

Innovative Judicial Activism for Human Rights Protection: Insights from Constitutional Law

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ABSTRACT

Courts are now crucial to interpreting and extending fundamental rights, and judicial activism has developed into a vital instrument for the defence and advancement of human rights in constitutional democracies. This study looks at the creative ways the judiciary uses purposive interpretation to close legislative gaps, address social inequities, and uphold constitutional morality. Judgements such as *Kesavananda Bharati v. State of Kerala* (1973), which created the Basic Structure Doctrine to safeguard basic rights from constitutional amendments, *Maneka Gandhi v. Union of India* (1978), which broadened the scope of Article 21 to encompass fairness and due process, *MC Mehta v. Union of India* (1986), which affirmed environmental protection as an element of the right to life, *Vishaka v. State of Rajasthan* (1997), which produced guidelines for combating workplace sexual harassment, and *Aruna Shanbaug v. Union of India* (2011), which affirmed the right to die with dignity, are all significant legal precedents. Judicial creativity has strengthened human rights law and improved access to justice, but it has also led to debates over the division of powers and judicial overreach. The main argument of this paper is that, in evolving socio-legal

contexts, judicial activism is an essential tool for advancing justice and defending constitutional rights when used responsibly.

Keywords: Judicial Activism , Human Rights , Constitutional Democracy , Judiciary , Legal Interpretation

1. INTRODUCTION

Judicial activism, a potent tool in the judiciary's toolbox to uphold and defend human rights, has occurred in jurisdictions where constitutional protections serve as the cornerstone of legal governance. In a democracy like India, where fundamental rights are enshrined, it is crucial that the judiciary interprets and extends these rights in a way that is innovative and forward-thinking. By enabling courts to remedy societal and legislative injustices and elevate the Constitution to a moral standard, judicial innovation in activism goes beyond traditional legal interpretation.

In order to safeguard human rights, courts would need to interpret constitutional provisions in a purposeful and dynamic manner in landmark rulings involving judicial activism. Public Interest Litigations (PILs) and other areas of extensive reading of the fundamental rights and the directions to secure socioeconomic justice are examples of the judicial inventiveness in action. The Indian Supreme Court has been in the forefront of this revolutionary jurisprudence, which draws on ideas such as the basic structure theory, the expansion of the meaning of Article 21, and the concept of non-retrogression of rights.

This research study examines the application of the judicial creative approach to activism in the defence of human rights based on constitutional law. It takes into account how extrajudicial interpretations of constitutional mandates align with or diverge from the evolving discourse on human rights. By examining significant

case law, court rulings, and academic viewpoints, this study aims to assess the impact of proactive judicial interventions on the defence of human rights. Additionally, it addresses how the separation of powers is affected by the thin line that separates judicial activism from judicial overreach.

This inquiry aims to highlight the role of the court in advancing a legal order-based right that also conforms to constitutional norms. In an era of socioeconomic disparities, institutionalised prejudice, and a lack of government action, the findings also have implications for the field of judicial creativity of necessity in advancing human rights.

2. LITERATURE REVIEW

Cohn and Kremnitzer (2005) investigated utilising a multifaceted model that illustrates the effects of many types of judicial activism seen in various legal regimes. According to these experts, the definition of judicial activism depends on institutional, legal, and political considerations in addition to being a uniqueness issue. The study investigated how courts expanded rights, interpreted the constitution, and influenced policy in their capacity as activists. However, the authors pointed out that while judicial activity has occasionally aided in the defence of human rights, it has also sparked worries about cases of judicial overreach and power imbalance. This dissertation's analysis was helpful in showing how judicial activism functions in different democracies and the necessity of striking a careful balance between democratic accountability and judicial independence.

Bizimana (2024) study examined the distinction between judicial activism and judicial inventiveness in relation to the African Court on Human and Peoples' Rights' (ACtHPR) right to know about one's bail rights. It examined the ways in which the court formulated and broadened legal provisions to extend human

rights. In this case, ACtHPR claimed to have played a crucial role by ensuring that inmates were informed of their right to bail. The study focused on how the court emphasises fundamental rights while including elements of judicial innovation and activism, pushing legal interpretations beyond conventional boundaries. Accordingly, the study came to the conclusion that these kinds of judicial interventions were necessary to close the gap in the African legal system's implementation of human rights.

Antia (2024) examined how judicial activism affects the defence of human rights by contrasting Indian and Nigerian legal systems. The article also examined how constitutional provisions were broadened to cover fundamental rights and addressed certain sociopolitical issues with the courts' interpretations in the two nations. According to Antia, Nigerian courts were more conservative due to institutional and political restraints, while the Indian judiciary had a long and rich tradition of proactive human rights verdicts. The study emphasised their part in influencing the conversation around human rights and the role that judicial activism plays in upholding democratic principles. It came to the conclusion that effective human rights enforcement in both jurisdictions and the filling of legislative gaps required judicial action.

Chowdhury (2011) evaluated critically the contribution of judicial activism to India's human rights movement. First, the study looked at how the Supreme Court and the Indian judiciary as a whole interpreted constitutional clauses relating to fundamental rights and addressing social injustices. Chowdhury also highlighted significant examples of how the judiciary broadened the scope of rights through progressive legal interpretations and court judgements in PILs. Concerns about judicial overreach were also brought up in the survey, which also asked how judicial activism differed from the separation of powers approach. Ultimately, it

was concluded that judicial activism was crucial to advancing human rights in India, but that its application needed to be cautious in order to maintain democratic government and judicial legitimacy.

3. JUDICIAL CREATIVITY IN ACTIVISM: A CONSTITUTIONAL MANDATE FOR HUMAN RIGHTS PROTECTION

Human rights are now fundamentally guaranteed by judicial activism in contemporary constitutional democracies. However, courts would play a crucial role in defending the fundamental rights by helping to articulate substantive fundamental rights through imaginative interpretation and, when needed, by filling in the gaps in legislative provisions, especially by constitutional courts. Such an innovative approach to the judiciary's duty to protect constitutional values, guaranteeing that justice is done when a strict legal perspective would not be helpful.

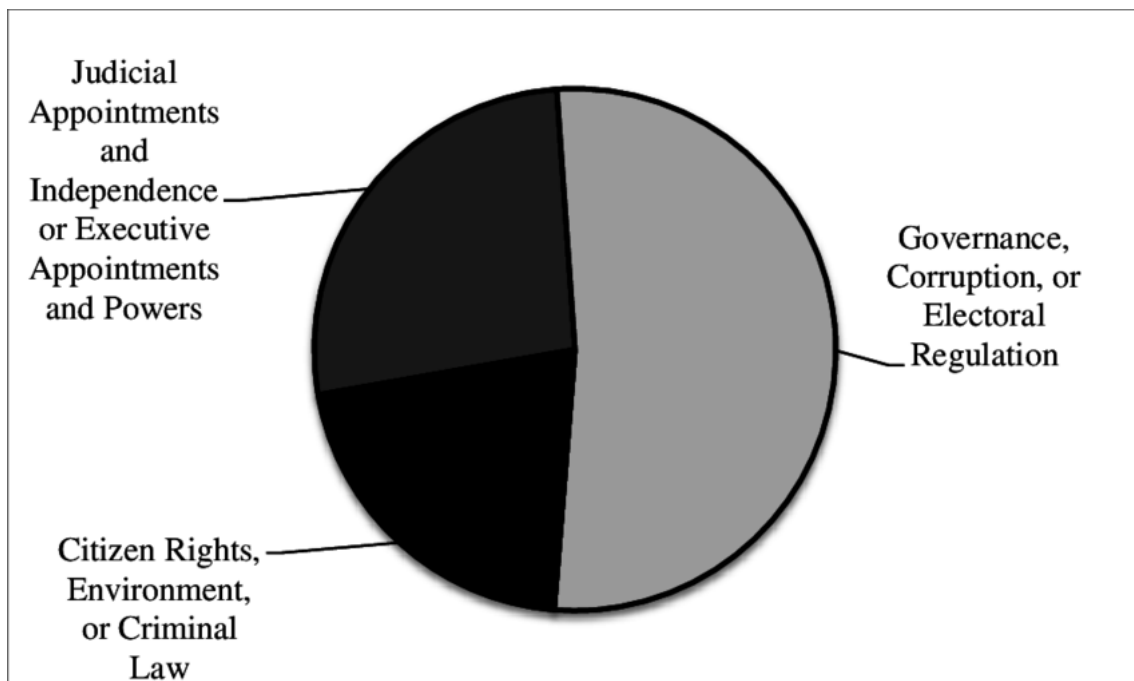


Figure 1: Categories of issues raised in PIL during Phase Eight

Judicial creativity in activism refers to the courts' capacity to apply dynamic, purposeful, and expansive interpretations of statutes in order to uphold human rights, going beyond the letter of the law. The judiciary in India and other countries has occasionally used these powers to address important human rights issues, including gender equality, environmental concerns, and social inequalities. Courts have retained their haste to provide justice, supported by ideas like the basic structure concept, the transformation of Article 21 of the Indian Constitution (Right to Life and Personal Liberty), and the principle of non retrogression of rights.

Table 1: Evolution of Article 21 through Judicial Creativity

Phase	Judicial Interpretation of Article 21	Key Cases
Initial Stage	Protection of the rights of individuals to life and physical autonomy.	A.K. Gopalan v. State of Madras (1950)
Expansion Phase	Fair processes and due process were acknowledged.	Maneka Gandhi v. Union of India (1978)
Human Rights Perspective	The right to a decent life, a healthy environment, a means of subsistence, and education.	Olga Tellis v. Bombay Municipal Corporation (1985), MC Mehta v. Union of India (1986)
Right to Die Debate	Acknowledged the value of dignity in passive euthanasia.	Aruna Shanbaug v. Union of India (2011)

Judicial Creativity as a Constitutional Obligation

The idea that courts might use their imaginations is not far-fetched; on the contrary, it originates from their constitutional obligation to safeguard basic liberties. According to Article 32 of the Indian Constitution, the Supreme Court has the authority to issue writs and make orders as needed to protect the rights, while Article 226 grants the High Court the same power. To carry out its constitutional mandate, the court has provided a wide interpretation of basic rights, enabling the administration of justice even when statutes are silent or out of date.

As an example, the Supreme Court established a new concept in the 1973 case of *Kesavananda Bharati v. State of Kerala* in line with the Basic Structure Doctrine to safeguard fundamental rights from any amendments to the constitution. Take the 1978 case of *Maneka Gandhi v. Union of India* as an example. It set a precedent for human rights legislation by ruling on whether or not the right to life includes the right to live with dignity.

The judicial cocktail is now a constitutional application that requires court involvement to promote entrenched human rights.

Table 2: Landmark Cases Showcasing Judicial Creativity in Human Rights Protection

Case Name	Year	Key Contribution to Human Rights	Legal Principle Established
Kesavananda Bharati v. State of Kerala	1973	Prevented legislative changes to fundamental rights.	Basic Structure Doctrine

Maneka Gandhi v. Union of India	1978	Expanded the scope of protections for life and liberty (Article 21).	Due Process, Fairness in Law
MC Mehta v. Union of India	1986	Strengthened regulations for environmental protection.	Right to Clean Environment under Article 21
Vishaka v. State of Rajasthan	1997	Established policies for sexual harassment in the workplace.	Recognition of International Human Rights Norms
Aruna Shanbaug v. Union of India	2011	Permitted, although with severe restrictions, passive euthanasia.	Right to Die with Dignity

Public Interest Litigation (PIL) and Judicial Activism

In addition, one of the most notable instances of creative judicial activity that has protected human rights is the PIL. To ensure that marginalised groups in India might have access to justice, the country's highest court, presided over by Justices P.N. Bhagwati and V.R. Krishna Iyer, relaxed the locus standi requirements. Any group or individual with morals can now advocate for the downtrodden thanks to this change.

Some notable cases include State of Rajasthan v. Vishaka (1997). In their 1986 decision in MC Mehta v. Union of India, the Supreme Court outlined principles against sexual harassment of women in the workplace. There is mounting evidence that judgement creativity is significant in environmental law in India, thanks to its function in human rights jurisprudence.

Challenges and Criticism of Judicial Creativity

Human rights have benefited from judicial ingenuity in activism, but it has also come under fire, particularly when it comes to instances of judicial overreach. Because it infringes on the boundaries of the legislative, executive, and judicial branches of government, excessive activism is viewed as a threat to the separation of powers. Debates on whether legislation or the judiciary should have the power to decide whether to allow passive euthanasia were sparked by cases such as *Aruna Shanbaug v. Union of India* (2011).

However, in nations where core freedoms are threatened by presidential failures or legislative slowness, judicial inventiveness is undoubtedly a crucial weapon for protecting human rights. By balancing their separate authorities and upholding the democratic ideal of separation of powers, courts can continue to fulfil their constitutional obligations.

4. EXPANDING THE SCOPE OF HUMAN RIGHTS THROUGH JUDICIAL INTERPRETATION

Since they are still relevant in the ever-evolving sociopolitical landscape, judicial interpretation has shown to be crucial to the expansion of the scope of human rights. By interpreting the law to address current issues, courts—particularly constitutional courts—have regularly assumed the role as guardians of fundamental rights throughout history. Through innovative and progressive interpretation, the judiciary has expanded the constitutional rights to include their applicability to the most pressing social, technological, and economic issues of our time.

1. The Role of Judiciary in Human Rights Expansion

The judiciary fills the gap between inflexible legal documents and changing society demands by performing interpretive duties. Particularly when it comes to fundamental rights, broad and ambiguous language in constitutional articles is frequently inclusive enough to allow for extensions. However, courts have argued that legal systems must address the contemporary justifiable requirements of justice, equality, and dignity by broadening the interpretation of these rights.

For example, the Supreme Court of India established the Basic Structure Doctrine in *Kesavananda Bharati v. State of Kerala* (1973) to prohibit the legislative alteration of some of its fundamental rights. The fundamental principles of democracy, the rule of law, and individual liberty had been preserved. In a similar vein, the court wisely expanded the scope of Article 21 (Right to Life and Personal Liberty) in *Maneka Gandhi v. Union of India* (1978), stating that a court's duty in upholding these rights includes ensuring that a person receives "due process" and fairness. As a result, the law of rights has undergone significant trading.

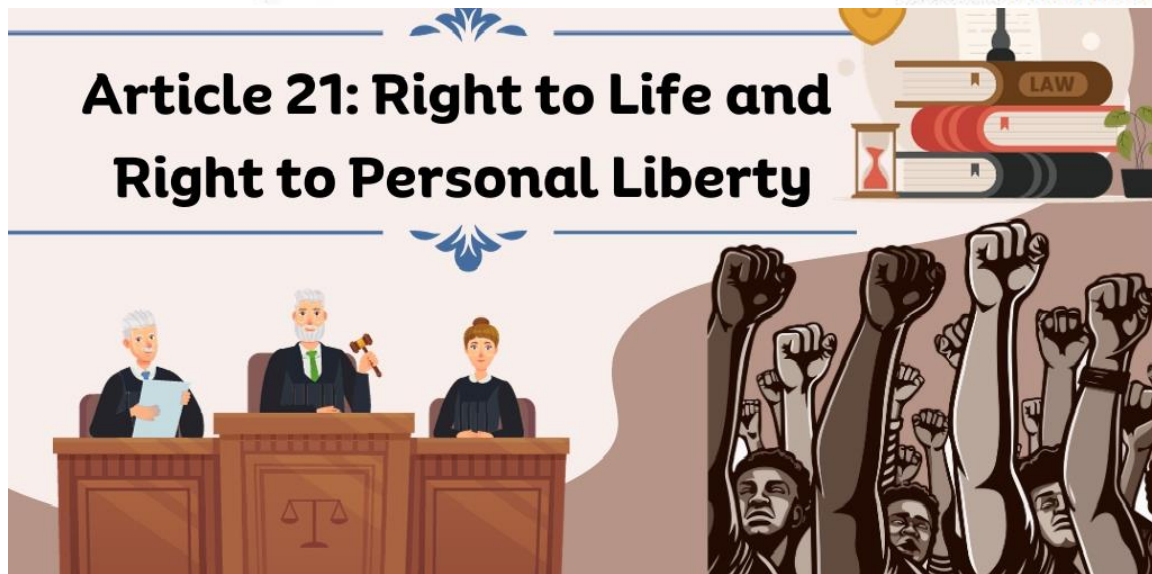


Figure 2: Article 21 (Right to Life and Right to Personal Liberty)

2. Expansion of Socio-Economic Rights

Legal precedent has demonstrated that the idea of fundamental human rights is inextricably linked to socioeconomic rights. While most constitutions only mention economic and political rights in passing, courts have strengthened constitutional guarantees for socioeconomic entitlements.

As demonstrated, for example, in the Supreme Court of India's 1985 ruling in *Olga Tellis v. Bombay Municipal Corporation*, the right to keep one's own means of subsistence is a component of Article 21. This type of ruling demonstrates how seriously the judge takes protecting vulnerable groups from government overreach and ensuring economic justice. Similarly, the *MC Mehta v. Union of India* (1986) case upheld the right to a safe and healthy environment, illustrating the judiciary's role in expanding constitutional provisions pertaining to environmental issues.

3. The Right to Privacy and Digital Age Challenges

A plethora of new interpretations of data protection and privacy have emerged in response to technological developments and the proliferation of digital surveillance. Justice K.S. Puttaswamy v. Union of India(2017) was the decision of the Indian Supreme Court that recognised the right to privacy as a basic right, with the underlying principle that it protects human dignity and liberty. All of our modern homes uphold human rights, and the way judicial interpretation changes to manage current concerns is defined by this ruling..

4. Evolving the Concept of Human Dignity and Personal Autonomy

Human dignity as a core constitutional value has been highlighted in recent court decisions that have influenced interpretations of euthanasia, LGBTQ+ rights, and gender equality. In Navtej Singh Johar v. Union of India (2018), the country's highest court recognised the rights of the LGBTQ+ community and reiterated the significance of individual liberty and dignity as fundamental human rights by decriminalising Section 377. Aruna Shanbaug v. Union of India (2011), which permitted passive euthanasia under certain restrictions, also acknowledged the right to die with dignity as an extension of the right to life.

5. CONCLUSION

In conclusion, especially in constitutional democracies like India, the protection and advancement of human rights have been greatly aided by the innovative activism of judges. Courts have corrected socioeconomic inequalities, filled legislative gaps, and maintained constitutional morality by interpreting constitutional provisions dynamically. The court has strengthened its position as the protector of basic rights through important decisions, the expansion of Article

21, and concepts like the Basic Structure. A balanced approach guarantees that activism is a vital instrument for justice rather than an infringement on the separation of powers, even as worries about judicial excess continue. In the end, judicial innovation fulfils a constitutional mission by allowing the court to support democracy, equality, and justice while adjusting to changing human rights issues.

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