



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

AN ANALYSIS OF ROLE OF JUDICIARY IN LIGHT OF DEMOCRATIC PRINCIPLES & CONSTITUTIONAL POWERS

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ABSTRACT

The structure of the Indian Constitution revolves around the idea of how the sovereignty in regards to the functioning of the country which lies not in any of the organs of the country but in the constitution itself. It may appear that there is a parliamentary sovereignty but the system of check and balances ensures that the privileges provided to the parliament are checked, regulated and re-corrected by the Judiciary from time to time. Whether it includes determining of the basic structure of the Constitution in the landmark case of *Kesavananda Bharti v. Union Of India 1973* or it relates to creation of guidelines for punishment of Sexual Harassment At Workplace under *Vishakha v. State Of Rajasthan 1991* or whether it relates to the declaration of *NJAC Act* as unconstitutional; the Judiciary has from the time to time exercised its powers to proclaim its independence, activism and at sometimes its extremism. What needs to be actively dealt is that the Judiciary may appear to protect the democratic structure of the country at various instances which may either be through the declaration of *Chandigarh Elections* as void or by passing a judgement against the Electoral Bonds, however, the involvement and interference of Judicial Power with the Parliament and politics cannot be hidden, whether it includes the appointment of the Ex-CJI as the member of Rajya Sabha or the passing of a politically influenced judgement the Judiciary in itself has provided immense examples of being transparent, opaque and even trans-lucent at multiple times. While the Judiciary may claim itself to be independent, justice provider & the institution of last regulator; at various instances however the pendency of cases, sufferings of the people in Judicial Custody, lack of prison reforms and appointment by the way of collegium system brings back the institution to check itself under multiple grounds and demand a reform in itself. This paper thus revolves around the idea of the independence, activism, & extremism in the Judicial organ

and how such Judicial Activities have promulgated for a positive and at instances a negative change in the democratic system.

The Concept of Separation of Powers

“When the legislative and executive powers are united in the same person, or in the same body or Magistrate, there can be no liberty. Again, there is no liberty if the judicial power is not separated from the Legislative and Executive power. Where it joined with the legislative power, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Where it joined with the executive power, the judge might behave with violence and oppression. There would be an end of everything were the same man or the same body to exercise these three powers..¹ The importance of the concept of Separation of powers can be understood with the analysis of the definition by the great thinker and jurist Montesquieu. It should be understood that for the purpose of the protection and safeguarding the democracy the co-ordination of all the organs of the government is a necessity however what shouldn't be forgotten is that with this co-ordination what is required is the realization that such co-ordination shall be in a way and a manner separated, that their individual supremacy is protected and is not subjected to be questioned. The concept that there shall be a separation of powers between the different organs took birth when the issue arose between the King and the Priests wherein King was assumed to be an authoritative person sent by god who can never do wrong and the Priests were the people who were supposed to be well versed with the holy books and the directions of god and thereby can never do wrong thus, there arose two supreme bodies that had a tussle for supremacy which led to the exploitation of the general public which expected to be directed at their will and the rules established by them. With the arrival of the French Revolution there arose a distinction between the various organs of the government wherein the powers of the socio-legal and political structure were divided into the Legislature and Executive and later on the tripartite model included the Judiciary.

In the most basic terms, it can be reasonably deciphered that the Separation of Powers refers to the division of the powers in the three organs of the governance namely Parliament, Executive and the Judiciary. The parliament is vested with the task of framing of the adequate law, the executive with the implementation of such laws and the judiciary for the interpretation of those laws thereby serving justice to the people. Though with the understanding of the concept of

¹ Montesquieu, De L'“ Esprit des lois, 1748 quoted in Justice D.D. Basu: Administrative Law, Edn. 199, p. 23.

Separation of Powers it may appear that the functions of the organs are clear and distinct yet what also needs to be understood that such functions in themselves have overlapping situations the answer to which possibly rests nowhere than in the proclamation of supremacy over each other. Since the separation of powers clearly demarks the boundaries of the functioning of various organs yet it does not clarify a clear answer to the question that relate to the situations wherein a particular organ fails to perform its adequate function and who would further perform the action in the interest of justice in this regard.

Thus, with the understanding of the concept of Separation of Powers it may appear that the distribution of powers has been made, for the effective governance of a territory but the question that still remains is that whether the role of the three organs is strictly outlined or whether it is made in a liberal sense. The Country of United States clearly outlines the empowering and revolutionary role of the Judiciary however that in the England is different even when both the countries follow the concept of separation of powers. The Indian Democratic Structure under Article 50² of the Constitution of India clearly advocates the separation of power but the power of President and Governor under Article 123³ and 213⁴ to

² 50. Separation of judiciary from executive

The State shall take steps to separate the judiciary from the executive in the public services of the State.

³ 123. Power of President to promulgate Ordinances during recess of Parliament

(1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinance as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance--

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) may be withdrawn at any time by the President.

Explanation.--Where the Houses of Parliament are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

⁴ 213. Power of Governor to promulgate Ordinances during recess of Legislature

(1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if--

(a) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(c) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

make ordinances, the power of the court under article 142⁵ to make law; are few such instances that speak-up to the approach that the Separation of Powers in the country is followed in a liberal sense and not in a rigid sense. Further the research paper includes a brief about how the concept of Separation of Powers has changed over time and how the rigidity with time has turned to flexibility.

The Changing Facets & International Acceptance

With the introduction of the concept of Separation of Power, initially there arose a need of strict separation of powers however with the passage of time the concept of Separation of powers got its liberal interpretation. The exercising of the concept of Separation of Powers can be made through the following principles namely:

Exclusivity Principle⁶ which has divided the government into three structural organs. **Functional Principle**⁷ which gives the boundaries of the organs, and that one organ shall not perform the functions of the other. **Check and Balance**⁸ Principle suggests that check should

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Legislature of the State assented to by the Governor, but every such Ordinance--

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(b) may be withdrawn at any time by the Governor.

Explanation.--Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of (those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

⁵ 142. Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc

(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

⁶ SEPARATION OF POWERS IN INDIA, Devanshi Sharma, <https://pure.jgu.edu.in/id/eprint/5891/1/Separation%20of%20Powers%20in%20India.pdf> Accessed Dated March 2, 2024

⁷ ibid

⁸ ibid

be made on each other by these organs to look after the functions and duties performed are within the constitutional bounds. *Mutuality Principle*⁹ which aims at creating concord, not discord, cooperation not confrontation, engagement not estrangement. The following principles lay down how the separation of powers is interpreted in the strict sense that is through the Exclusivity principle and how the same is executed in the liberal sense that is through the Mutuality Principle.

When the International Scenario is taken into the consideration then the rigidity and flexibility of the concept of Separation of Power can be exclusively studied with its usage in two major countries namely the United States of America & The United Kingdom. In The United States Of America, the principle is explicitly defined within the framework of the US Constitution. This principle allocates legislative authority to Congress, comprised of the Senate and the House of Representatives. The President is endowed with executive authority, while the judicial authority is vested in the Supreme Court and any additional Federal Courts established by Congress. The Constitution delineates the President's powers and mandates a separate election for a fixed term of four years. The President's constitutional duty is to ensure the faithful execution of the country's laws. Additionally, the President holds the authority to nominate and dismiss executive officers, commonly referred to as the Cabinet, who oversee major state departments. This practice serves to uphold the separation between the executive and legislative branches of government. Neither the President nor any Cabinet member can concurrently hold a seat in Congress, and any congressional member wishing to join the government must resign from their legislative position. While the President is typically immune from removal from office, the Senate retains the power to impeach the President for high crimes and misdemeanours such as bribery or treason, as exemplified by the aftermath of the Watergate scandal in 1972. Supreme Court justices, once nominated, are not subject to the authority of either Congress or the President, although they too can be impeached and removed from office.

In contrast to the United States, the United Kingdom lacks a formal separation of powers concept, instead operating with a more informal approach. The UK's system draws more upon Blackstone's "mixed government" philosophy, incorporating checks and balances. Unlike the US Constitution, the UK does not establish separation of powers as a fundamental principle.

⁹ *ibid*

Due to the absence of a written constitution, any legislation enacted by Parliament that infringes upon this concept may be deemed unconstitutional.

In the United Kingdom, Parliament retains ultimate authority, and consequently, the Crown governs through ministers who are elected by and accountable to Parliament. The judiciary's independence was effectively solidified by the Act of Settlement in 1700. The Supreme Court functions independently from Parliament, with its powers distinctly separated. The structure for judicial appointments is outlined in Section 61 of the Constitutional Reform Act of 2005, which establishes a commission responsible for selecting judges for the Supreme Court and the Court of Appeals. Overall, the Constitutional Reform Act of 2005 has bolstered the court's independence. However, the three branches of government in the United Kingdom continue to exhibit significant overlap and are not distinctly divided.

Thus, the reasonable conclusion that can be drawn is that the Separation of Powers works differently for different nations. It is a fact that our Country was subjected to The British Rule for hundreds of years and thereby the British Influence is observed on our political structure, our laws, our constitutional framework and the governance model and therefore in the Indian Model of Separation of Powers there has been instances that advocate of how the different organs have fought for the supremacy from the time to time and how the Judiciary has revolutionized its independence by strengthening not only on procedure established by law but also on due process of law.

The Fight for Supremacy & The Fear of Independence

It is but natural that, the tussle emerges when there are provocative insights of happening of such a tussle. With equal treatment to all the organs of the governance it may appear that they would work in the most effective co-ordination but what about a possibility of proclaiming the supremacy over each other. It is a fact that with the Independence, the organs of the government have worked together in co-ordination so as to cherish the democratic freedom and provide justice yet there are instances where such organs have openly show-casted a tussle amongst them thereby proclaiming supremacy. One such instance is of the strewed relationship between the Judiciary and Parliament regarding the authority to amend the Indian Constitution under

Article 368¹⁰ which has also been characterized as a complex interplay and has undergone various amendments and legal interpretations over time. Article 368 delineates the process for amending the Constitution, granting Parliament the power to make changes. However, the Supreme Court has asserted its role in reviewing and nullifying amendments that undermine the Constitution's fundamental structure, as established in the pivotal *Kesavananda Bharati v. State of Kerala (1973)*¹¹ case. This case confirmed that while Parliament holds the authority to amend, it cannot tamper with the Constitution's basic structure. In response to judicial scrutiny, Parliament had introduced amendments to Article 368 to clarify its amending powers. For instance, the 24th Amendment Act of 1971 sought to limit judicial review of constitutional amendments. Nonetheless, the Supreme Court's decision in *I.C Golaknath v. State of Punjab (1967)*¹² reiterated Parliament's inability to curtail its amending authority. Subsequent amendments, including the 42nd Amendment Act of 1976, were enacted by Parliament to reassert its supremacy over the Constitution. However, the Judiciary has consistently upheld the principle of judicial review, ensuring that constitutional amendments uphold the foundational structure of the Constitution and the Judiciary has clearly remarked in the case of *Kesavananda Bharti v. State of Kerala*¹³ that the Parliament has power to amend the laws however such an amendment if violates the basic structure of the Constitution of India can be expressly declared void by the court.

¹⁰ (1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon] the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

(a) article 54, article 55, article 73, article 162, article 241 or article 279A; or
(b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI; or
(c) any of the Lists in the Seventh Schedule; or
(d) the representation of States in Parliament; or
(e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

(3) Nothing in article 13 shall apply to any amendment made under this article.

(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976 shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.

¹¹ (1973) 4 SCC 225; AIR 1973 SC 1461

¹² (1967 AIR 1643, 1967 SCR (2) 762)

¹³ (1973) 4 SCC 225; AIR 1973 SC 1461

Such an instance draws out a reasonable conclusion of how the separation of powers is relevant and how such tussle has in some or the other manner protected the democratic fabric of the nation and has safeguarded the principles of the constitution.

Judiciary The Saviour of The Democratic Fabric & Constitution`s Faith

The case of Kesavananda Bharti has clearly highlighted the role of the Judiciary as the Saviour of The Democratic Fabric & The has kept alive the faith of the people in the supreme law of the land which is the Constitution. However, it is not only the case where the Judiciary has protected the people from any injustice. The proactive role of the Judiciary in co-ordination with the other organs and also exercising their role when they themselves failed in their performance has build the trust of the people in this organ. The following of the methodology of Judicial Activism in the areas where the Parliament & Executive failed as an institution is highly remarkable and it is through such pro-active role that the other organs have realized their responsibility towards the country.

When the petition was filed before the Honourable Court for deciding an issue that relates to sexual harassment at Workplace for which there existed no possible law in the country the Judiciary didn't sleep in ignorance like the Parliament did, but pro-actively realized its responsibility and framed the guidelines that acted as law till the time the Parliament could not frame an adequate law. This was the case of *Vishakha v. State of Rajasthan*¹⁴ wherein the court itself framed the guidelines that prima-facie gave recognition to the issue and the guidelines also acted as a law for the offenders who had the privilege of a legislative vacuum over the issue. As stated above that Judicial Activism has been a source of inspiration for many other organs it can be evident in this case as well as when the ignorant Parliament drafted out a legislation after possibly 16 years it mere copied the guidelines provided in the case.

Other instances that include the role of Judiciary as an activist include that of, treatment of a letter by a journalist regarding the custodial violence of the women in Jail as a writ petition in the case of *Sheela Barse v. State of Maharashtra (1983)*¹⁵, the declaration of the right of speedy trial as a fundamental right under the vase of *Hussainara Khatoon (I) v. State of Bihar*

¹⁴ AIR 1997 SUPREME COURT 3011

¹⁵ 1983 AIR 378, 1983 SCR (2) 337

(1979)¹⁶, or the case of **National Legal Services Authority v. Union of India (2014)**¹⁷ wherein the Supreme Court acknowledged the right of individuals to self-identify their gender. It affirmed that transgender individuals possess the entitlement to be recognized and treated according to their self-identified gender, rather than the gender assigned to them at birth.

One of the most recent adjudications of the Court in the landmark case **Kuldeep Singh v. UT Of Chandigarh & Others 2024**¹⁸ The court nullified the results announced by Masih, asserting that he intentionally manipulated the conduct of fair elections and provided false information to the court. "He must face consequences," stated the Chief Justice, directing a show cause notice to be served to him. Additionally, the bench concluded that conducting a new election was unnecessary since the votes invalidated by Masih were indeed valid. Though the process and adjudications pertaining to that of Elections & Re-Elections rest with the Election Commission which is constituted as an independent body however when the influence over such a body is profoundly casted by the majoritarian government the check made by the Honourable Supreme Court has been a source of prevention of autocracy and restoration of democratic ideals no matter how strong and provocative such malicious efforts are exercised. With the understanding of such circumstances as stated above it may appear that the Judiciary has always recognized its power and has exercised the same lawfully and in the interest of justice. However, as it's a fact that hearing only half of the side of the story may be dangerous this general rule applies here as well. While Judicial Activism is in demand and is of much appreciation it should be also noted that the efforts of Judiciary should remain only Activist in nature and shall not be extremist as when on the one hand Judicial Activism protects democratic structure the other hand of Judicial Extremism holds the power to betray and assault the constitution. In the other part of the paper the concept of Judicial Extremism or Judicial Overreach is expressively dealt.

The Extremist Use of The Privileges & Liberties: Judicial Overreach

It is well said that Power corrupts and Absolute Power corrupts absolutely. With reference to the Indian Democratic Structure the Judiciary is bestowed with the task of interpreting the constitution and also with the task of reviewing the legislative and executive actions. However, the role of Judiciary has never been as pure as white as there have been circumstances that have

¹⁶ 1979 AIR 1369, 1979 SCR (3) 532

¹⁷ 2014 INSC 275

¹⁸ Civil Appeal No 2874 of 2024

added such impurities as to turn the same to a wheatish colour. Such instances have put the Judiciary itself in the court of law where the Judiciary itself is the Judge and the party and the justice seeking victim has nothing in redressal.

The cases of the Contempt of Court are adjudicated by the Court itself wherein the court is the party and the court's adjudication in itself is final and binding. The appointment of Judges is another issue, wherein the Collegium System is used which indirectly promotes favouritism and God-fathership in the field of Judiciary. The strict reluctance to observe and regulate the *NJAC Act* in fear of losing independence drags the institution to the court again to which the adjudicating authority is the court itself. Judiciary might give revolutionary remarks interpreting the *Article 21*¹⁹ of the Indian Constitution however when the question arises as to the Rights of The Prisoners the Judicial Activism becomes handicapped, as the subject of the Prison Reforms is the responsibility of only the Parliament & Executive. The pendency of cases and the Judiciary's hope and aim to provide justice to each and every individual gets faded itself as it is the Judiciary itself which voices that Justice Delayed is Justice Denied. However, when an Ex-CJI is provided a Rajya Sabha entry just for the reason his bench gave an extraordinary judgement & even when the personality accepts such a boon from the majoritarian party the court remains silent and lists the same as a matter of not of its concern and proudly advocates the strict separation of politics from the court. What should also be known is that the solution to the issue of female prisoners in custody getting pregnant is not about banning the male employees from entering the jails.

When the instances wherein the Judicial Extremism is witnessed in the landmark cases, the case of *Shyam Narayan Chouksey v. Union Of India*²⁰ comes into the story, it was this case wherein the court outlines that National Anthem shall be played in all the theatres and the cinema halls and every member present in the same shall stand in respect to the national anthem however the court's order lacks reference to the landmark *Bijoe Emmanuel case*²¹, where children were expelled from school in Kerala for not singing the National anthem due to religious beliefs. The court had ruled that singing the anthem wasn't mandatory. Additionally,

¹⁹ 21. Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law.

²⁰ AIR 2018 SUPREME COURT 357, 2018

²¹ 1987 AIR 748 1986 SCR (3) 518 1986 SCC (3) 615 JT 1986 115 1986 SCALE (2)217

the order overlooks the *Uphaar tragedy case*²², contradicting its earlier ruling on closing cinema doors. Implementing the order poses challenges in distinguishing who stands or sits during the anthem, especially for those with physical or religious constraints. Moreover, the order exceeds the *Prevention of Insults to National Honour Act, 1971*, which prohibits incorporating the anthem in films or shows.

Another instance includes that of deleting the scenes of the movie Jolly LLB 2, even after the certification from the Central Board for Film Certification (CBFC) on the ground that such instances made joke of profession of law. This action was made after the development of a committee in this regard to which the court also ordered for suggesting the changes. Such an action regarding excisions in "Jolly LLB 2" is deemed unnecessary interference, as the **Cinematograph Act** vests certification power solely in the Film Certification Board, not the courts. The order is seen as violating *Article 19(2)*²³ of the Constitution, imposing restrictions on freedom of speech without legal basis. Establishing a committee by the Bombay High Court is considered illegal and contradicts Supreme Court precedents, reducing the statutory Board's authority. This decision contrasts with the Delhi High Court's dismissal of a PIL against "Jolly LLB 1" in 2013, emphasizing individual choice in film viewing.

Such instances clearly relate to the fact that the Judicial Activism shouldn't be used as a method to only advocate and authorize Judicial Supremacy over the other but also as a measure to revolutionize itself and cure the defects. It is a fact that Judicial Activism is a necessity but its also a fact that such an active role shall be judiciously used so as this role does not question the activism itself and also that Activism shall not be only limited to the other organs but also to the institution itself so as that Activism is bonafide in nature and not committed only with a malafide intent to defame the other organs of the governance.

²² II(2003)ACC114, 2003ACJ1631, 2003IIIAD(DELHI)321, 104(2003)DLT234, 2003(68)DRJ128, 2003RLR333

²³ Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with Foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

Conclusion

In exploring the multifaceted role of the judiciary, encompassing activism, overreach, and at times, extremism, this research illuminates the complexities inherent in the judicial branch's exercise of power within a democratic framework. Judicial activism, characterized by proactive interpretation and enforcement of constitutional rights, has often been lauded for advancing social justice, protecting marginalized groups, and upholding the rule of law. However, as evidenced by instances of judicial overreach and extremism, the judiciary's exercise of power can sometimes transcend its constitutional bounds, leading to concerns about democratic legitimacy, institutional integrity, and the erosion of the separation of powers.

While judicial activism can be a potent force for positive change, particularly in addressing systemic injustices and protecting individual rights, unchecked judicial overreach threatens the delicate balance of powers enshrined in democratic governance. Instances of judicial activism veering into extremism, where courts encroach upon legislative or executive domains, risk undermining the principle of democratic accountability and circumventing the will of the elected representatives. Such overreach can provoke backlash, fuel political polarization, and undermine public confidence in the judiciary's impartiality and legitimacy.

Amidst these challenges, the principle of Separation of Powers emerges as a cornerstone of democratic governance, serving as a bulwark against governmental tyranny and ensuring the checks and balances necessary for effective governance. By delineating distinct spheres of authority for the legislative, executive, and judicial branches, the Separation of Powers principle safeguards against concentration of power, abuse of authority, and encroachment upon individual liberties. It fosters a system of mutual accountability, where each branch acts as a check on the others, thereby promoting institutional integrity, democratic stability, and the rule of law.

In conclusion, while the judiciary's activism can be a catalyst for progress and justice, vigilance is essential to prevent overreach and extremism. Upholding the principle of Separation of Powers is paramount in maintaining democratic governance, preserving individual freedoms, and safeguarding the integrity of democratic institutions. By respecting the constitutional boundaries and fostering a system of balanced governance, societies can uphold the principles of democracy, justice, and the rule of law.