

Judicial Activism and the Supreme Court of India

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Abstract : The Supreme Court of India has emerged as the most powerful organ of State and amongst the foremost constitutional courts in the world through the instrument of Public Interest Litigation (PIL), the exercise of writ jurisdiction and the expansive interpretation of fundamental rights guaranteed by the Constitution of India. Judicial activism impinging on every facet of governance has become the norm in recent times. This paper traces the evolution of judicial activism since Independence through pronouncements of the Supreme Court. It brings out distinct phases in this evolution- the initial phase of judicial restraint, the first phase of an activist judiciary where the Supreme Court primarily was concerned with protection of fundamental rights and humane treatment of citizens; the second phase where the Supreme Court took keen interest in preservation and protection of the environment; the third phase where the Supreme Court extended its reach into the socio-economic arena and the fourth phase when issues of transparency and probity in governance led to interventions by the Supreme Court. The paper illustrates through judgements of the Supreme Court that the instrument of the PIL and the exercise of writ jurisdiction by the Supreme Court go beyond the traditional postulates of judicial processes and political theory on separation of powers between the organs of State.

Keywords : fundamental rights, judicial activism, public interest litigation, Supreme Court of India

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