JUDICIAL ACTIVISM: IMPOSING RESTRICTIONS ON THE CONSTITUENT POWER

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ABSTRACT

In this research paper, the authors shall analyze the evolution of judicial activism in India and will also discuss the judgments passed by the Supreme Court evidencing judicial activism. The focus will also be on the power of the Parliament to amend the constitution with respect to the evolution of the concept of judicial activism. The authors shall also confer about the imposition of restrictions on this constituent power by virtue of judicial activism.

A brief outlook of the history of judicial activism and its development as a concept will also be put into consideration. The concept of judicial activism will be dealt keeping in perspective the evolution of doctrine of basic structure by a series of judgments of the Hon'ble Supreme Court of India.

Furthermore, how the judicial activism has assisted in widening the scope of Article-21 of the Indian Constitution, which ultimately befitted the minority, deprived and underprivileged class shall also be discussed. Finally, the judicial activism as purported by the Supreme Court in the recent times will also be discussed keeping in view the various judgments of Supreme Court related to the interest of public at large.

Keywords: Judicial Activism, Supreme Court, Amendment, Fundamental Rights, Legislature.

INTRODUCTION TO THE CONCEPT

Origin:

The concept of judicial activism can be traced back in the roots of English concepts of 'equity' and 'natural rights'. On the American soil, these concepts found expression in the concept of 'judicial review'.

The term judicial activism first coined in 1947, by Arthur Schlesinger Jr., an American Historian and educator. The first landmark case in this regard was the case of **Marbury v. Madison**[1]**,** whereby, for the first; time the judiciary took an active step and took a step above the legislative actions.

In India, the doctrine of judicial activism was introduced in mid-1970's. Justice V.R. Krishna Iyer, Justice P.N. Bhagwati, Justice O. Chinappa Reddy and Justice Desai laid down the foundations of judicial activism in the country.

Meaning:

At the outset, it has to be stated that there is no precise definition of judicial activism accepted by one and all. However, there is a wide notion that it is concerned with problems and processes of a country's political developments. In other words, judicial activism deals with the political role played by the judiciary, like the other two branches of the State viz, the legislature and the executive.

Judicial Activism denotes the proactive role played by the judiciary in the protection of the rights of citizens and in the promotion of justice in the society. In other words, it implies the assertive role played by the judiciary to force the other two organs of the government (legislature and executive) to discharge their constitutional duties.

Judicial Activism is also referred to as "judicial dynamism". It is the antithesis of "judicial restraint", which means the self-control exercised by the judiciary.

[1] Marbury v. Madison 5 U.S (1 Cranch) 137 (1803).

Definitions:

- Judicial activism is a way of exercising judicial power that motivates judges to depart from normally practiced strict adherence to judicial precedent in favour of progressive and new social policies.[2]
- Judicial activism is the practice in the judiciary of protecting or expanding individual rights through decisions that depart from established precedent, or are independent of, or in opposition to supposed constitutional or legislation intent.[3]
- A way of exercising judicial power which seeks fundamental re-codification of power relations among the dominant institutions of State, manned by members of the ruling classes is referred to as Judicial Activism.[4]

Concept:

The concept of judicial activism is closely related to the concept of Public Interest Litigation (PIL). It is the judicial activism of the Supreme Court which is the major factor for the rise of PIL. In other words, **PIL is an outcome of judicial activism.** In fact, PIL is the most popular form or manifestation of judicial activism. In the United States, the concept of judicial activism has often been used as synonymous with Judicial absolutism, judicial supremacy, judicial anarchy and judicial imperialism. Activism is considered to be an ascriptive term.[5]

HISTORICAL PERSPECTIVE

Judicial Activism, as a concept in India, traces back from as early as the year 1893. **Justice Mehmood** of the Allahabad High Court delivered a dissenting judgement, which sowed the seeds of judicial activism in India.

[2] Black's Law Dictionary
[3] Merriam Webster's Dictionary of Law
[4] Upendra Baxi, Courage Craft and Contention- The Indian Supreme Court in the Eighties (Bombay: 1985) P. 10
[5] Vishaka v. State of Rajasthan (1997) 6 SCC 241.

It was a case of an under trial who could not afford to engage a lawyer. So, the main issue before the court was that whether the court needs to decide a case by merely looking at the papers presented before it, or can it also go beyond those papers.

Thereby, Justice Mehmood held that, the pre-requisite condition of a case being 'heard' isn't exactly same as merely being read and would be accomplished with some additional details. So, he gave the widest possible interpretation of the relevant law and laid the foundation stone of the judicial activism in India. However, 'Judicial Activism', as it is used in the modern parlance, originated in India later on. **It was due to the executive abuses or interference in the due course of legal proceedings that judiciary had to intervene**.

With the attainment of independence, there have been prevailing some sorts of hostile relations among the three principal branches of the government in India. Moreover, fulfilling a minimum administrative responsibility, the bureaucracy has become a device for furthering personal rather than public interest. Exploitation and injustice are therefore built into the present political system and one cannot expect the rules or the executive to correct the daily injustice faced by a majority of common population.[6]

There have been a number of problems and evils emerging in the sociopolitical infrastructure of the country with mushrooming growth of illegal activities that affected the major branches of the government.[7] Consequently, the commoners have to bear the brunt of all the aforesaid issues and evils. This exploitative and oppressive environ raised some urgent demands which could not wait for Parliament to attend to the issue. Judges were, therefore, less inclined to leave law reform to Parliament.[8]

Justice Krishna Iyer explained this climax in a judgement, "Though legislation was the best solution, but when lawmakers take far too long, for social patience to suffer. Courts have to make do with interpretation and carve on wood and sculpt on stone without waiting for the

[6] P.U.C.L., report, "P.I.L.: A Needless Controversy", in A. R. Desai, Violation of Democratic Rights in India, Popular Prakashan, Bombay, 1986, P. 172-78.
[7] B. Venkatachalapathi, "Politics of Violence in India", The Third COnept, Vol. 12, No. 141, 1998, P. 17-19
[8] Justice Michael Kirby, "In a Democracy, the Big Leap is for Parliament to Take, Not Judiciary", The Times of India, 16 January 1997, P. 11.

distant marble.[9] Henceforth, the doctrine of judicial activism was introduced with the historic instance of the **Mumbai Kamgar Sabha v. Abdul Bhai** without its nomenclature.[10]

Moreover, it was in **Maneka Gandhi's case** where the apex court, even against the intention of the framers of the Constitution, substituted the **'due process clause'** in Article 21 instead of procedure established by law. Deprecating absolutism of the executive and its interference with individual freedom Justice Bhagwati deliberately included the clauses.[11] Likewise, in some other cases judicial activism or its blunt variant, PIL kept on proving their ability to expose many scams, to provide remedial justice to the citizens and to enhance their rights.

In a nutshell, although the concept of judicial activism is a highly debated phenomenon yet, it cannot be denied that it has done a lot to ameliorate the conditions of the masses in the country. It has set right a number of wrongs committed by the states as well as by individuals.[12] The common people are very often denied the protection of law due to delayed functioning of the courts, also called **judicial inertia** or **judicial tardiness.**[13]

Judicial activism also deters from aberrations too. This can be strengthened only by promoting an honest judicial activism and not by undermining the judiciary in the eyes of public.

One of the greatest asset and an additional weapon, which is also the strongest in hands of judiciary is the confidence and faith which it acquires of the people at large and keep the scales in balance in any dispute.

POWER OF CONSTITUTIONAL AMENDMENT

[9] M. H. Hoskot v. State of Maharashtra, (1978) 3 SCC 544
[10] AIR 1976 SC 1455
[11] AIR 1978 SC 597
[12] J.N. Pandey, Constitutional Law of India, Central Law Agency, Allahabad, 1998, p. 319
[13] Nikhil Chakravarty, "Judicial Activism: Right or Wrong", Mainstream, Vol. 35 No.16, Perspective Publication Pvt. Ltd., New Delhi, 29 March 1997, p. 3-4.

Amendments under the Indian Constitution:

In any written Constitution, there has to be a provision for its amendment. The power of amendment is often vested in a popular, representative body. Such power is necessary to avoid the stagnation of a constitution.

The power of constitutional amendment is considered to be *sui juris* and its product therefore cannot be subjected to judicial review except on the ground that proper procedure for constitutional amendments as prescribed by the constitution has not been followed.

The Indian Constitution contains a provision for its amendment in Article 368. The Constitution can be amended by Parliament if a bill for such amendment is passed in each of its two houses with the support of two-thirds of its members present and voting.

Provisions of the Constitution that have a bearing on its federal structure, however, can be amended only when an amendment bill being passed by both houses in the above manner is ratified by at least half the legislatures of the states.

Role of Article-13:

Fundamental Rights are contained in Part-III of the Constitution. Before enumerating various fundamental rights, a prefatory article, **Article-13, states the legal status of these rights**.

It declares that all laws in force in the territory of India before the commencement of the Constitution shall to the extent of their repugnancy with the fundamental rights be void from the date on which the Constitution comes into force. Clause(2) of the article further commands that the state shall make no law that takes away or abridges the fundamental rights.

The word ‘law’ has been defined in clause (3)(a) and the phrase ‘laws in force’ has been defined in clause(3)(b) of Article-13.

Evolution of the Doctrine of Basic Structure:

SHANKARI PRASAD V. UNION OF INDIA[14]

It was argued that constitutional amendment was 'law' for the purpose of Article-13 and therefore it had to be tested on the anvil of above article. If it violated any of the fundamental rights, it should be void. The five-judge bench, unanimously, rejected the argument outright and held that the word 'law' under Article-13 did not include a constitutional amendment.

SAJJAN SINGH V. STATE OF RAJASTHAN[15]

The court held, with a majority of three is to five, that a constitutional amendment was not covered by the prohibition of Article-13(2).

It is pertinent to note that, Justice Mudholkar and Justice Hidayatullah, expressed serious concerns about the interpretation in their dissenting opinion. Justice Hidayatullah observed that if our fundamental rights were to be really fundamental, they should not become 'the plaything of special majority'.[16]

These two dissenting opinions provided a gateway to bring in the exercise of the judicial scrutiny on amendments as well.

GOLAKNATH V. STATE OF PUNJAB[17]

The Supreme Court held that an amendment passed in accordance with the procedure laid down under Article-368 was 'law' within the meaning of that word as used in Article-13(2) of the Constitution. The Court by a majority of six against five judges held that Parliament had no power to pass any amendment that would have the effect of abridging or taking away any of the fundamental rights guaranteed by the Constitution.

Chief Justice K. Subba Rao, on behalf of five judges, invoked the doctrine of **prospective overruling** to save the existing constitutional amendments (First, Fourth, and Seventeenth) from infirmity while mandating Parliament not to pass any constitutional amendment that would take away or abridge any of the fundamental rights in future.

[14] AIR 1951 SC 458
[15] AIR 1965 SC 845
[16] Ibid., p. 862
[17] AIR 1967 SC 1643

Golaknath was an example of **Judicial Activism of the late 1960s**. For the legal fraternity brought up in the British tradition of legal positivism, the decision appeared to be shocking. It appeared to be a judicial one-upmanship to claim finality of Court's decisions. It flew in the face of the theory that a Constitution was a grundnorm and did not have to be validated.

The Golaknath's decision was an assertion by the court of its role as **the protector and preserver of the Constitution.** It marked a watershed in the history of Supreme Court of India's evolution from a positivist Court to an activist Court.

General Elections of 1971:

Congress won a landslide victory in the 1971 elections and acquired more than two-third of the seats in the Lok Sabha, which was the clear mandate for amending the Constitution. The government therefore introduced **the Constitution (Twenty-fourth Amendment) Act, 1971** with the purpose to restore to Parliament the unqualified power of constitutional amendment it had possessed until the decision of the Court in Golaknath case.

Moreover, Parliament also passed **the Twenty-Fifth Amendment**, which further restricted the right to property, and **the Twenty-Sixth Amendment**, which abolished the privy purses.

The Controversy:

However, according to Golaknath's decision, Parliament did not had power to amend the Constitution so as to take away or abridge any of the fundamental rights. Thus, how could it empower itself to do that through a constitutional amendment! This came up for hearing before the Supreme Court in the Kesavananda Bharati case, also known as **the Fundamental Rights case.**

KESAVANANDA BHARATI V. STATE OF KERALA[18]*:*

A bench of thirteen judges sat to hear this case, two more than the number of judges who decide the Golaknath case.

[18] AIR 1973 SC 1461

The Attorney General and the Advocate Generals contended that Parliament's power to amend the Constitution was unlimited such that it could even be used for changing India from democracy to dictatorship or from a secular state to a theocratic state.

This contention was in the spirit of Dicey's assertion that Parliament of England was also so supreme that it could even go to the extent of declaring that all men were women or that all blue-eyed babies should be massacred.

Thereby, the Supreme Court held by a majority of seven against six judges that, while *Golaknath* stood overruled, the power of amendment was unlimited.

The Court held that Parliament's constituent power, however, under Article-368 was constrained by the inviolability of **the basic structure of the Constitution,** or **the basic features of the Constitution.**

The basic structure or the basic features of the Constitution could not be destroyed or altered beyond recognition by a constitutional amendment.

Some of the features regarded by the Court as fundamental and, thus, nom-amendable are:

i. Supremacy of the Constitution;
ii. Republican and Democratic form of government;
iii. Secular character of the Constitution;
iv. Separation of powers between legislative, executive and the judiciary;
v. Federal character of the Constitution.

THE RETURN OF INDIRA GANDHI AND THE BEGINNING OF JUDICIAL ACTIVISM

The Supreme Court started its activism in 1978 and by the time the Gandhi government came back to power, the court had struck roots among its people.

The Court had started taking up cudgels on behalf of **undertrial prisoners,[19] prison inmates,[20]**

[19] Hussainara Khatoon v. State of Bihar SIR 1979 SC 1360
[20] Sunil Batra v. Delhi Administration AIR 1978 SC 1675

accused criminals (right to bail, right to legal aid),[21] and other disadvantaged and underprivileged sections of the society.

During the Gandhi government's tenure, the Court expanded its reach to **unorganized labor**[22] and in the year 1982, challenged the government's attempt to transfer judges or appoint judges on ulterior considerations.

The *Judges case*[23] was a clear declaration by the Court that it would take up issues of governance such as independence of the judiciary and reinterpret the existing laws so as to impose curbs on the power of government.

Moreover, in **Bandua Mukti Morcha v. State of Bihar,**[24] the Court claimed the right to oversee the implementation of a legislation that sought to abolish bonded labor, a practice that's totally forbidden by the Constitution[25] that had survived because of inaction on the part of the Parliament and the government.

It is pertinent to note that during the period of emergency, the Court had started its activism on matters such as legal aid and abolition of bonded labor, which were part of the twenty-point programme of the emergency regime.

The Court started insisting on the actual implementation of the pro-poor reforms that executive had implemented through legislation.

JUDICIAL ACTIVISM AND THE PEOPLE

The legitimacy of judicial activism increased when the courts started entertaining public interest petitions against government lawlessness. During the regime of Mr. Rao, the Court's activism flourished against corruption and abuse of power. This increased the power of the Court as against the other organs of the government.

A survey of public interest litigations shows that the people have gone to courts because there

[21] M. H. Hoskot v. State of Maharashtra AIR 1978 SC 1548
[22] PUDR v. Union of India AIR 1982 SC 1473
[23] S.P. Gupta v. President of India AIR 1982 SC 149
[24] AIR 1984 SC 802
[25] Article-23 of the Indian Constitution

was no other means of redressal.

It is pertinent to note that Judicial activism does not have its legitimacy because the other organs of government have failed. That is only one reason for judicial activism bordering on excessivism. Even if the other organs of government function effectively, there will be need for judicial activism for recognizing and protecting the rights of powerless minorities. As in India, judicial activism, particularly the type of public interest litigation, has been mainly used for minority causes.

Although, each of these minority groups is small and therefore incapable of making an impact on its own, the aggregate of such groups constitutes a large fragmented majority of the people. Without that support, Wadhwa could not have mobilized political support against **re-promulgation of ordinances,**[26] lawyers could not have mobilized political support for the **independence of judiciary,**[27] Common Cause could not have mobilized political support for compelling the state governments to **appoint adequate number of consumer courts,**[28] and Vineet Narain could not have agitated politically against **the lackadaisical attitude of the CBI** in the Jain diary havala matters.[29] Similarly, M. C. Mehta could not have galvanized the people against the **neglect of the Taj Mahal**[30] or **pollution of the Ganges.**[31]

All such matters were important for the point of view of public interest but none of them would have found place on the agenda of any of the political parties. Although a large number of people suffered, they were diffused and unorganized and therefore difficult to mobilize politically.

JUDICIAL ACTIVISM AND ARTICLE-21

Article 21 of the Indian Constitution states that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Meaning thereby, State

[26] D. C. Wadhwa v. State of Bihar AIR 1987 SC 579
[27] S. P. Gupta v. President of India AIR 1982 SC 149; Supreme Court AOR Association v. Union of India AIR 1994 SC 268
[28] Common Cause v. Union of India (1992) 1 SCC 707
[29] Vineet Narain v. Union of India (1996) 2 SCC 199
[30] M. C. Mehta v. Union of India AIR 1997 SC 734
[31] M. C. Mehta v. Union of India (1997) 2 SCC 411

is authorized to deprive a person of his personal liberty by establishing a law. Moreover, such a law should be just, fair and reasonable.

In **A.K. Gopalan v. State of Madras**,[32] the Indian Supreme Court rejected the argument that to deprive a person of his life or liberty not only the procedure prescribed by law for doing so must be followed but also that such procedure must be fair, reasonable and just. To hold otherwise would be to introduce the due process clause in Article 21 which had been deliberately omitted when the Indian Constitution was being framed.

However, subsequently in **Maneka Gandhi v. Union of India**,[33] by judicial activism, this requirement of substantive due process was introduced under Article-21. Thus, the due process clause, which was consciously and deliberately avoided by the Constitution makers, was introduced by judicial activism of the Indian Supreme Court.

Another great arena of judicial activism was introduced by the Indian Supreme Court by interpreting the word 'life' under Article-21. The Court held that 'life' would mean not merely survival but a life of dignity as a human being.

Moving forward, the Supreme Court in **Francis Coralie vs. Union Territory of Delhi**[34] held that the right to live is not restricted to mere animal existence. It means something more than just physical survival. The Court held that: "… the right to life also includes the right to live with human dignity and all that goes along with it, namely, the bare necessaries of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing one-self in diverse forms, freely moving about and mixing and comingling with fellow human beings."

Furthermore, the Supreme Court held that the 'right to privacy' was held as a right emanating under Article 21 in **R. Rajagopal Vs. State of Tamil Nadu**[35] and **Justice KS Puttaswamy and Anr. v. Union of India and others.**[36] The Court held that a citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education, among other matters.

[32] AIR 1950 SC 27
[33] AIR 1978 SC 597
[34] AIR 1981 SC 546
[35] AIR 1995 SC 264
[36] Judgement delivered on 24th August' 2017

Thus, we see that a plethora of rights have been held to be emanating from Article 21 because of the judicial activism shown by the Supreme Court of India.

However, there can be grave reservations about some of these orders. One wonders whether there will be any limit to the number of such rights created by court orders.

JUDICIAL ACTIVISM IN CONTEMPORARY ERA

In the recent past, **2G Spectrum and Commonwealth scam** cases are glaring examples that throw light on how the concept of PIL can be invoked to check the menace of corruption in Indian Administration. In both these cases matter was initiated at the instance of public spirited person by way of PIL.

The Supreme Court took an unprecedented step and cancelled 122 2G licenses distributed by government in 2008 to different telecom companies. Often criticized for alleged judicial overreach, the Supreme Court justified its order cancelling 122 licenses for 2G-spectrum, saying **it was duty-bound to strike down policies that violate constitutional principles or were contrary to public interest.**

An apex court bench said this was needed to ensure that the institutional integrity is not compromised by those in whom the people have reposed trust and who have taken oath to discharge duties in accordance with the Constitution and the law without fear or favor, affection or ill will and who, as any other citizen, enjoy fundamental rights but is bound to perform duties.

Furthermore, the Court said that there cannot be any quarrel with the proposition that the court cannot substitute its opinion for the one formed by the experts in the particular field and due respect should be given to the wisdom of those who are entrusted with the task of framing the policies.

However, when it is clearly demonstrated before the court that the policy framed by the State or its agency/instrumentality and/or its implementation is contrary to public interest or is violative of the constitutional principles, it is the duty of the court to exercise its jurisdiction in

larger public interest and reject the stock plea of the State that the scope of judicial review should not be exceeded beyond the recognised parameters, the bench added.

Referring to the PILs filed by the Centre for Public Interest Litigation and Janata Party chief Subramanian Swamy, it stated that when matters like these are brought before the judicial constituent of the State by public spirited citizens, it becomes the duty of the Court to exercise its power in larger public interest.

Moreover, while admitting that TRAI was an expert body assigned with important functions under the 1997 TRAI Act, the bench stated, that the TRAI in making recommendations cannot overlook **the basic constitutional principles** and recommend which should deny majority of people from participating in the distribution of state property.

Holding that spectrum was a natural resource, the court said that natural resources are vested with the government as a matter of trust in the name of the people of India, and it is the solemn duty of the state to protect the national interest, and natural resources must always be used in interest of the country and not private interest.

Furthermore, in Noida land acquisition case the Supreme Court cancelled the acquisition of land by U.P government as it was acquired for industrial purpose but it was given to builders for making apartments.
The court ordered that land should be reverted back to farmers from whom land was acquired. Often Supreme Court and different high courts pass order for CBI investigation in several cases. Under the law these power lies with the governments.

The Supreme Court also played a vital role in the Gujrat riot case in 2002. These all are examples of Court executing judicial activism in the recent times.

CONCLUSION: A WAY FORWARD

The Basic structure doctrine is the high-water mark of judicial activism. The Indian Supreme Court alone enjoys such power, and the same has also been adopted, later on, by the Supreme

Court of Bangladesh. Such power imposes an onerous burden on the Court. The Court has to not only allow the legitimate changes in the Constitution but also prevent the erosion of those enduring values that constitute the essence of constitutionalism. There is therefore even a greater need to examine to whom the Supreme Court is accountable and how such accountability is reinforced.

Thus, it can be inferred that judicial activism is not a mere aberration. It as an essential aspect of the dynamics of a constitutional court. It can also be referred to as counter-majoritarian check on democracy. It does not, however, means governance by the judiciary in a literal sense. It must also function within the limits of the judicial process. Moreover, within those limits, it should perform the function of legitimizing or, more rarely, stigmatizing the actions of the government.

The Judiciary is one of the vital organ of the State and it becomes stronger with the faith of people reposed in it. Such faith of the people constitutes the legitimacy of the court and of judicial activism. What sustains judicial activism is not its submission to populism but its capacity to withstand such pressure without sacrificing impartiality and objectivity. Courts must not only be fair, but they must also appear to be fair.

Furthermore, to conclude, it would be judicious to **quote Jawaharlal Lal Nehru in the Constitutional Assembly Debate:**

"Within limits no judge and no Supreme Court can make itself a third chamber…. But we must respect the judiciary, the Supreme Court and the other High Courts in the land. As wise people, their duty it is to see that in a moment of passion, in a moment of excitement, even the representatives of the people do not go wrong; they might. In the detached atmosphere of the courts, they should see to it that nothing is done that may be against the Constitution, that may be against the good of the country, that may be against the community in the larger sense of the term. Therefore, if such a thing occurs, they should draw attention to that fact, but it is obvious that no court, no system of judiciary can function in the nature of a third House, as a kind of Third House of correction. So, it is important that with this limitation the judiciary should function."

The governance cannot be substituted by the judicial organizations. There is a need to discover a equilibrium between judicial and executive institutions. We need to reaffirm the balance between reforms, growth and institutions. Judicial activism should not be used to lead to the Constitutional ideologies of separation of power getting tough.

Our Hon'ble Judges should not cross their boundaries in the term of judicial activism and not to try to take over the roles of other organs of administration. Judicial pronouncements must admire the boundaries that separate the Legislature, Executive and Judiciary.

The Judicial Activism has affected almost every aspect of life in the contemporary era. Be it the case of bonded labor, illegal detentions, cruelty and ill-treatment of women, the implementation of several provisions of the Constitution, environmental glitches, health, sports etc. The courts took cognizance of each case and laid down numerous judgments to guard the basic human rights of each and every member of society.

However, the politicians and some constitutional experts condemn judicial activism while the lawyers and public has greeted it with warm hands. It is significant to note that judicial Activism has so many qualities but it has certain disadvantages. Here it is important to note that we cannot lead the government on judicial basis only. Frequent conflict between the Legislature, Executive and the judiciary will also harm our well recognized democratic system of governance.

The members of every organization sworn to sustain the constitution, which alone is supreme. Both sides will uphold and respect the line of separation of power under the constitution and will not allow a conflict to grow between them.

By evolving the doctrine of Basic Structure of the Constitution, the Hon'ble Supreme Court of India has restricted the power of Parliament to alter the constitution. The court's increased activism has been respectable and contributed a lot for India's democracy. The expensive, methodological justice now becomes cheap and nontechnical through the development of Public Interest Litigations.

The important demand for today is not whether the Supreme Court could trigger its judicial role, but to what amount the concepts of Judicial Activism and creativity are exercised. An equilibrium between the powers of Judiciary, Legislature and executive is essential to carry the nation on the true route of democracy.