevent sexual harassment in the absence of legislation, illustrate the judiciary's capacity to fill legislative gaps while upholding constitutional principles³². Similarly, state-level High Court interventions, exemplified by the Delhi High Court in *Naz Foundation v. Government of NCT of Delhi*, demonstrate courts' proactive engagement in promoting equality, non-discrimination, and social justice³³.

Fourth, the doctrinal study identifies certain institutional and procedural challenges associated with judicial activism. While activist interventions have enhanced rights enforcement, courts sometimes assume quasi-legislative and supervisory roles, which may strain administrative capacity and blur the separation of powers. Excessive reliance on continuing mandamus or detailed judicial directives can lead to delays, non-compliance, and tensions between the judiciary, legislature, and executive³⁴.

Overall, the results suggest that judicial activism in India has been instrumental in shaping constitutional law, expanding rights, and reinforcing the rule of law. It demonstrates that courts

²⁹ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

³⁰ *S.P. Gupta v. Union of India*, AIR 1982 SC 149

³¹ M.P. Jain, *Indian Constitutional Law* (8th edn., LexisNexis 2018) 45–50

³² *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

³³ *Naz Foundation v. Government of NCT of Delhi*, 160 (2009) DLT 277 (Delhi High Court).

³⁴ H.M. Seervai, *Constitutional Law of India* (4th edn., Universal Law Publishing 1996) 112–115.

are not merely passive arbiters of disputes but active participants in ensuring constitutional governance. At the same time, the study underscores the need for a principled and balanced exercise of judicial power to maintain institutional legitimacy and democratic accountability.

DISCUSSION

The analysis of judicial activism in India reveals a complex interplay between the judiciary, legislature, and executive, highlighting both its transformative potential and its institutional challenges. One key dimension of discussion relates to the expansion of fundamental rights. The judiciary's proactive interpretation of Article 21, as seen in *Maneka Gandhi v. Union of India*, has redefined the concept of "life and personal liberty" to include a wide range of derivative rights such as privacy, livelihood, health, and education³⁵. This expansive interpretation demonstrates the judiciary's commitment to substantive justice, ensuring that constitutional protections evolve in response to societal needs. However, this also raises normative questions about the limits of judicial discretion, especially when courts interpret rights in areas traditionally regulated by policy-making institutions. Another area of discussion concerns the role of Public Interest Litigation (PIL) and judicial remedies. PIL has democratized access to justice, enabling courts to address violations affecting large groups, including marginalized and vulnerable communities. The Supreme Court's decision in *S.P. Gupta v. Union of India* illustrates how relaxing the locus standi requirement facilitated wider judicial intervention in governance matters³⁶. Yet, critics argue that overuse of PIL and continuing mandamus risks turning courts into supervisory administrators, potentially undermining the separation of powers and overburdening judicial machinery. This duality reflects a tension between judicial activism as a mechanism for social justice and the risks of institutional overreach.

Judicial creativity in framing norms and guidelines, as exemplified in *Vishaka v. State of Rajasthan*, illustrates the judiciary's ability to protect constitutional values even in the absence of legislative action³⁷. While such interventions fill crucial legal voids, prolonged reliance on judicial direction without corresponding legislative follow-up can create administrative inefficiency, compliance gaps, and institutional friction between branches of government. High Court judgments, such as *Naz Foundation v. Government of NCT of Delhi*, further illustrate

³⁵ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

³⁶ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

³⁷ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

courts' willingness to uphold constitutional morality and human rights against entrenched statutory or societal barriers³⁸.

A significant part of the discussion also involves the normative legitimacy and accountability of judicial activism. Proponents argue that activism strengthens constitutional democracy, enforces accountability, and safeguards rights where other institutions fail. Critics, however, caution against judicial overreach, emphasizing that courts lack the democratic legitimacy and resources to perform extensive policy-making functions. This debate underscores the importance of principled judicial restraint and adherence to constitutional boundaries, ensuring that activism serves as a corrective tool rather than a substitute for legislative or executive action³⁹.

Finally, international perspectives offer valuable insights. Comparative jurisprudence, such as *Marbury v. Madison* (USA) and the South African Constitutional Court's socio-economic rights decisions, suggests that activist courts can play a transformative role in societies with structural inequalities⁴⁰.⁶ Indian judicial activism, while unique in its breadth and public-oriented focus, aligns with global trends of using constitutional adjudication to advance rights and governance accountability, reinforcing the judiciary's function as a guardian of constitutional morality.

In sum, the discussion highlights that judicial activism in India is both a vehicle for constitutional transformation and a subject of institutional tension. Its effectiveness depends on a careful balance between proactive rights protection and respect for the functional domains of the legislature and executive. By analysing doctrinal developments, case law, and scholarly commentary, the study affirms that judicial activism, when exercised with principled restraint, remains an essential instrument for achieving social justice and upholding constitutional governance.

³⁸ *Naz Foundation v. Government of NCT of Delhi*, 160 (2009) DLT 277 (Delhi High Court).

³⁹ H.M. Seervai, *Constitutional Law of India* (4th edn., Universal Law Publishing 1996) 112–115.

⁴⁰ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803); S. Liebenberg, *Socio-Economic Rights: Adjudication under a Transformative Constitution* (Juta 2010).

SUGGESTIONS

Based on the doctrinal analysis of judicial activism in India, several key suggestions emerge to ensure that judicial intervention continues to strengthen constitutional governance while maintaining institutional balance. First, there is a need to establish clear doctrinal limits on judicial activism. While courts must retain the flexibility to interpret constitutional provisions expansively, particularly in protecting fundamental rights, they should exercise caution in matters that involve detailed policy-making or resource allocation. This could involve developing guiding principles for the exercise of continuing mandamus and framing of judicial guidelines, ensuring that such interventions are temporary and complementary rather than permanent substitutes for legislative or executive action⁴¹. Courts have repeatedly highlighted the necessity of balancing activism with institutional roles in judgments such as *S.P. Gupta v. Union of India*⁴².

Second, strengthening collaboration between judiciary and legislature can enhance the effectiveness of judicial activism. Courts could issue recommendations or suggest legislative reforms rather than assuming full legislative functions. For example, following judgments like *Vishaka v. State of Rajasthan*, legislative bodies should promptly enact statutes to institutionalise judicial guidelines, thereby reducing reliance on prolonged judicial supervision⁴³. Legal scholars have emphasized that judicial guidelines should ideally act as interim measures until Parliament or state legislatures enact comprehensive laws⁴⁴.

Third, judicial activism should continue to prioritise access to justice for marginalized and disadvantaged groups through Public Interest Litigation and suo motu interventions. However, procedural safeguards could be introduced to prevent abuse, overburdening of courts, and delays in the implementation of judicial directives. This approach would balance rights protection with efficient administration⁴⁵. The Supreme Court has recognised the dual role of PIL as a tool for rights protection while cautioning against excessive judicial interference (*S.P. Gupta v. Union of India*)⁴⁶.

⁴¹ H.M. Seervai, *Constitutional Law of India* (4th edn., Universal Law Publishing 1996) 112–115.

⁴² *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

⁴³ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

⁴⁴ Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company 1980) 76–80.

⁴⁵ M.P. Jain, *Indian Constitutional Law*, 8th edition (LexisNexis 2018) 45–50.

⁴⁶ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

Fourth, there is scope for periodic doctrinal reviews of judicial trends. Legal scholars, policy-makers, and the judiciary should engage in critical assessment of activist interventions to ensure alignment with constitutional morality, socio-economic realities, and democratic principles. Comparative studies of international jurisdictions, such as South Africa's Constitutional Court on socio-economic rights and Canadian courts' approach to judicial activism, can provide guidance in calibrating judicial reach while maintaining legitimacy and accountability⁴⁷.

Finally, judicial training and sensitisation programs can be strengthened to ensure judges are aware of the socio-political implications of activist decisions. A balanced understanding of governance constraints, resource limitations, and democratic principles can help courts exercise activism responsibly, avoiding overreach while safeguarding rights⁴⁸.

CONCLUSION

The study concludes that judicial activism has been a transformative force in shaping Indian constitutional law. Through landmark decisions and innovative judicial mechanisms, courts have expanded the scope of fundamental rights, enforced constitutional morality, and addressed governance deficits in the absence of legislative or executive action. Cases such as *Maneka Gandhi v. Union of India*, *Kesavananda Bharati v. State of Kerala*, *Vishaka v. State of Rajasthan*, and *Naz Foundation v. Government of NCT of Delhi* illustrate the judiciary's capacity to protect rights, promote social justice, and uphold the rule of law⁴⁹.

At the same time, judicial activism presents significant institutional challenges. Excessive intervention in policy matters, prolonged reliance on continuing mandamus, and quasi-legislative functions can blur the separation of powers and strain administrative systems. The study underscores that while judicial activism is indispensable for safeguarding constitutional democracy, its exercise must be principled, balanced, and aligned with the doctrine of separation of powers⁵⁰.

⁴⁷ S. Liebenberg, *Socio-Economic Rights: Adjudication under a Transformative Constitution* (Juta 2010); compare with Canadian jurisprudence in *Reference re Secession of Quebec*, [1998] 2 SCR 217.

⁴⁸ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1966) 250–255.

⁴⁹ H.M. Seervai, *Constitutional Law of India* (4th edn., Universal Law Publishing 1996) 112–115.

⁵⁰ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

In conclusion, judicial activism in India exemplifies a dynamic, rights-oriented, and transformative approach to constitutional adjudication. When applied with caution and guided by constitutional morality, it serves as a crucial instrument for ensuring justice, equality, and accountability. The judiciary, therefore, must continue to act as a guardian of constitutional values, while respecting the functional domain of the legislature and executive, ensuring that activism strengthens rather than destabilises democratic governance⁵¹.

⁵¹ Maneka Gandhi v. Union of India, AIR 1978 SC 597.