

Examining the delicate distinction between Judicial Activism and Overreach: An Indian Context

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Abstract: The Indian judiciary is the bastion of individual rights and of justice. It not only serves passively as the guardian of the constitution but also ensures being assertive and proactive that justice is realized and rights are upheld in the day-to-day lives of the general public. This avatar of the Judiciary is popularly known as judicial activism. However, given the thin line between judicial activism and judicial overreach the activist role of the judiciary is questioned and has sparked the debate to redefine the judiciary role for a very long time. Many times, it is observed that judicial activism is misunderstood and labelled as overreach. This paper, drawing the thin line between them, seeks to understand the proactive role of the Indian judiciary in the context of the recent confrontations between the executive and judiciary over stipulated time limits of assenting to a passing bill. It also, while cautions the judiciary in the areas of overreaching the domain of others sphere that is not effective for a healthy democratic governance in the long run, emphasize instead that the court should compel and make ground for the legislative and executive to overcome their inabilities to fulfil their constitutional role assigned.

Keywords: Judicial Activism, Judicial Overreach, Constitution, Democratic Governance, Executive, Individual Rights, Justice

Introduction

The fundamental law of the land envisages a democratic form of governance that entails a people centric approach in which the representatives are chosen through free and fair election and the people themselves are sovereign. The key pillars of this model of governance are the executive, legislative and judicial branches, each of which operates under the principles of separation of powers and has their own clearly defined jurisdictions. The effective functions of these branches without interfering with other areas of activity is essential for the successful navigation of such governance processes. Any deviation or inability of these wings to accomplish their constitutionally assigned role may lead to social unrest and civil conflict. The history of Indian politics witnessed the proactive role of the judiciary taking major decisions in the area which are not done by the legislative and executive. This avatar of the judiciary is commended even

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by the executive and legislative themselves and has reinforced the public trust in the judiciary. However, its overreach into the domain of other branches of government and performing their role has been a matter of serious concern sparking debate on the judiciary 's role and making headlines of many leading newspapers. This paper attempts to understand the thin line between judicial activism and judicial overreach in the context of recent controversy over passing a state bill pending with the governor and setting time limits within which the bills are to be passed. It proceeds to argue that while a proactive judiciary is commendable, an overreaching judiciary is unhealthy for the democratic governance in the long run.

The Subtle Distinctions between Judicial Activism and Overreach

While judicial activism refers to the proactive role of the judiciary in ensuring individual rights and justice, overreach signifies intervention of the judiciary in the affairs of other branches of governance, e.g., the executive and legislature. The key differences between them are their intent, scope and impact. Judicial activism aims at promoting individual rights and social justice. It fills the gaps where other branches of the government have neglected to address the issues. It relies on constitutional interpretation to ensure that constitutional values and principles are upheld. On the other hand, judicial overreach signifies exceeding of constitutional authority to encroach upon the power of legislative and executive branches. It leads Judges to make policy decisions which are not their business and ignore the established law of separation of powers.

As the intent, scope and impact of judicial activism are judicious and within the constitutional boundaries, it is applauded across the whole spectrum of society. The failure of the executive and legislative to deliver the desired results, violation of human rights and misuse and abuse of some of the provisions of the constitution are responsible for its emergence. It began with its application in the early 70s during the Indira government and came to full bloom in the 80s after the introduction of PIL (Public Interest Litigation) aimed at liberalizing the access to justice and granting of relief to the poor and disadvantaged groups. Justice P N Bhagabati, V.R Krishna Iyer, Justice O Chinnapa Reddy, and Justice D.A Desai played a crucial role in laying the foundational stone in its evolution. Some of the landmark judgments of judicial activism include Kesavananda Bharati v. State of Kerala (1973) which limits parliament power to amend the constitution; Maneka Gandhi v. Union of India (1978); Shah Bano case (1985); Vishakha v. State of Rajasthan (1997); Right to Information Act (2005). The cases of judicial overreach include environment and pollution control cases where the court formed commissions or committees that are characterized as “policy evolving” body. The policy must evolve from the socio-economic process and to be determined by the legislative body which clearly fall within the domain of the legislatures.



The Recent Debate on Supreme Court Ruling

The debate surrounding Supreme Court judgement to determine its constitutionality is no longer a new phenomenon in the Indian political landscape. However, the recent controversy on judicial activism and overreach revolves around the Supreme Court judgement on State of Tamil Nadu vs. The Governor of Tamil Nadu (2025). The government of Tamil Nadu alleged that the governor R. N. Ravi acting as a 'political rival' within the state hindered the assembly functioning by withholding assent to the bill arbitrarily that disrupted the governance process in the state and challenged the governor's actions in the supreme court. As the government moved the court against governor discretion of withholding 10 bills even after Re-passing for a second time to give his assent, the court on April 08, 2025 invalidated the act of governor and ruled that under article 200, reconsidered bills are not given assent and kept for president is 'erroneous of law'. Along with this, the court underlined that there is no such concept of absolute or pocket veto under this article and ruled that withholding assent for an indefinite period the Re-passed bills of Tamil Nadu legislature as illegal and unconstitutional. Moreover, the court set a timeline for both the governor and president to give his/her assent to the bill and passed the existing ten numbers of bills. This ruling of the honorable court has created chaos and the line has been drawn between its opponents who criticize it as a judicial overreach and those who perceive it as an appreciating move by the proactive judiciary.

Those who opposed the ruling hold the view that the ruling is a clear overreach of the judiciary encroaching upon the domain of the executive. The court directive is perceived as micromanagement by the court and it carries potential impact on separation of power which is the bedrock of the constitution. On the other hand, those who gratified the judgement emphasized on constitutional mandate that the court is the sole protector of the constitution and any act of constitutional authority is subject to judicial review. The judgement is based on interpreting the concerned article (Article 200 and 201) of the constitution. As the court ruling is within the bounds of the constitution to curb the arbitrary act of governor, it does not constitute judicial overreach. Instead, the ruling is justified as preventing the misuse or abuse of the constitutional power of governor by setting the time limits to ensure the timely governance, the principles of federalism and state autonomy which constitutes the basic structure of the constitutions.

Concluding Remarks:

Even though the central executive is contesting the judgement and the matter is still moving forward in the courtroom making leading newspapers headlines, it could be concluded that while a proactive judiciary is a blessing insofar as its activism advances the larger purpose of delivering justice when the legislature and executive suffer from inabilities in accomplishing their constitutional duty, overreaching other domain of



governance arbitrarily is a gross violation of separation of power and extra constitutional. The court ruling on Tamil Nadu case doesn't appear to be overreaching, as it is consistent with the goals, objective and parameters of judicial activism. The law of the land mandate the judiciary to interpret the various articles of the constitutions and the ruling is outcome of the interpretation of article 200 that reads the governor roles. As per the article 200, once the bill is re-examined by the assembly and advanced for a second time, the governor must grant his/her assent. The governor cannot postpone assent and keep it for the president's consideration. The governor's activities in this regard demonstrate arbitrariness, extralegal and the abuse of constitutional power. In such a scenario, the ruling's explicit goal has been to ensures the democratic administration within the state by preventing the stagnation that addresses the governor's inability to ratify the bills. Therefore, In order to prevent future deadlocks and to preserve and promote federalism, state autonomy, and democratic governance, the judiciary's check on such arbitrariness by passing existing bills and compelling the governor to act within a time-frame is indeed a progressive step.

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