



## Judicial Activism within the Restraints of India's Constitution & its Strictures

Farhaj Sikander Yar Khan \*

Muhammad Siraj Khan †

Naghma Farid ‡

**Abstract:** *The interpretation of the Indian Constitution by the Supreme Court has established legal precedents in various sectors, such as education, environmental protection, property rights, and access to safe drinking water. The Supreme Court's decisions now hold the ultimate authority, even over parliamentary amendments. The judiciary's involvement in administrative and legislative matters has been fueled by weaknesses in the political structure. Although the judiciary was weakened during the 1970s emergency, it has regained strength in recent decades. Judicial power has been able to fill the void created by unconstitutional dismissals. The authority of Indian courts has expanded through judicial review, the interpretation of fundamental rights, addressing environmental issues, constitutional modifications, and judicial appointments. This study explores the boundaries of judicial activism within the framework of the Indian Constitution.*

**Key Words:** Constitutionalism, Judicial Independence, Political Activism. Courts of India

### Introduction

The way India's legal system is set up is unique. In addition to reading the Constitution, it looks at laws and changes to the Constitution (Baxi, 1985). Even though it is known as the most powerful court in the world, the U.S. Supreme Court does not have the power to give advisory views on cases that come before it, as the Indian federal court does. In England, on the other hand, the courts have been able to review executive orders and rules since 1977. It is a reliable part of the government because it can hear cases, give special permission to appeal and work well with higher courts and lower district courts. Since India got its freedom in 1947, the Supreme Court of India has ruled against many changes to the Indian Constitution. These include the first Amendment in 1951, the fourth in 1955, the seventh in 1956, the seventeenth in 1964, the twenty-fourth in 1971, the twenty-fifth in 1972, the twenty-sixth in 1972, the thirty-fourth in 1974, the thirty-ninth in 1975, and the forty-fourth in 1978.

In 1994, S.C. Kashyap wrote that "in a representative democracy, the administration of

justice is especially important because of people's rights." The judicial system is one of the most important parts of our political system. In federal polities with an independent and supreme judiciary, power is split not only between the three parts of government (executive, legislative, and judicial) but also between the federal government and the governments of the constitutional units (Kashyap, 1994).

Even though the executive and judicial bodies are in charge of different things, their jobs often overlap. Like the American legal system, it started with judicial review cases. In *A.K. Gopalan v. Madras* (1950), the court used Article 13 to say that no state can violate the basic rights of its people, and if it does, the court has the power to say that the law is invalid.

S.P. Sathe says that the court has to go beyond its constitutional limits because of things that can't be helped, especially in socio-economic fields. This trend is called "judicial activism." For court review, there are two possible ways to do it. In the "technocratic" approach, judges are just advisors who decide if a law is

\* PhD Scholar, Department of Political Science, Qurtuba University Of Science & Information Dera Ismail Khan, KP, Pakistan.

† Lecturer Law College, Gomal University, Dera Ismail Khan, KP, Pakistan.

‡ Lecturer Law College, Gomal University, Dera Ismail Khan, KP, Pakistan.

illegal because it goes beyond their authority. The second model helps keep the Constitution up-to-date and useful by reading its rules in a way that is more in line with what it was meant to do (Sathe, 2002).

Analyst Baxi (2002) says that the idea can be split into two groups: progressive and reactionary. Progressive refers to PM Nehru's work in the land and property sectors in the early days of independence. Reactionary refers to the state declaring an emergency and going beyond what the constitution allows, as in the Shukla case (1976). Sathe has spoken out about the problem. He said that if the idea of "separation of powers" has been broken, the judiciary will not step in and go beyond its constitutional authority. Instead, he said, the situation in the State needs major changes.

## Methodology

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Research is the methodical pursuit of knowledge in the form of questions to be answered and problems to be explained.

## Philosophical Foundations

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There are two major research philosophies in the social sciences. A key tenet of positivism is a reliance on empirical evidence, such as that gleaned from surveys and other empirical methods. Before settling on a set of research questions and objectives, hypotheses are tested. Scholars have exemplified the post-positivist norms. The academics grounded their study in post-positivism.

## Research Approach

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Social science researchers have utilized a variety of methods, but for this study, the scholar relied on the inductive technique.

## Research Methods

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Unlike the various quantitative and mixed methodologies commonly employed in social science research, the researcher in this study chose to adopt a qualitative approach.

## Data Collection

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The data collection process encompasses defining the study's scope, collecting data through unstructured or semi-structured observations and interviews, examining documents and visual materials, and formulating a recording methodology. In this study, the researcher has investigated the constitutional boundaries of judicial activism in India by utilizing primary and secondary sources of information.

## Data Analysis

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Data analysis involves extracting insights and interpreting meaning from raw data, including textual information and images. It encompasses preparing the data for analysis, conducting various analyses, and progressively exploring the data in-depth. In this study, the researcher utilizes Thematic Analysis for primary data and Content Analysis for secondary data to analyze the collected information.

## Limitations of the Study

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The judicial system is an extensive and complex subject matter, making it impractical for a researcher to encompass all theories and aspects related to it. Researchers have limited control over the information made available by governments and NGOs.

## Delimitation of the study

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The researcher has limited his research to the constitutional limits of judicial activism in India, which is notable given the importance of the judiciary to any functioning democratic government.

## Exploring Judicial Activism: An Analysis of the Indian Perspective

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India's courts have had to become even more busy because of the growing gap between rich and poor. Still, the general public has had different reactions to the idea, with some people strongly backing it and others strongly rejecting it. In recent years, the most well-known court case was the Gopalan case (1950). In this case, an Indian citizen who was charged with being a communist was taken into custody. We've agreed to talk about Article 21 about this. When the legality of the case's procedure was questioned, the Supreme Court said that "procedure established by a law" means "procedure established by a law made by the State," which means the Union Parliament or the legislatures of the State, and refused to add natural justice principles to the procedure. This was the only way the piece in question could be seen. In the same way, the petition attacked Article 19 by asking "whether preventive detention has been in accordance with the law of the land." It is wrong for the court to invalidate preventive detention based on Article 19. Articles 19(a)-(e) and g of the Indian Constitution will be interpreted, it was ruled.

In *R.C. Cooper v. Union of India* (1970), the Gopalan decision was changed. (1950). In the case of *Monica Gandhi*, the court decided that, opposite to what the *A.K.* In the Gopalan case, the Constitution's

Articles don't just talk about one problem. This move led to the government taking over the Bank. Even though the Bank Nationalisation case was about the relationship between Articles 31 and 19, not Articles 21 and 19, its basic approach to figuring out how the different parts of the Constitution guarantee fundamental rights completely went against the main point of the majority ruling in *A.K. Gopalan* as erroneous. In the case of *Shambhu Nath Sarkar v. State of West Bengal*, a panel of seven judges calculated the real weight of the Bank Nationalisation case ratio to decide the outcome of the *A.K.* In this way, *Gopalan's* case. So, in the *Shambhu Nath Sarkar* case, it was decided that preventive detention laws have to defend themselves against Articles 21 and 22 as well as Article 19. (l). (d). In *Haradhan Saha v. State of West Bengal*, a five-judge bench used the same line of thinking to decide if the Maintenance of Internal Security Act, 1971 broke Article 19(l). (d). The court's decision was odd because it went against a case from 1950. Experts say that if *Nambyar's* claims had been accepted in 1950, it would have brought the Indian courts into a new era of constitutional jurisdiction. Still, the court ruled that preventive detention in the case in question violated Article 22(5) of the Indian constitution. It said, "Insofar as it prevents a detained person from telling the Court the reasons for a detention order or the arguments made in support of the order, it violates article 22(5)."

The present state of Indian society has compelled the Supreme Court to modify its advocacy strategy from proactive to reactive. In these processes, the courts have repeatedly penetrated the sphere of executive power. In the 1971 *Golanath* case, the Indian Supreme Court held that property should be removed from the list of essential rights after having initially objected to parliament's competence to make adjustments. This decision was subsequently challenged in the *Kesavaanda Bharati* case (1973). The court determined that the earlier finding in the *Golanath Singh* case (1967) was wrong and that the legislation may be passed notwithstanding its violation of Article 368 of the Indian constitution. The court's decision was similarly reported to *Minerva Mills* (1980). Clause 4 of the 42nd Amendment exceeded Parliament's power to amend the Constitution by eliminating any legal redress against legislation enacted to give effect to "Directive Principles," so weakening Articles 14 and 19. Since Section 55 "removed all limitations on the power of the Parliament to amend the Constitution and granted it the power to amend the Constitution so as to damage or destroy its fundamental or essential features or fundamental structure," it was determined that Parliament lacked the authority to amend it. The bulk of Directive

Principles of State policies is not utilised to improve the quality of life for the majority of India's underprivileged population, as stated in Section 3 of the aforementioned judgement.

In the *Minerva Mills Case* (1980), numerous concerns were raised, including the impact of the forty-second Amendment and Article 31C of the Indian Constitution on the amendment process. The decision was a watershed moment for India's constitutional foundation and fundamental structure theory because it raised the question of whether or not the courts have the authority to prescribe what Parliament should do. According to the comments of Justices Hedge and Mukherjee, when the ability to amend the Constitution is granted to the people, the wording of the document can be read more broadly than when the authority is granted to a body established by the Constitution. If two-thirds of its members are not representative of the public, neither House of Parliament needs the support of a majority of the population. Our Constitution was written via deliberation and compromise, as opposed to a simple vote count... So, the argument presented by the Union and the States that a supermajority of MPs in each chamber always has the authority to speak for the entire population of this nation is without substance. Before the court was the question of whether or not a coalition administration lacking a simple majority in the legislature may challenge the Constitution. During the emergency declared by Indira Gandhi in 1975, the Indian government passed the 39th Amendment bill. The validity of this change was challenged on the grounds that it would have a chilling effect on the overall operation of the document. The court agreed and ruled that the challenged amendment was unlawful.

In the 1977 case *State of Rajasthan v. Union of India*, the president dismissed three state governments after they challenged a constitutional clause through a petition. The court validated the president's conduct in conformity with Article 356 of the Indian constitution. *Bommai v. Union of India* (1994) overruled this decision, ruling that the federal assembly could reverse a presidential dismissal of a state government under this article by passing a reinstatement resolution within two months. This decision will go down in history as the one that removed the president's capacity to discriminate against state governments. Mozaffar, 1999, pp. 261-296. In 1999, when the Indian government suggested dismissing the BJP-led Uttar Pradesh State government, the president, R. Narayan, urged them to reconsider. That was the last time the government was ever required to issue termination orders. In 1999, the provincial government of Bihar was

reinstated under Rabri Devi after the Congress party refused to support the government led by the Bharatiya Janata Party (BJP) in the state's upper house. In 2002, when the government attempted to impose governor control under Article 356 because no party was able to form a government in Uttar Pradesh following an election, the BJP and BSP formed a cabinet to prevent this from happening.

Sathe talks about how the Indian law system changed when the Supreme Court became more active after the 1980s.

"Article 21 of the Constitution says that all citizens have the right to life, personal freedom, and due process of law. This interpretation, however, made these rights even stronger." During the emergency, court activism in India was fueled by a "concept of constitutional interpretation" that saw the Constitution as more than "a mere collection of standards" (Sathe, [2005](#)).

In line with Article 21, the court did this by defining what it means to have basic rights and putting the emphasis on the socioeconomic domain. Everyone agreed that Unnikrishnan should put his schooling first. Because of this case, Article 45 was changed and Article 21A was added to the constitution in 2002. Both of these parts of the constitution stress the need to give everyone in the country equal access to education. The Indian legal system now goes beyond traditional law, and the country's courts act as de facto lawmakers on a number of issues, such as women's rights and their place in Indian society.

When a few English officials introduced "Responsive Interpretation" at the beginning of the 1960s, it led to new ideas about how to run a courtroom. The study of experts like Lord Reid. Once upon a time, it was thought to be very disrespectful to suggest that judges actually write laws instead of just announcing them. Some people, maybe because of fairy tales, seem to think that the wonderful Common Law is locked away in some Aladdin's cave and that judges are chosen because they know the magic words "Open Sesame." When the judge enters the wrong password and the wrong door opens, bad decisions are made. But we don't believe these old stories anymore.

Benjamin Cardozo said this about the new role of the courts: "He (the judge) only legislates between the cracks. The law is more complete with him in it. It is impossible to show on a map how far he can travel before hitting the intergalactic abyss.

In India, Judge Ahmadi was a legal expert who said, "Judicial activism is a necessary addition to the judicial function because its main goal is to protect the

public interest, not private interest." But when a judge does something legislative or executive, he becomes a lawmaker, even though his main job is to explain state law within the limits of the Constitution. 113 pages into Malviya ([2013](#))

Most democracies follow the principle of "separation of powers," but recent court activism in India has changed the original goal of this principle. The government changed the constitution when the court started to decide against its policies on land and property. Nehru once said, "If we do wrong, the judiciary will make us feel it." The Gopalan case from 1950 shows how true this is and how little the court can do in these situations. In Sajjan Singh (1965), the court explained this idea. Two judges pointed out that it goes against the spirit of the Constitution for the government to change the Constitution at will, especially when it comes to basic rights. The majority of the bench, on the other hand, didn't agree with the dissenting views. In the end, they decided that parliament was the highest body for making, changing, and getting rid of laws.

Indian lawyers and other learned people didn't like the court's decision in the Golak Nath case in 1967 because it makes it harder for parliament to change the constitution. They said that, according to the principle of separation of powers, it is the legislature's main job to make, change, and get rid of laws, so the court shouldn't be able to stop parliament from making changes to the constitution. The Bank Nationalisation (1970) case and others like it started a new era of action in the Indian Judiciary and showed how active the courts were.

The 1970s in India were a terrible time for democracy. There was anger, violence, crimes, and serious violations of human rights when there was a state of emergency. Separation of powers was a big problem, and the Shukla case of 1976, in which the roles of the executive and the lawmakers were awful, made things worse (Baxi, [1980](#)).

The next step for Indian courts was to help people who had been ignored in the past, like prisoners, accused criminals, bonded workers, and young people who worked dangerous jobs. In 1979, there were more events like this, and they got a lot of attention from the media. This helped bring the issue of caste discrimination in Indian society to the attention of the courts. Other prisoners, like Sunil Batra, wrote to the chief justice to say that they were being treated horribly in jail. After deciding that the letter stated above was a petition on behalf of prisoners, the harsh treatment of prisoners was changed. In the 1980s, two academics wrote a letter about the situation of women

in Agra. They talked about how they were mistreated and left open to violent threats. More of these violations have been reported by the labour community, especially those who work in factories, farms, and building sites. They had been mistreated in their different fields, so they wrote letters to the chief judge asking him to help.

One way the courts reacted to these letters and the anger of the general public was by bringing cases that were in the public interest. Judge Bhagwati said that legal aid is different from "ordinary traditional litigation" because it is "a strategic arm of the legal aid movement that aims to bring justice within the reach of the poor, who formed the low visibility region of mankind." He said this when talking about *People's Union for Democratic Action v. Union of India & others* (1982). The court paid enough attention to election issues, which often led to disagreements between political parties. The subject of reserve seats was very important to the way our democratic system worked (Sathe, 2005).

The courts have helped with housing units, the environment, managing traffic, keeping things clean, getting rid of trash, figuring out what to do after a train accident, setting rules for colleges, and regulating blood banks. Most people agreed that the government should step in this way. It was followed by the Jain Hawala case, the Fodder story, the Taj corridor case, the 2G network case, and a number of others, but none of these cases helped the average Indian. But when it comes to poisoning the environment, Indian courts have taken good steps to deal with the problem. In the *Shiram food and fertiliser case*, the court said that life is sacred and must be protected at all costs, so it told the government to take steps to protect a healthy atmosphere. In another case, the person who tried to save the Taj Mahal had a good reason and told the judges the whole story. It said that the neighbourhood's 292 industrial units polluted the air and threatened a historical site, and it asked that the units be switched to natural gas, which makes less pollution (Mehta v. Union of India, 1997).

In its statements, the court said it would have to follow Article 12 of the constitution if the government didn't protect the basic rights of the people, as the constitution says it should. People signed petitions asking for these safety measures to be put in place. In the same way, industrial property owners broke Article 39 when they let people live near their buildings. In *Habeas corpus* lawsuits, which were made under Article 21 of the Constitution, abuses by the police were questioned. In the case of *Sunil Batra*, which was heard by the Supreme Court in 1966, it was decided that the

effects of wrongful arrest could not be allowed. Also, it was stressed how important it is to not treat people badly. The family of a person who dies because of a police phone operation is eligible for the money. Sexual harassment is a problem in society that needs to be fixed everywhere, even in growing countries. To protect working women from this risk, the court ordered that many more rules be put in place. Article 141 has tips for situations just like this one. The government and the people are both bound by this rule. The *Vishaka case* was used as a model for making rules in this area. It took the government a long time to put into place the 2013 Prevention, Prohibition, and Redressal Act. When the court looked at social problems, it decided that giving victims emergency medical care is a basic human right that comes before legal procedures. Also, the issue of forced work has been brought up in court. It said that the government should pass laws that are in line with Article 21 of the Constitution, which says that everyone has the right to a decent life, no matter how much money they have. At the same time, it was important to make sure that the 1938 Children's Act was followed. Children shouldn't work in match mills because there are dangerous chemicals there. Children are only allowed to work in India's industrial sector, where their minimum monthly wage is Rs. 5,000 plus a bonus from the company (Mehta V. State of Tamil Nadu, 1991).

(Smwal and Khsla, 2008, p.118) India's courts need to change how they read the Constitution to reflect how the country's social and economic situations are changing. Articles 13, 21, 32, 226, and 227 were added to the Constitution on purpose to make it easier to see how the other parts of government work. They do this by giving the court the power to declare laws unconstitutional if they go against the Constitution's basic ideals. Article 13(2) says that neither the federal government nor the provinces can pass laws that go against the principle of basic rights. (Balakrishnan, 2009, P. 2).

Since the end of World War II, governments have used harsh means to control their people. There have been random arrests, detentions, and killings without a court order. To protect the rights of people, the judiciary must look at these issues from new angles. (Bag, 1997, p. 167). In India, all choices must be in line with the letter and spirit of the constitution.

The judiciary needs a new role because other organisations aren't working and are contributing to social and economic crises. It steps up to deal with problems in society and the economy that constitutionalists have ignored. During the time after freedom, the judiciary figured out how basic rights like

life, liberty, and property work. Dr Ambedkar, who was in charge of writing the constitution, came up with Article 38, which is called "Directive Principles of the State Policies." This was done to make sure that resources were shared fairly among all citizens (Constituent Assembly debate, 1948). Because of this, a new social point of view has come about. There is no clear-cut answer to every question in the Constitution. This is the job of the legal department, which has done it many times when dealing with issues like the right to a safe home, personal privacy, a good education, and the freedom to travel. Justice Krishna was given the job of interpreting the law in a way that was best for the public interest. This was because "every new judgement on every new case is a development of law, it does not stand still, it is in constant motion." Since the 1970s, the court has used judicial review in cases involving constitutional rights, state policy prescriptions, and social action litigation. On page 9 of Chatterji (1997a), Justice Bhagwati describes the new role of the judiciary as "a strategic arm of the legal aid movement that aims to make justice accessible to the poor masses, who make up the low visibility region of humanity" (Andhyarujina, 2012).

### Judicial Activism in Post 2000

Recent changes to the law have helped fix government overreach in the social and business realms. In a literal sense, Justices Bhagwati and Krishna came up with the idea to get people to go to court to get what was rightfully theirs. It has helped people become social activists and seek protection through rules made by court decisions in many ways. "Judicial activism" is what most people think a judge is doing when he or she takes a risky move, says Bakshi. Even so, the word "judicial activism" is vague and can mean different things depending on the situation (Bakshi, 1997, p. 5). As Lakshminath pointed out (Lakshminath, 1997, p. 109), this idea led to a new kind of court system. If the court closed its doors to a citizen who didn't get help from the legislature and didn't care what the executive branch did, it would hurt the way a democratic society works. The strong must wake up and do what they are supposed to do (Jariwala, 1999, p. 336).

In *People's Union for Civil Liberties v. Union of India and Others* (2001), the Supreme Court of India said that Indian residents have a basic right to food (Birchfield and Corsi, 2010, pp. 15-18).

People filed a petition to protect their right to food under the Hunger Code, and the court defined the undefined basic right in the Constitution (1962). Even though it was brought up under the "Doctrine of the Directive Principles of State Policies," which can't be

strictly enforced, the court made its decision based on Article 21 of the Constitution, which talks about basic rights. Since the 1970s, the idea of public lawsuits has changed India's court system in a big way. Even though Indian courts have always been very important in interpreting the Constitution to protect citizens' socioeconomic rights, the idea of public litigation has had a huge effect on the country's legal system since the 1970s (Cassels, 1989, pp. 495-519). Judge Bhagwati said when asked to explain what courts do, that "fundamental rights will remain an illusion" if the Court can't help those who need it the most (Baar, 1990, p. 140). In *Unni Krishnan J.P. v. State of Andhra Pradesh* (1993), the court said, "The provisions of Part III and Part IV are supplementary and complementary to each other and do not exclude each other." By saying that Directive principles and Fundamental Rights are not exclusive of each other, the court was able to expand its role. Since 2008 (Balakrishnan).

The Indian Supreme Court said that people have the right to enough food and other basic needs. The court saw this as part of its larger job to make sure the law is followed. As the court's importance has grown, it has shifted its focus from standard lawsuits to social lawsuits. It could be better said as follows: "[T]he court is not just a neutral arbitrator or bystander. It has a more active and constructive role, with the responsibility of setting up the procedures, shaping the relief, and keeping an eye on how it's put into place." With such a wide range of responsibilities, it was natural that the process, the subject, and the people involved would be watched more and more. *Indian Union v. Sheela Barse* (1988). In this case, it is very important that the judges do a good job. According to the Constitution, "the power...is not only injunctive in scope, that is, it prevents the violation of a fundamental right, but it is also remedial in scope and provides relief for a fundamental right that has already been violated" (*Mehta V. Union of India*, 1987). Reports that the judiciary thinks the Constitution "confers on the Supreme Court the authority to enforce the fundamental rights in the broadest conceivable terms" are in line with the judiciary's view (*Bandhua Mukti Morcha v. Union of India*, 1984). In the *Vishaka* case, the court said that the legislature and executive branch needed to change a lot to meet the wants of the people. The "Doctrine of continuing Mandamus" is a better way for Indian courts to "keep a case open and direct the authority to perform and report so that you are always breathing down the neck of that authority" (Vineet Narain, A.I.R. 1996).

Since there is a lot going on in the courts right now, some people have questioned the new role of the

courts, which has led others to give different explanations. Members of parliament and government officials have seen less support from the public, and most people think that the court system works better than the rest of the government. To explain its new role, the court said, "It is impossible to ignore the fact that someone needs to do something about the many problems Indians face every day, and it is the Court that has taken the lead when people have asked it to." But an ex-chief justice said, "Therefore, if judicial action wakes up sleeping institutions and hides institutional flaws by requiring performance standards, then judicial intervention is justified."

The Supreme Court has become a key player in the rise of judicial activism. One example is the expansion of court jurisdiction to include environmental issues in relation to how Article 21 handles activist cases. In its early years, the court was neutral. It mostly followed the law and didn't look at the Constitution when making decisions. During the emergency of 1975, the court interpreted Part IV of the constitution in a number of cases. In the early 1950s, a question about land and property needed to be interpreted, but the government solved this problem by changing the Constitution. Many people's health was permanently hurt by the 1984 Bhopal gas disaster, which showed that explosive materials were used in the business. At least a thousand people were killed and more than 5,000 were hurt. Article 21 of the law was reinterpreted by the court at that time. First, the courts ordered it to be used in cases about the Constitution and damage to the environment. By doing this, the state made sure that people have safe drinking water, a nice place to live, clean air, and not too much noise pollution. India and the West took very different approaches to the problem. In industrialised countries, the wealthy and industrial groups compete with each other. Here, the government and the poor compete with each other. In the Godavarman case from 2005, it was shown how bad the Indian government is at following court orders. Under the Forest Conservation Act, the applicant told the Supreme Court (1980) that private control of forest land, the activities of the timber mafia, and mining in wooded areas were all to blame for the loss of trees. In this case, MOEF's principles were thrown out, but a centrally-led committee was still needed to take part. Several people didn't like what the Supreme Court did because it went against the idea of necessity.

The Indian constitution is the longest in the world, and it goes into great detail about every possible topic. In the 1970s, the way that Habeas corpus cases were interpreted kept people's rights safe. Article 356 says

that local governments can be taken over by the federal government. Since Article 21 was written, the law has added more rights, and the courts have helped protect them. Through social action lawsuits, Indian courts have expanded their power to cover a wider range of problems in society and set up a legal system for dealing with them. Even though it has taken too long to decide some cases, the Supreme Court has helped move democratic ideals forward in the United States. More than 20 million of these people are still waiting to be saved. In terms of the rule of law, it has done a great job. Even though the Constitution and democracy have rules, good governance, basic rights, guiding principles, and other social issues have caused problems between the judiciary and the executive department. In India's current flurry of action, the judiciary has mostly replaced legislators as the country's main policymaker and source of judge-made laws. When Prime Minister Indira Gandhi put Article 21 on hold in 1975, the court put it back in place, marking the beginning of a new era for India's federal courts. In this case, the Executive Branch and the Judiciary Branch are at odds, but the Judiciary Branch must take charge. It did more than just explain the Bill of Rights and human rights. It also took on the job of making sure the government was doing what it was supposed to. People paid attention to environmental policy problems, and the government was forced to pass laws to protect the public. The choice of new judges was another thing that made the two groups fight. There was a lot of talk about whether to follow the American model, where appointments are confirmed by law or the English model, where the president makes the decisions. The disagreement ended when "The Third Case (1993)" showed how important the Chief Justice's position was on the subject. The most senior judges are very important to this process, which the government saw as an act of activism in areas that are usually handled by the executive branch.

Even though Indian courts have often thought of themselves as the last word on how to read the constitution, India's parliament has always held this position. These two strong groups will continue to compete with each other. At the episode level, they both showed enough strength to say that the ideal still exists. As the Nehru government found out in the early days of freedom with land and property laws, the courts can throw out laws made by the legislature, but the legislature can change the law to overturn the court's decision. The fact that the legislature is in charge was made clear by basic structural theory. In the 1990s, neither party had a majority in the legislature, so the government couldn't change court decisions. Because of this, the courts became more like

dictatorships. Experts say that laws that overturn judicial decisions will be fought in court at some point. The Supreme Court will once again be seen as the most important court. Until democracy itself is taken away, governments will continue to fight with each other. This relationship has been going on for a very long time. For court decisions to be respected, the Constitution must back them up. There will be no simple announcement or hearing. Instead, the courts will look at the ruling from every angle to make sure it is legal.

In the *Golak Nath* case, the court was concerned with how to understand the Constitution's protections of basic freedoms. The *Kesavananda* say that a legislature can't go against what a court says. Because the leadership was weak, the *Babri Mosque* dispute went on for fifty years. There was no public debate about whether or not the *Rajya Sabha* should vote by secret ballot, so the court gave an advisory decision and let parliament decide ([Kuldip Nayar V. Union of India, 2006](#)). People have thought that either the law isn't good enough or the courts don't have enough power. In the end, the competition between India's different government institutions has helped to improve the country's strong democratic system.

Judicial activism is hard to explain, but it can be looked at from two main points of view: the legality of the court's actions and the effectiveness of the court's decisions. People had different reactions to the government getting involved in the legislative and executive areas, even though it had earned the legitimacy of the people through its interpretation of the idea of rights and policy principles. The goal of the judiciary should be to uphold democratic ideals and rules, which include protecting socioeconomic rights. In some cases, judges will have to use the adventurism tactic to settle a dispute. However, it is not clear whether the legislature or the courts are better at protecting the rights at stake. On one side, there are lawmakers, who are our representatives, and on the other, there is the court, which is the guardian of everyone, judging the legitimacy of its actions and affecting how we feel.

People will like the decisions of the Indian Supreme Court if they follow the constitution, support the doctrine of rights, protect values, fight against authoritarian actions, and have a positive effect on India's education, nutrition, and transportation systems, in that order. The court has an unusual amount of power over social issues, and its ruling will have a big effect on society. Hand said, "Liberty resides in the hearts of men and women. When it dies there, no constitution, no law, and no court can keep it; no

constitution, no law, and no court can even do much to help it," but Mr Baxi thinks that judicial activity is the solution to political and social anarchy (Hand, [1959](#)).

## Conclusion

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During the 1980s, laws changed about education, health, bonded labour, child labour, violence against women, the environment, and government corruption. India's politics and economy have both gotten better because of these changes. Citizens can now help their country grow without being afraid because they know they can go to court if they do something bad. People now have more faith in the court system because of these changes. In India, the poor and the people who don't have a vote are helping democracy grow, and the average person now trusts that the legal system will protect them if they run into trouble. Even though the courts have sometimes stepped into political things in a way that was against the law. It needs a specialist in each field, but there aren't enough of them. Some experts say that this means it can't cancel legislative operations and make laws on its own. Some people don't like court activism because it goes against the idea of separation of powers, which says that each part of the government must do its job well in its own area. They think that a judge's job is not just to explain how the Constitution works, but also to get involved in national politics. He broke the oath of allegiance he took when he joined the army by doing this. Judicial caution is what they say should be done so that justice is done within the limits of the law. If the court wants to get involved in areas where the legislature and the executive do judicial work, it must understand that the legislature and the executive each have their own areas of authority that can't be crossed. Even though the idea of separation of powers is not written in the Indian constitution, *Asif Hameed V.* explains what each part of the government is allowed to do. The Supreme Court said in *Aravalli Golf Course v. Chander Haas v. The State of Jammu and Kashmir (1989)* that "judges must know their limits and not try to control the government" ([1990](#)). They shouldn't act like they're better or more important than other people. The Constitution sets up a broad concept called "separation of powers," which says that different parts of the government must treat each other with respect and not get into each other's business ([Katju, 2012](#)). In a number of cases, the court's work on environmental problems has been very important. People have more faith in the legal system because of the focus on keeping dangerous pollution like car exhaust, noise, trash, and germs away from the general public. Articles 21, 13, and 32 of the

Constitution, as well as other articles that protect citizens' basic rights, have been followed by the judges correctly. It's nice to know that the Indian Supreme Court has been involved in many different areas, but it's also important to remember that there have been times when the courts have done nothing. We can't let the plan lead to judicial overreach, which would be terrible for the development of the country.

### Suggestions and Recommendations

For federalism to work well, the judicial arm must be strong. Since the Big Three's decisions have both hurt and helped democracy, it makes sense to worry about how and when the courts might use judicial review and active measures. Once a court decided in 1977 that the federal government had meddled too much in the

affairs of the nine separate states, federalism in India started to fall apart. Several scholars have shown that the arrangement of power in the legislature affects court decisions, but some experts say this is too simple. To protect the idea of federalism, the Bommai ruling of 1994 said that removing a provincial government should only be done in extreme cases. But this isn't always true. For example, both Australia and Canada have strong parliaments and stable courts, showing that a real split of power makes people more likely to act. The second most active court in the world is this one. Sadly, India's legal system has often broken the rule that powers should be kept separate. It has changed into a group that helps the government make decisions. In spite of what Articles 122 and 212 of the Constitution say, judges have often stepped in to help Congress and state governments do their jobs.

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