
**The Role of Judicial Activism in Safe Guarding the Interest of
Public in West Bengal.**

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Abstract: *The scope of judicial power is immense. Judicial activism looks after matters beneficial to society and takes necessary action. This society is crippled without judiciary. Judicial activism realizes that all are equal in the eyes of the law, rich - poor, strong - weak, women - men, etc. Judicial activism is observed in almost all states of the world. The following article focus on judicial activism and protection of human rights in India and West Bengal. Judicial activism in West Bengal plays a novel role to delivering justice Human Right is apart from fundamental rights. Sometimes judicial activism to fulfill public interest cases or social public interest cases works as a boon to the weaker sections of the society. Judiciary always plays an active role in dispensation of justice and protection of fundamental rights. The Indian Judiciary has played the role of a guardian in the protection of human rights since independence. Judiciary is revered as the interpreter and guardian of the Indian Constitution. Due to this the Judiciary protects the people from any unwarranted acts. Judiciary is one of the main instruments of government. Judiciary plays the most important role in fundamental rights, human rights, and filing of petitions, legal rights, and issuance of orders, directives, prohibitions and many more.*

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Introduction

The constitution of India is the guardian of India. It is the Supreme Law of India. It establishes Structure, Defines the basic political principles, structure procedures, determines the powers and duties of public institution. It is also set up the fundamental rights and Directive principles and fundamental duties of citizens. It is the Largest Written constitution over the world. The protection of human rights of the people India has committed. Because they have faced enormous exploitation by the British government and they did not have rights to explain themselves. So at present Indian constitution has declared to protect the human right. State is bound with duty to progress this human right. These rights are like as social, economic and cultural rights. This is the good way to act as a violator for those rights of citizens. Judiciary is one of the organs of government, which is responsible to protect the human rights of the citizen. Here judiciary played a vital role in independent to its duties without any. Fear or favor. Actually judiciary protects the human right as a watchdog. As the Judiciary enjoys the powers of a democratic system of governance, it must remain independent. But if the Judiciary does not function with good manners and discipline, it can be a dangerous situation. For this reason judges work very actively as trustees. Judicial activism is one of the mainstays of common people's justice. Here judges deliver justice impartially. Where there citizens' trust in the legal and administrative departments ends, judicial activism is the starting point.

Nature and Scope of Judicial Activism

There is no specific definition of judicial activism. However, judicial activism has been variously defined. Many have said that judicial activism is when judges interpret the Constitution to establish values with contemporary conditions in mind. Others have said that courts create a new rule when they engage in reasonable disputes. That is one of the rules of thumb to apply against problems. That is what many call judicial activism. But if these rules and principles seem to be flawed in any way, then a judge or lawyer amends them. P. B. Sawant define the judicial activism in his article judicial activism: trends and prospects said that judicial activism is to prioritize the work of the legal department and administrative department. In this case, the judges give orders as well as monitor whether those orders are implemented. Judiciary always plays an active role for the welfare of the people.

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Judicial activism and Public Interest Litigation

Instead, it takes judicial decisions on personal or political grounds. According to Professor Lino Graglia, when the court exceeds the express authorization of the Constitution to restrict the work of other government departments, the court will engage in judicial action. Even Bentham thinks it is a disguised or tragic figure of law acts of reproduction. Extension of judicial review and one aspect of review is judicial activism. Realistic on the other hand writes that the status and role of judges is very high. But according to Black Stone the function of judges is to declare existing law. The two have different opinions, one says- Judiciary works above existing laws. Another said that judges should only declare existing laws. But we have seen according to the social theory that the judiciary should come forward to meet the needs of the society. Because people are want justice which is possible only through the judiciary. Judiciary should be used as a tool for social change. According vacuum filling theory, the Judiciary should come forward to fill the gap created by the two organs of the government, the Legislature and the Administrative Department, not performing their duties properly. All because according to Article 32 and Article 226 of the Indian Constitution empowers the High Court to protect the fundamental rights of the people. Moreover, the main objective of the judiciary is to provide justice to the people.

Judicial activism in India

The term 'judicial activism' was first used by Arthur Schlesinger Jr. He was writing in his article "the supreme court 1947" published in fortune magazine in 1947. In 1803 Mercury and Madison case evolved by chief justice Marshall review the judicial concept. That time grow up a movement for emergence of judicial review and gave birth to judicial activism.

The father of judicial activism was P.N. Bhagwath. In the year of 1907s justice V.R. Krishna Iyer and Justice P.N. Bhagwath and two other established judicial activism in India. The first case of judicial activism in India can be traced back to 1893 in Allahabad High court, when justice Mehmood was the chief justice of Allahabad High Court. The case was under trial who could not afford. Legal representation Article 13 has been expressly provided the power of judicial review. In the constitution article 13 make any law abridge the fundamental rights by the constitution.

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Judicial activism as a safeguard in West Bengal

Human rights are the rights for all the citizens. It is inherent to all human beings regardless of race, cast, color, sex, language, nationality, religion or any other status. According to Dr. Somnath Roy – “judicial review is a basic feature of the Indian constitution. Judiciary is the final safeguard or protector of the human rights. It has plays a pivotal role to protect human rights”. Article 39A provides legal and for the poor and weaker section of society and declared justice for all. According to Ujjaini Chatterjee the administration and executive have always been non helpful and the human rights defenders face the heat. In a webinar she said that public interests are very much heat in the pandemic. That was the big deal to protect the human rights, because the issue arises since it is the problem of human rights violation of one person versus the pandemic faced by the society at large.

Just as the Judiciary has been playing an active role all over India, its activism is also observed in West Bengal. The Calcutta High Court plays one of the important roles to protecting the fundamental rights of the common people of West Bengal. There are many subordinate courts in this state for the justice of the common people. Judiciary plays a leading role in other matters besides fundamental rights of common man. In a one case "Poschimbonger Khet Mazoor Samiti vs State of West Bengal" case it is said about the medical benefits of common people. Article 21 of the Indian Constitution provides that the people of remote rural areas and all citizens can enjoy medical facilities equally. Article 21 states that every citizen has the right to life. So saving human life is very important. The primary function of the government is to do exemplary work for the people. To build an ideal state, common people need to be healthy. For this, the government has to keep an eye on the common people.

Instances case of Judicial Activism in India

Some remarkable cases have taken place in the history of India. Some cases are observed in the past and some in the present. Among them some notable case are discussed-One such notable case is;

L.C Golakanth vs. State of Punjab

That was happened in 1967 which dealt with minority and majority in this case could not amend the fundamental rights in the Constitution. As discussed above, Indian Judiciary has been

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compared to the breadth and diversity of the American Judiciary. Such broad justification can be found in the scheme of the Constitution. For this, the justice system needs to be given more importance so that the interests of the people remain intact. Currently, the Supreme Court of India has a lot of power sharing. The court exercises the authority to do anything or to give any way to render whole justice (241). The court has expected to itself the authority to regulate the cogency of even a constitutional amendment effected under the article 368 in the outcome of Keshvananda Bharati vs State of Kerala (242) No court in the world has exercised such powers. It can be said to be one of the examples of Indian judicial system. Another case was also noticed, Where some political leaders give some orders to high ranking bureaucrats. When bureaucrats disobeyed their orders, compensation was paid for misbehaving with bureaucrats. (243) Then another case of judicial activism was seen-

Balaji vs State of Mysore

In this case the Supreme Court said that the right to justice is equal for all. And everyone should respect the law equally. Justice is more important than the religion, caste; gender will be above all these. The Supreme Court also said that fifty percent seats should be reserved for the backward castes in the field of education. (236)

Maneka Gandhi vs Union of Indian Courts

In Maneka Gandhi case and Gopalan case gave a clear idea. The court agreed to expand its interpretive powers. so that other laws do not come under the jurisdiction of his power. Since travel is a common man's right, it cannot be excluded. The court amended two laws in this case - firstly natural law is now a subject of Indian law. Besides, judges have the power to rule on whether the case is just or not. Second is the court's interpretation of life and personal liberty.

Hussainara Khatun vs State of Bihar

On 9th March 1979, a case came up in the Bihar court, which is known as the Hussainara Khatun case. In this case a writ was issued under Article 32 of the Constitution. For the release of prisoners from Bihar jails. In this case the court was advised to file the chart for release prisoners. But this direction was not carried out though the petition was admitted. Imprisoned women and children served 10-year sentences for minor crimes. After this, if they refused to

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grant bail, a case was issued against the Home Minister. They were later released under Articles 21 and 39. This case will remain a sad event in the history of Bihar state.

Conclusion

Regarding the judicial activism mentioned above, we can say that the judiciary plays one of the most important roles in protecting human rights. Common people will not be able to live freely if judiciary does not work actively. Judicial activism not only protects human rights but also protects fundamental rights. Judiciary has fills the gap created in the work of Legislative and Executive. Human right is only a part of fundamental rights. Fundamental rights or protection of human rights is not only mentioned in the Indian Constitution but also in the Indian Preamble plays an admirable role. Also encourages people about Public Interest Litigation. The leading role of judiciary is seen as one of the hard work of especially lawyers, advocates, George. Lawyers fight for justice for common people with huge responsibility. Judiciary relaxes the violations of the constitution by the law department and administration department. The Judiciary suppresses the issues of filing petitions in cooperation with PIL. Judiciary creates well-ordered society through proper deliberation. Protection of human rights is an important issue not only in India but all over the world. In 1993 the Human Rights Act was established. The act states that each state shall establish a national human rights law. So that the basic rights or human rights of common people are not violated and they are given justice.

Suggestions

Among the three branches of government, the Judiciary has always played one of the most important roles. Although the judiciary has a leading role, it is necessary to be more aware of some issues. For example –

1. Legal provisions should be provided at every level of the judicial system. It is necessary to create a supportive environment for the general public to be aware of the law, judiciary and administration.

2. The poor people and vulnerable society should be made aware of judicial activism. Because in order to implement judicial activism. It is necessary to provide justice to the common people at the right time. Focus is on ensuring that common people get justice at low cost of court fees.

3. Measures should be taken to make PIL more robust. Because if PIL is strong, the government cannot do any illegal act against the will of the citizens.

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4.Lok Adalat and Subordinate court need to be strengthened. So they can properly rectify any problem.

5.Subordinate Courts are required to keep abreast of every corner of the State. If there is a backward society, steps should be taken to ensure that they get speedy justice.

6.Punishment should be provided for those who unnecessarily take money from backward people. And the government should conduct various awareness camps to make common people aware.

7.Government needs to create a corruption free environment. The guilty should be punished and the innocent should be respected.

8.Government should play a leading role in protecting fundamental rights or human rights.

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