BLOGS

Landmark Cases on Judicial Activism in India

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Judicial activism in India reflects the judiciary's evolving role as a protector of constitutional rights and a promoter of social justice. Read this post to learn more about landmark cases on judicial activism in India!

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Introduction

Judicial activism refers to the proactive role taken by the judiciary to safeguard rights, uphold justice, and ensure good governance by interpreting laws in ways that reflect changing societal values and addressing gaps left by the legislative and executive branches.

Unlike judicial restraint, where the courts strictly interpret the law as it is, judicial activism allows judges to look beyond the written law to enforce justice in broader societal and moral contexts.

In India, judicial activism has evolved into a significant feature of the judicial system, especially through Public Interest Litigations (PILs) and the courts' efforts to protect fundamental rights. This approach empowers the judiciary to address pressing social, environmental, and political issues, often when other branches of government have failed to act.

The early cases of judicial activism in India are significant milestones in the country's legal landscape. These cases reflect the judiciary's proactive role in interpreting and safeguarding constitutional principles. Here is an overview of some landmark cases on judicial activism in India.

Cases on Judicial Activism in India

1. Privy Purse Case (Madhav Rao Jivaji Rao Scindia v. Union of India, 1970)

The case revolved around the president's authority to de-recognize princes and abolish their petty purses. The Court ruled that executive power, as per Article 53 of the Constitution, must be exercised "in accordance with the law". It could not be used to destroy the Constitution. The act of "de-recognizing" rulers without providing for the continuation of their rule was declared illegal.

2. R C. Cooper v. Union of India (1970)

This case questioned the legislative competence of Parliament to enact the Banking Companies (Acquisition and Transfer of Undertakings) Act, known as the Bank Nationalization Act. The court struck down the Act due to its unreasonableness, as it effectively made it impossible for the banks to carry on any business.

3. Golaknath v. State of Punjab (1971)

The case dealt with the constitutional validity of the 17th Amendment to the Constitution and introduced the concept of "prospective overruling." The court held that Parliament could not amend Part III of the Constitution or abridge fundamental rights.

4. Keshavananda Bharti v. State of Kerala (1973)

The case focused on the extent of the amending power under Article 368 of the Constitution. The court introduced the theory of the "basic structure," asserting that Parliament could amend the Constitution but not abrogate its basic structure.

5. VC Shukla v. Delhi Admin. (1980)

This case examined the legislative competence of the state to establish special courts for high public office offences. The court upheld the validity of such courts and clarified that the "basic structure" theory applied only to constitutional amendments, not ordinary laws.

6. Bhagalpur Blinding Case (Khatri (II) v. State of Bihar, 1980)

The court ruled that Article 21 included the right to free legal aid for people experiencing poverty and the right to legal representation. It emphasized the need to produce arrested individuals before a magistrate within 24 hours.

7. Fertilizer Corporation v. Kamgar Union v. Union of India (1981)

The court held that the sale of a public enterprise's plant and machinery, resulting in retrenchment, did not violate Article 19(1)(g) rights. It clarified the jurisdiction of the Supreme Court under Article 32.

8. V. Vaitheeswaran v. State of TN (1981)

These cases addressed the delay in executing the death sentence. While the former allowed commutation after a two-year delay, the latter overruled this view, considering the convict's conduct.

9. Judges Transfer Case (S. P. Gupta v. Union of India, 1983)

The court clarified the meaning of "consultation" in Article 124(2) and asserted executive supremacy in judicial appointments. This view was later overruled in ***S.C. Advocates-on-Record Association v. Union of India (1993)*** to ensure judicial supremacy in such appointments.

10. R. Antulay v. R. S Nayak (1984)

In a case involving prior sanction for prosecuting a public servant, the court clarified that an MLA was not considered a 'public servant' under the relevant clauses due to the source of remuneration. These cases laid the foundation for judicial activism in India, highlighting the judiciary's vital role in interpreting and upholding constitutional principles and rights.

The PIL Era: A Peak in Judicial Activism in India

In the era of public interest litigation (PIL), several judges, such as V. R. Krishna Iyer, P. N. Bhagwati, Chinnappa Reddy, and D. A. Desai, played pivotal roles in shaping judicial activism in India. During this period, we witnessed a shift in the locus standi rule, expanding access to justice. Initially conceived to empower the disadvantaged, PIL aimed to relax the stringent requirements of locus standi.

Hussainara Khatoon v. State of Bihar (1979): A Turning Point

The Supreme Court's first PIL action addressed the plight of prisoners awaiting trial who had languished in jails for extended periods.

The court issued directives to relieve these prisoners, marking the beginning of PIL's prominence.

Sunil Batra v. Delhi Admin. (1980)

The Supreme Court delivered a historic judgment in the case of Sunil Batra vs. Delhi Administration in 1978. The judgment expanded the scope of prisoners' rights and laid down guidelines to prevent custodial torture and protect the dignity of prisoners. The court recognized that prisoners, despite their conviction, retained fundamental rights and should be treated humanely.

The case had a significant impact on prison reforms and the treatment of prisoners in India. It led to the formulation of guidelines and directives to safeguard the rights of prisoners, ensuring their protection from inhumane treatment and torture.

Sheela Barse v. Union of India (1983)

Sheela Barse's PIL addressed the deplorable conditions faced by women prisoners, particularly those who were pregnant or had young children living with them in jails. Her petition highlighted the lack of basic amenities, inadequate healthcare, and the absence of facilities for children in prisons. She sought the court's intervention to improve the living conditions for incarcerated women and their children.

The Supreme Court, in response to Barse's PIL, issued several directives and guidelines to ensure the protection of the rights of women prisoners and their children. The court emphasized the need for better healthcare, nutrition, education, and other essential facilities for both mothers and their children living in jails.

Judicial Activism and Environmental Jurisprudence

The growth of environmental jurisprudence in India owes much to PIL cases and the judiciary's activist approach. Fundamental principles and doctrines emerged in this context, focusing on sustainable development and the polluter-pays principle.

The Oleum Gas Leak Case

The Supreme Court expanded its authority under Article 32 and established the doctrine of absolute liability for damages brought about by hazardous industries. The **court incorporated principles from international agreements** like the Stockholm Declaration, the Rio Declaration, and the Kyoto Protocol. Additionally, Fundamental principles such as “sustainable development” took root in Indian environmental jurisprudence.

Narmada Bachao Andolan

The court ensured that dam construction did not harm displaced people’s employment, shelter, or homes. State governments were directed to provide rehabilitation before proceeding with development projects.

The Importance of Judicial Restraint

In maintaining the delicate balance of power in a democracy, the judiciary has highlighted the need for judicial restraint. **Justice Markandey Katju’s perspective underscores** the importance of maintaining a separation of powers.

As per the judge, the judiciary, legislature, and executive each have distinct spheres of operation under the Constitution. Judicial restraint is crucial to preventing encroachment upon the domain of other branches and fostering equality among them. He further opines that judicial restraint safeguards the independence of the judiciary, preventing it from becoming embroiled in political and administrative processes.

The distinction between judicial activism and judicial overreach is vital for the effective functioning of a constitutional democracy. Recognizing and maintaining this boundary ensures the separation of powers and the supremacy of the Constitution.

Conclusion

In conclusion, judicial activism is a double-edged sword. When wielded with wisdom and prudence, it can be a force for positive change, upholding the values of justice, liberty, and equality. However, it must always be tempered with restraint, guided by a deep sense of responsibility, and mindful of the Constitution’s spirit. Only through this careful balance can judicial activism genuinely serve the cause of justice and contribute to the flourishing of

democratic societies.

Also Read: Judicial Overreach, Judicial Restraint and Judicial Activism in India

Note: This post was updated on 05.11.2024.