CHAPTER 5

CONCLUSION

The complex and articulate social conditions in the present day society has increased the problem of evolution of law making by the judiciary. This problem persists in every legal order, whether federal or unitary, whether of civilian or common-law background. The nineteenth century opinion was almost unanimous that there was a clear-cut division of function between the various spheres of the legislature, the executive and the judiciary. The doctrine of separation of powers derived from the contents of the development in the British constitutional history of the early eighteenth century by John Locke and Montesquieu was strongly favoured and advocated for. The function of the legislature was to pass new laws; the judiciary was to interpret them and the executive was to enforce them.

The concept started changing after the First World War when the tempo of social change was accelerated beyond all imagination. This resulted in throwing up a new challenge to the law which was becoming too stereotype and stale, overlooking the growing changes in the society. The changing acceptance of the fact by the leading jurists and scholars that the duty of the judge was to take note of the fundamental changes in the society accelerated the process of law making by the judges. Indeed, it is almost certain that the common law would have never developed if, the judges had not from time to time accepted and recognised the diverse needs and changes in the society and developed the law by laying down new principles to meet the challenge.

The modern Indian world was restructured by the British between the end of the eighteenth century and middle of the twentieth. Various branches of Indian law, apart from modern constitutional law, were developed and defined on the basis of the British model. In spite of several difficulties faced after Independence, the Indian legal elite have succeeded in preserving a very admirable judicial system, the most Europeanized of Indian institutions and at the same time advanced and revitalized it to play a crucial role in the development of social and political life of the country. Various principles and concepts that have been developed in the English and American Courts served as a reference point for the Indian judiciary and furnished the jurisprudential basis for ruling on cases in India, necessarily tempered to the conditions prevalent here.

In order to facilitate the study of the contribution of the judiciary to social dynamics in India since Independence, the working of the judiciary has been divided into five phases or periods. Each period is significant and of historical importance. The first period (1950-1960) deals with the nascent India and the struggle of the judiciary to grapple with the metamorphosis from colonial rule to the ground realities of a free nation. The second period (1961-1970) is a period when the Indian judiciary was trying to determine the voice of "we the people" in interpreting and creating roadmaps in the Constitution of India. The third period (1971-1976) unfortunately will always remain an aberration in Indian political history. This period has not only been marked as an oppressing and dark era but also an era that triggered off remarkable growth in Indian judicial activism. The fourth period (1977-1979) has seen the jurisprudential change in the immediate aftermath of the emergency. The last and fifth period (1980-2008) is regarding the boom in activism. Judicial techniques

of interpretation, stare decisis, social contribution reached a new height. The danger of a crash cannot be ruled out but for the moment the barometer of activism is still rising.

5. 1. THE FIRST PERIOD (1950-1960)

The first period (1950-1960) of the judiciary in India led by the Supreme Court functioned with commendable prescience. It was a Nehruvian era of economic progress, political stability and nascent optimism in the country when the Supreme Court maintained a balance of power among the three wings of the State and slowly tried to expand its authority. The judiciary, especially the Supreme Court moved forward and backward, eventually drawing a line, combining the orthodox judicial function with policy making seeking to protect, in particular, the rights of the rural landowning class from legislation that threatened them.

The Supreme Court took a positivist stand in *Gopalan* case[1] and gave a very narrow and restrictive interpretation to the words 'personal liberty' under Article 21 of the Indian Constitution. The Supreme Court rejected the contention of the petitioner that the words 'personal liberty' include the freedom of movement and should satisfy the requirement of Article 19. The Supreme Court interpreted the 'law' under Article 21 as 'state made law' and rejected the plea that by the term 'law' in Article 21, natural law should be understood.

In response to the citizens' petitions, several High Courts and the Supreme Court interpreted the word 'compensation' in Article 31 in a

[1] *A.K.Gopalan* v. *State of Madras* AIR 1950 SC 27

classic manner to mean a fair equivalent value for the property taken.[2] They read Articles 19 (1) (a) and 19 (g) as protecting free expression (including freedom of the press) and the right to carry on trade or business.[3] When the Government intruded on these rights, the judiciary prevented them.

In order to level these situations, the Government brought in the Constitution (1st Amendment) Act in 1951 which was challenged in *Shankari Prasad* v. *Union of India.*[4] However, the Supreme Court upheld the Constitution (1st Amendment) Act, 1951 and held that a constitutional amendment will be valid even if it abridges or takes away any of the fundamental rights.

5. 2. THE SECOND PERIOD (1961-1970)

During the second period (1961-1970) the economic situation of India was depressing. The Third Five Year Plan had proved a dismal failure. Mr. Jawaharlal Nehru died on 27th May 1964 and was succeeded by Mr. Lal Bahadur Shastri. Mr. Lal Bahadur Shastri died at Tashkent, USSR on 11th January 1966 and was succeeded by Mrs. Indira Gandhi. The fourth General Elections were held in 1967 but the fourth Lok Sabha was dissolved in 1970. The political climate was vitiated by uncertainty and corruption. Political instability, economic decline, and lack of political morality were the challenges before the judiciary. The

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[2] Interpretation of the Supreme Court in *Chiranjit Lal Chowdhuri* v. *Union of India* AIR 1951 SC 41 is noteworthy

[3] *Romesh Thappar* v. *State of Madras* AIR 1950 SC 124; *Brij Bhusan* v. *State of Punjab* AIR 1950 SC 129

[4] AIR 1951 SC 455

government resorted to populist measures like nationalization of the banks and abolition of privy purses. This prompted the judiciary to take corrective measures in order to establish a just economic, political and moral order in the interest of the country.

In 1951, the Supreme Court had unanimously repelled the challenge to the First Amendment to the Constitution but on 30 October, 1964 a few months after the death of Mr. Jawaharlal Nehru, there was a dissenting opinion in *Sajjan Singh* case[5] by Justice Hidayatullah and Mudholkar who otherwise agreed with the majority in upholding the Seventeenth Amendment to the Constitution. Their observations laid the foundation of the basic structure doctrine which was later enunciated by the Supreme Court.

Faced with a situation where judgment after judgment rendered by it mainly in the area of land reforms was nullified by the Parliament by amending the Constitution, an eleven Judge Bench of the Supreme Court in *Golak Nath* v. *State of Punjab*[6] held that the Parliament had no power from the date of the decision to amend Part III (Fundamental Rights) of the Constitution so as to take away or abridge the fundamental rights. The doctrine of prospective overruling was applied to save the existing constitutional amendments[7] which put a check on the power of the Parliament to use Article 368 and amend the Constitution on its sweet will.

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[5] *Sajjan Singh* v. *State of Rajasthan* AIR 1965 SC 845

[6] AIR 1967 SC 1643. *Shankari Prasad* v. *Union of India* AIR 1951 SC 455 and *Sajjan Singh* v. *State of Rajasthan* AIR 1965 SC 845 overruled.

[7] The Constitution (1st Amendment) Act, 1951, The Constitution (4th Amendment) Act, 1955 and The Constitution (17th Amendment) Act, 1964.

The bank nationalisation law[8] was struck down by the Supreme Court in the *Bank Nationalisation* case[9] as it failed to provide to the expropriated bank compensation determined according to relevant principles. In the *Privy Purse* case, [10] the Supreme Court held the Presidential order withdrawing constitutional recognition to the erstwhile princely states was violative of the fundamental rights.

5. 3. THE THIRD PERIOD (1971-1976)

In 1971, the General Elections were held in India and Mrs. Indira Gandhi became the Prime Minister. The Constitution (24th Amendment) Act, 1971 was passed in order to remove the difficulties created by the decision in *Golak Nath.* The Constitution (25th Amendment) Act, 1971 and the Constitution (26th Amendment) Act, 1971 were passed to remove the problems generated as a result of the *Bank Nationalisation* case and the *Privy Purse* case respectively. The Constitution (29th Amendment) Act, 1972 was passed which inserted two Kerala Land Reforms Acts in the Ninth Schedule. These amendments were challenged in *Keshavananda Bharati* v. *State of Kerala*[11]. The hearing took place for sixty-nine days spread over five months before a thirteen Judge Bench of the Supreme Court. It was held by a majority of seven to six that the power of the Parliament to amend the Constitution was wide but the

[8] The Banking Compensation (Acquisition and Transfer of Undertaking) Act, 1969

[9] *R.C.Cooper* v. *Union of India* AIR 1970 SC 564

[10] *H.H.Maharajadhiraja Madhav Rao Jiwaji Rao Scindia Bahadur* v. *Union of India* AIR 1971 SC 530

[11] AIR 1973 SC 1461

power was not unlimited and does not include the power to destroy the basic structure or framework of the Constitution.

In the meantime Mrs. Indira Gandhi's election was set aside by the Allahabad High Court. On 24th June 1975, sitting as a Vacation Judge, Justice Krishna Iyer through an interim order directed that the Prime Minister (Mrs. Indira Gandhi) was not to function as a member of the Parliament but could exercise the powers and functions of the Prime Minister. On 26th June 1975, a National Emergency was declared. The Constitution (39th Amendment) Act, 1975 was passed in order to validate the election of Mrs. Indira Gandhi. Later, the Constitution (42th Amendment) Act, 1976 was also passed wherein drastic amendments in the Constitution were made.

In pursuance of the declaration of emergency, a large number of persons in the various states were detained and the detenus challenged their arrest in *Habeas Corpus* petitions before their respective High Courts which were held maintainable by the High Courts. However, on appeal, the Supreme Court in the *Habeas Corpus*[12] case held that that in view of the Presidential Order dated 27th June, 1975 no person had any *locus standi* to move any writ petition under Article 226 before a High Court for *habeas corpus* or any other writ or order or direction to challenge the legality of an order of detention on the ground that the order was not under or in compliance with the Act or was illegal, or was vitiated by *mala fides* factual or legal or was based on extraneous consideration. Justice Khanna gave a dissenting opinion and held that life and liberty are basic assumptions to the Rule of Law.

[12] *A.D.M.Jabalpur* v. *Shivakant Shukla* AIR 1976 SC 1207

5. 4. THE FOURTH PERIOD (1977-1979)

The Lok Sabha was dissolved on January, 1977 and the General Elections were held on March, 1977. The Janata Party came to power and Mr. Morarji Desai became the Prime Minister. The judiciary realised the mistakes done during the emergency and tried to revive the lost prestige and trust of the people.[13] The momentous judgment in the *Maneka Gandhi* case[14] was passed which widened the scope of the expression 'procedure established by law' to include a variety of rights which go to make up the personal liberty of a man other than those dealt within Article 19 of the Indian Constitution. The nail in the coffin was hammered in the *Minerva Mills* case[15] when the Supreme Court held that Article 368 did not enable the Parliament to alter the basic structure of the Constitution.

The Lok Sabha was dissolved on August 1979 and mid-term polls were declared. Mrs. Indira Gandhi assumed the office of the Prime Minister on 14th January, 1980.

5. 5. THE FIFTH PERIOD (1980-2008)

The start of the fifth period (1980-2008) saw the dynamism of the judiciary led by Justices namely Krishna Iyer, Bhagwati, Desai, Chinnapa

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[13] The post-emergency judicial activism was probably inspired by the realization of the judiciary that its elitist social image would not make it strong enough to withstand the future onslaught of a powerful political establishment.

[14] *Maneka Gandhi* v. *Union of India* AIR 1978 SC 597. *A.K.Gopalan* v. *State of Madras* AIR 1950 SC 27 overruled

[15] *Minerva Mills* v. *Union of India* AIR 1980 SC 1789

Reddy and Thakkar. The concept of Public Interest Litigation was born and it became the philosophy of a new judicial movement in India. Several benefits were conferred through Public Interest Litigation. The doctrine of *locus standi* was liberated from Anglo-Saxon fetters and a new strategy evolved for the benefit of the poor and lowly. The age-old precedents, procedures and technical rules were dumped by some judges in order to simplify the procedure of access to justice by the poor and the illiterate. Judicial activism in favour of the weaker class in fulfillment of the Directive Principles was promoted. Empathy with lowly individuals became constitutional culture. Law was sought to be interpreted keeping in view the word 'Socialist' in the Preamble of the Constitution and the Directive Principles echoed the familiar language of the philosophy of socialism. The second-generation rights such as economic and social rights developed due to this dynamic attitude of the judiciary.

The right to education received an impetus when the Supreme Court in *Mohini Jain* case[16] declared it to be concomitant to the fundamental right enshrined under Part III of the Constitution. Although the right to education was not included in Part III of the Constitution; but the pronouncement of the judiciary that the State is under a constitutional mandate to provide educational institutions at all levels for the benefit of the citizens made the legislature think about the right to education to be included in Part III of the Constitution. The approach of the Supreme Court in *Mohini Jain* case was accepted by the Supreme Court in *Unni Krishnan* case[17] wherein it was held that that the right to free education up to the age of 14 years is a fundamental right. The right to education as

[16] *Mohini Jain* v. *State of Karnataka* AIR 1992 SC 1858

[17] *Unni Krishnan, J.P.* v. *State of A.P.* AIR 1993 SC 2178

a fundamental right was further upheld and confirmed by the eleven judge constitutional bench of the Supreme Court, while deciding on minority rights in *T.M.A. Pai Foundation* case.[18] The dynamism of the judiciary of holding the right to education as a fundamental right has forced the legislature to insert 21-A by way of the Constitutional (86th Amendment) Act, 2002 wherein it is provided "The State shall provide free and compulsory education for all children of the age of 6 to 14 years in such manner as the State may, by law, determine". Article 45 has also been modified which lays down that "The State shall endeavor to provide early childhood care and education for all children until they complete the age of six years".

The judiciary has held that the minority rights in establishment and administration of educational institutions under Article 29 and 30 is not absolute. The dynamism of the judiciary has been seen in a series of judgments[19] where the judiciary while protecting the rights of the minorities has allowed education to reach all the classes of people. This is in tune with the concept of a plural society where all cultures and languages must be allowed to flourish. Furthermore, it is in conformity with the secular character of the country which is embodied in the Preamble of the Constitution. It is better if the duality (minority and majority) is permitted only in the area of religion and language and not to other areas.

The judiciary has taken the initiative of 'purifying' education by bringing it within the reach of every section of the society. The yardstick

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[18] *T.M.A. Pai Foundation* v. *State of Karnataka* (2002) 8 SCC 481

[19] *T.M.A.Pai Foundation* v. *State of Karnataka* (2002) 8 SCC 481; *Islamic Academy of Education* v. *State of Karnataka* (2003) 6 SCC 697; *P.A.Inamdar* v. *State of Maharashtra* (2005) 6 SCC 537

that merit alone can be the guiding factor in case of admission to any educational institution is the brainwork of the judiciary.[20] When merit is considered as the yardstick for admission, common entrance tests plays a vital part. This has also been highlighted by the judiciary in its various judgments.[21] The direction of setting up of a Committee in each State for fixing the fee structure in private educational institutions[22] has dealt a blow to the commercialisation of education in India. The charging of exorbitant fees by the private educational institutions in the name of capitation fees has also been checked[23] due to the dynamism of the judiciary. The net result is that the poor can now afford education which was once considered to be the exclusive domain of the rich.

The question of reservation of the backward classes in any educational institution has been a very knotty socio-political issue from the time of independence. The judiciary was quick to realize this and frame various norms and guidelines by providing for reservation to the socially and economically backward classes after excluding the creamy layer from it.[24] This has achieved a double objective by securing

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[20] *Unni Krishnan, J.P.* v. *State of A.P.* AIR 1993 SC 2178; *T.M.A.Pai Foundation* v. *State of Karnataka* (2002) 8 SCC 481; *Islamic Academy of Education* v. *State of Karnataka* (2003) 6 SCC 697

[21] *Priti Srivastava* v. *State of Madhya Pradesh* AIR 1999 SC 2894; *T.M.A.Pai Foundation* v. *State of Karnataka* (2002) 8 SCC 481; *Islamic Academy of Education* v. *State of Karnataka* (2003) 6 SCC 697; *P.A.Inamdar* v. *State of Maharashtra* (2005) 6 SCC 537

[22] *Islamic Academy of Education* v. *State of Karnataka* (2003) 6 SCC 697

[23] *Mohini Jain* v. *State of Karnataka* AIR 1992 SC 1858; *T.M.A.Pai Foundation* v. *State of Karnataka* (2002) 8 SCC 481; *P.A.Inamdar* v. *State of Maharashtra* (2005) 6 SCC 537

[24] *Indra Sawhney* v. *Union of India* AIR 1993 SC 477; *Ashok Kumar Thakur (8)* v. *Union of India* (2007) 4 SCC 361; *Ashok Kumar Thakur (8)* v. *Union of India* (2007)

reservation of seats to the needy and at the same time has excluded those who wanted to take the benefit of reservation without being eligible for it. At the same time, the judiciary has sounded a note of caution that in super speciality levels of admission there should not be any reservation.[25] The approach of the judiciary is most welcome as it is a very important step towards maintenance of a semblance of standard in education.

The peril of ragging in educational institutions has been a nightmare of the parents as well as the students. There is no Act to curb this menace and the judiciary tried to eradicate this by laying down guidelines and directions in *Vishwa Jagriti Mission* cases.[26] The Supreme Court also suggested forming of a Committee to look into the problems of ragging in educational institutions and to provide remedial measures thereof.[27] The Supreme Court has made it obligatory for academic institutions to file an official First Information Report (FIR) with the police in any instance of a complaint of ragging so that all cases of ragging are formally investigated under the criminal justice system, and not by the academic institutions' own ad-hoc bodies. [28] It is lamenting to state the Central Government has not yet come up with any Act to curb the menace of ragging and the directions and orders of the Supreme Court

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4 SCC 397; *Ashok Kumar Thakur* v. *Union of India*- Judgment dated 10th April 2008 reported in http://www.judis.nic.in visited on 23rd May 2008

[25] *Priti Srivastava* v. *State of Madhya Pradesh* AIR 1999 SC 2894; *A.I.I.M.S. Students Union* v. *A.I.I.M.S.* AIR 2001 SC 3262

[26] *Vishwa Jagriti Mission* v. *Central Government* (2001) 6 SCC 577; *Vishwa Jagriti Mission* v. *Central Government* (2001) 6 SCC 581

[27] *University of Kerala (2)* v. *Council, Principals' Colleges* (2006) 8 SCC 486

[28]Interim Order dated 16th May 2007 reported in http://en.wikipedia.org/wiki/ragging visited on 26th May, 2008

in *Vishwa Jagriti Mission* is the only solution to provide relief to the terror of ragging.

The introduction of Mid Day Meals at primary levels in the government schools is the outcome of the interim order of the Supreme Court.[29] This has increased the enrolment of poor students who come to the schools in order to have some food (as their parents cannot feed them and they have to go to work) and at the same time it enables them to have education which has now been declared to be a fundamental right till the age of 14 years. The judgment of the Supreme Court is laudable as it has served a dual purpose of reaching education to every section of the society as well as reducing child labour.

The 1980s saw a sea-change in the perception of the law of the environment. This was largely possible due to the initiation of Public Interest Litigation, the timely demise of the law of standing and expansive interpretation of Article 21 of the Constitution.[30] Another remarkable feature of this evolution was the shift from mere enforcement of the statutory provisions of the Air Act, Water Act, the Wildlife Protection Law, the Forest Protection Law and the Town Planning Law to founding restitutionary as well as injunctive relief on the basis of constitutional jurisprudence and weaving environmental law buzzwords such as sustainable development, precautionary principle, polluter pays principle, inter generational equity, public trust doctrine and absolute

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[29] http://en.wikipedia.org/wiki/Mid-day_Meal_Scheme visited on 23rd January 2008

[30] *L.K.Koolwal* v. *State of Rajasthan* AIR 1988 Raj 2; *Chhetriya Pardushan Mukti Sangharsh Samiti* v. *State of U.P.* AIR 1990 SC 2060; *Subhash Kumar* v. *State of Bihar* AIR 1991 SC 420 ; *V.Lakshmipathy* v. *State of Karnataka* AIR 1992 Kant 57; *Virender Gaur* v. *State of Haryana* (1995) 2 SCC 577; *Vellore Citizens Welfare Forum* v. *Union of India* AIR 1996 SC 2715; *T.N.Godavarman Thirumulpad* v. *Union of India* (2002) 10 SCC 606

liability into Article 21 of the Constitution. In environmental cases, the judiciary has had to balance the competing claims of environment and development.

The output of the entire judicial exercise from *Ratlam*[31] to the present day was that in nearly eighty percent of the cases the balance was titled in favour of environment. This should not be taken to mean that the judiciary retarded the development growth; rather it has caught and taught a lesson to eco-enemies. The judiciary mixed its vigilance with restraint to guarantee a disciple and orientation for administrative and legislative authorities in the battle for environment.

In the industrial mass disaster the judiciary came down heavily on the eco-killers and opened a new vista for a comprehensive mass-disaster enviro-jurisprudence. The judiciary exposed flaws in the laws, areas of legislative inaction; and also the inactive executive authorities. The judiciary, in order to effectively administer and attain environmental justice, on the one hand adopted important principles like the Indianized principles of absolute and strict liability,[32] sustainable development,[33]

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[31] *Municipal Council, Ratlam* v. *Vardichand* AIR 1980 SC 1662

[32] *M.C.Mehta* v. *Union of India* AIR 1987 SC 1086

[33] *Rural Litigation and Entitlement Kendra, Dehradun* v. *State of U.P.* AIR 1985 SC 652; *Indian Council for Enviro-Legal Action* v. *Union of India* AIR 1996 SC 1446; *Vellore Citizens Welfare Forum* v. *Union of India* AIR 1996 SC 2715; *K.M.Chinnapa* v. *Union of India* AIR 2003 SC 724; *Research Foundation for Science Technology National Resource Policy* v. *Union of India* (2005) 10 SCC 510; *Karnataka Industrial Areas Development Board* v. *C. Kenchappa* (2006) 6 SCC 371; *Intellectuals Forum* v. *State of A.P.* (2006) 3 SCC 549; *T.N.Godavarman Thirumulpad* v. *Union of India* (2008) 2 SCC 222

precautionary principle,[34] polluter pays principle,[35] inter generational equity,[36] public trust doctrine,[37] etc. and on the other hand suggested forums like environment court,[38] judicial environment information regime, court officers, green bench,[39] etc. The concept of environmental education in schools and colleges is also the outcome of the dynamic attitude of the judiciary.[40] Environmental offences, having very wide and deep ramifications, were provided with multi-treatment, including not only preventive, punitive and precautionary measures but also corrective,

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[34] *Vellore Citizens Welfare Forum* v. *Union of India* AIR 1996 SC 2715; *M.C.Mehta* v. *Union of India* AIR 1997 SC 734; *A.P.Pollution Control Board* v. *M.V.Nayadu* AIR 1999 SC 812; *M.C.Mehta* v. *Union of India* AIR 2004 SC 4016

[35] *M.C.Mehta* v. *Union of India* AIR 1987 SC 1086; *Indian Council for Enviro-Legal Action* v. *Union of India* AIR 1996 SC 1446; *Vellore Citizens Welfare Forum* v. *Union of India* AIR 1996 SC 2715; *M.C.Mehta* v. *Union of India* AIR 1997 SC 734; *S.Jagannath* v. *Union of India* AIR 1997 SC 811; *M.C.Mehta* v. *Kamalnath* (2002) 3 SCC 653;

[36] *Rural Litigation and Entitlement Kendra* v. *State of U.P.* AIR 1987 SC 359; *State of H.P.* v. *Ganesh Wood Products* (1995) 6 SCC 363; *S.Jagannath* v. *Union of India* AIR 1997 SC 811; *Consumer Education and Research Centre* v. *Union of India* AIR 1995 SC 922; *K.M.Chinnapa* v. *Union of India* AIR 2003 SC 724; *Intellectuals Forum* v. *State of A.P.* (2006) 3 SCC 549; *T.N.Godavarman Thirumulpad* v. *Union of India* (2008) 2 SCC 222

[37] *M.C.Mehta* v. *Kamalnath* (1997) 1 SCC 388; *M.I.Builders Pvt. Ltd.* v. *Radhey Shyam Sahu* AIR 1999 SC 2468; *K.M.Chinnapa* v. *Union of India* AIR 2003 SC 724; *Intellectuals Forum* v. *State of A.P.* (2006) 3 SCC 549

[38] *M.C. Mehta* v. *Union of India* AIR 1987 SC 965; *Indian Council for Enviro-legal Action* v. *Union of India* AIR 1996 SC 1446

[39] *Vellore Citizens Welfare Forum* v. *Union of India* AIR 1996 SC 2715

[40] *M.C. Mehta* v. *Union of India* AIR 1992 SC 382. As per the directions of the Supreme Court, the Bar Council decided to introduce 'Environmental Law' as a compulsory paper for legal education at the graduate level and requested the Registrars of all Universities imparting legal education, Deans of all Faculties of Law of all the Universities and the Principals of all the Law Colleges to comply with the same.

rehabilitative and reclamatory treatment. The judiciary has been a subject of admiration by courts around the world for its reception of international environmental norms such as the Declaration adopted by the United Nations Conference on the Human Environment at the Stockholm Conference in 1972 and 1984 United Nation Resolution; and its use of such norms as a tool for interpretation of constitutional provisions. Thus, in the field of administrative of enviro-justice, the judiciary has stood tallest not only before the other two organs of the State-the legislature and the executive-but also, before its other counter counterparts, age-old or young, in the developed and developing countries by laying down that protection and improvement of the environment is a mandate to every institution, public or private, and individual, to be followed in all spheres of their activities.

The meaning of democracy as enshrined in the Preamble of the Constitution can only survive if the elections are free and fair as it reflects the true popular will. The Supreme Court has laid down that democracy based on free and fair election is a basic feature of the Indian Constitution.[41] In furtherance of such, the judiciary has linked the right to vote under Article 326 with the fundamental right of speech and expression under Article 19(1)(a).[42] The right of a voter to know the antecedents of the election candidates was alien to the citizen of India. The Supreme Court by laying down this novel feature has introduced

[41] *Keshavananda Bharati* v. *State of Kerala* (1973) 4 SCC 225

[42] *Union of India* v. *Association for Democratic Reforms* (2002) 5 SCC 294. In order to invalidate the judgment, an amendment in 2002 was made in The Representation of the People Act, 1951 but the same was declared arbitrary and void in *People's Union for Civil Liberties* v. *Union of India* (2003) 4 SCC 399

reforms in the election process in India and has provided a new dynamism as well as a new protective dimension to this right.

The expression of the term of 'office of profit' under Article 102 has been given a very wide meaning by the judiciary.[43] This has been done to introduce fairness as well as remove the lurking suspicion of biasness in the minds of the general public. However, the legislature has diluted the spirit of the judgments by way of an amendment[44] so that the legislatures can enjoy the dual status without any hindrance. The judiciary has tried to bring fairness in the system by way of its dynamism but such has been retarded by the legislature.

The Supreme Court's decision in *Vishaka*[45] which was the first attempt to comprehensively deal with the rights of working women against sexual harassment in the workplace impresses upon the need to pass a comprehensive law to deal with the menace of sexual harassment. It was a nationally progressive judgment creating a law against sexual harassment at workplace.[46] Yet, in the last eleven years or so, no such legislation has been passed. Undoubtedly, the Supreme Court's decision in *Vishaka* is an excellent example of judicial law-making to fill the lacuna that existed in the law, but the same has not been availed of by the

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[43] *Shivamurthy Swami Inamdar* v. *Agadi Sanganna Andanappa* (1971) 3 SCC 870; *Satrucharla C. Raju* v. *Vyricheria P.K. Dev* (1992) 4 SCC 404; *Shibu Soren* v. *Dayanand Sahay* (2001) 7 SCC 425; *Jaya Bachchan* v. *Union of India* (2006) 5 SCC 266

[44] Amendment in 2006 to The Parliament (Prevention of Disqualification) Act, 1959

[45] *Vishaka* v. *State of Rajasthan* AIR 1997 SC 3011. Reiterated in *Apparel Export Promotion Council* v. *A.K. Chopra* AIR 1999 SC 625

[46] Upendra Baxi, *The Avatars of Indian Judicial Activism: Explorations in the Geographies of [In]Justice* in S.K. Verma and Kusum (ed.), *Fifty Years of the Supreme Court of India-Its Grasp and Reach,* p.165 (2nd Edition 2006)

legislature. Although, various attempts have been made to write a law on sexual harassment, the most important being the Sexual Harassment of Women at their Workplace (Prevention) Bill, 2003, drafted by the National Commission for Women but the same was of no success. The Bill provides for prevention of sexual harassment of women and women employees that is work-related or arises during the course of employment by anyone including their employers, superiors and colleagues. The idea of providing compensation to the victim of sexual harassment by the Supreme Court as done in *Delhi Domestic Working Women's Forum* v. *Union of India*,[47] *Bodhisattwa Gautam* v. *Subhra Chakraborty*[48] and *Chairman, Railway Board* v. *Chandrima Das*[49] is noteworthy. This approach of compensatory jurisprudence will provide some relief to the victims of the crime as well as deter the commission of violence against women.

The judgment of the Supreme Court in *Mohd. Ahmed Khan* v. *Shah Bano Begum*[50] seemed to be direct challenge to an old standing rule of interpretation of the Islamic Law (*Shariat*). The old rule had held the field for over a thousand years. This rule was evolved in the Abbasid period when the early Islamic Caliphate had yielded its republican form to a dynastic monarchy and empire. It was the boldness of the Supreme Court which introduced a change in the field of maintenance of a Muslim woman by denouncing the opposition of the conservatives. The legislature tried to neutralize the effect of the *Shah Bano* decision by

[47] (1995) 1 SCC 14

[48] (1996) 1 SCC 490

[49] (2000) 2 SCC 465

[50] AIR 1985 SC 945

passing the Muslim Women (Protection of Rights on Divorce) Act, 1986 but this did not deter the judiciary. The judiciary interpreted the Muslim Women's Act of 1986 to best suit the needs of the present day society and ameliorate the conditions of the Muslim women.[51] The rousing of the conscience of the general public to the plight of divorced Muslim women may take some more time to achieve its full objective but the initiative of the judiciary is salutary.

Prostitution is the worst form of exploitation of women and as an institution it speaks of man's tolerance of this exploitation on an organized level in the society. There were various legislations[52] in force but the same were not strictly interpreted or adhered to achieve their objectives. The judgments of the Supreme Court in *Vishal Jeet*[53] and *Gaurav Jain*[54] of laying down norms and regulations have gone a far way to uplift the conditions relating to the prostitutes and their children as well as providing rehabilitation to them. The Supreme Court noted that it was a matter of great importance and warranted 'a comprehensive and searching analysis requiring a humanistic rather than purely legalistic approach.'

The male dominated society placed the women into the watertight bearing compartment of motherhood making her look as a male-child

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[51] *Arab Ahemadhia Abdulla* v. *Arab Bail Mohmuna Saiyadbhai* AIR 1988 Guj 141; *Danial Latifi* v. *Union of India* (2001) 7 SCC 740; *Sabra Shamim* v. *Maqsood Ansari* (2004) 9 SCC 616; *Iqbal Bano* v. *State of U.P.* (2007) 6 SCC 785

[52] The Immoral Traffic in Women and Girls Act, 1956 also known as SITA. The Act was amended in 1978 and later in 1986 and was titled as The Immoral Traffic (Prevention) Act or PITA

[53] *Vishal Jeet* v. *Union of India* (1990) 3 SCC 318

[54] *Gaurav Jain* v. *Union of India* AIR 1990 SC 292

producing machine. The increasing use of sex determining and sex pre-selection techniques has added a new weapon in the hands of husbands and in-laws whose craving craze for a male child is frustrated by forces of nature. The judiciary has come down heavily on such sex determination tests and tried to curb the evils of female foeticide by various judgments.[55] As a result of the dynamism of the judiciary the various Acts[56] in force which lay dormant were given a new direction.

There was no suitable legislation in the area of inter-country adoption of children. The judiciary was quick to react and lay down various norms and regulations in its judgments.[57] This initiative of the judiciary was supported by the Law Commission of India in its 153rd Report on Inter-Country Adoption[58] but the legislature has not yet reacted to the same by passing any suitable legislation dealing with inter-country adoptions. In the absence of such, the directions of the Supreme Court in this regard are the only path for dealing with inter-country adoption.

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[55] *Centre for Enquiry into Health and Allied Themes (CEHAT)* v. *Union of India* (2001) 5 SCC 577; *Centre for Enquiry into Health and Allied Themes (CEHAT)* v. *Union of India* (2003) 8 SCC 398

[56] The Indian Penal Code, 1860 and the Medical Termination of Pregnancy Act, 1971 was in existence. The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 which came into effect from 1st January 1996 was later renamed as the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act in 2003 by way of an amendment. This was due to the initiative of the judicial direction and orders.

[57] *Lakshmi Kant Pandey* cases from 1984 to 2001.

[58] The 10th Report of the 13th Law Commission. Justice K.N. Singh was the Chairman of the Commission which presented its report on 26th August, 1994. The matter was *suo motu* taken up for study. The Commission also drafted an Inter-Country Adoption Bill

The Child Labour (Prohibition and Regulation) Act, 1986[59] was in existence in order to deal with the abolition of child labour. However, the enforcing system was very weak and it could not achieve its desired objective. The judiciary had to interfere and supplement the law with additional directions and guidelines.[60] The dynamism of the judiciary has been hailed as noteworthy as it understood the pulse of the society by taking into account the socio-economic conditions of the family of the child labourers; and went for rehabilitation rather than abolition of child labour.

The decision of the Supreme Court in *Maneka Gandhi* v. *Union of India*[61] marks a watershed in the history of constitutional law and criminal justice system in India. By their creative interpretation, inspired by judicial activism, the judges gave a new dimension to Article 21 by holding that it confers a fundamental right on every person not to be deprived of his life or liberty except in accordance with the procedure prescribed by law and that the procedure should be 'reasonable, fair and just'.

In the early years of Public Interest Litigation, the judiciary focussed on the rights of prisoners and the conditions of prisons. The judiciary acted upon postcards, letters, articles in newspapers, press reports, and petitions from a wide cross-section of citizens including lawyers and journalists to open the doors of the courts to the millions of undertrials living in inhuman conditions in the country's prisons. First,

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[59] This repealed The Employment of Children Act, 1938

[60] *M.C.Mehta* v. *State of Tamil Nadu* (1992) 1 SCC 283; *M.C.Mehta* v. *State of Tamil Nadu* (1996) 6 SCC 756; *Bandhua Mukti Morcha* v. *Union of India* (1997) 10 SCC 549

[61] AIR 1978 SC 597

the Supreme Court would convert the facts brought before it into a petition under Article 32 of the Constitution of India. It would then issue directions to the state agency concerned to provide information, and if this was not forthcoming, it would appoint a commissioner to elicit the facts. Once convinced that the matter required its intervention, the Supreme Court would issue a mandamus to state agencies to carry out its directions within a specified time-frame. This would include release of persons unlawfully detained, ensuring the closure of their cases if found to be pending for a very long time, and even directing that the detenus be compensated and rehabilitated. The Supreme Court also took the opportunity to give directions to state agencies to minimise further violations of human rights.[62]

Speedy trial in criminal cases is considered an essential ingredient of the right to fair trial. The Supreme Court in *Hussainara Khatoon (I)* to *(VII)* cases[63] has held that speedy trial is a part of fundamental right to life and personal liberty under Article 21 of the Indian Constitution. The expanding horizon of Article 21 by the judiciary has paved the way for ensuring complete justice to all those accused languishing in jails for years without a fair trial.

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[62] Ashok H. Desai and S. Muralidhar, *Public Interest Litigation: Potential and Problems* in B. N. Kripal (ed.), *Supreme But Not Infallible-Essays in Honour of the Supreme Court of India*, p.168 (1st Edition 2000)

[63] *Hussainara Khatoon (I)* v. *Home Secretary, State of Bihar* (1980) 1 SCC 81; *Hussainara Khatoon (II)* v. *Home Secretary, State of Bihar* (1980) 1 SCC 91; *Hussainara Khatoon (III)* v. *Home Secretary, State of Bihar* (1980) 1 SCC 93; *Hussainara Khatoon (IV)* v. *Home Secretary, State of Bihar* (1980) 1 SCC 98; *Hussainara Khatoon (V)* v. *Home Secretary, State of Bihar* (1980) 1 SCC 108; *Hussainara Khatoon (VI)* v. *Home Secretary, State of Bihar* (1980) 1 SCC 115; *Hussainara Khatoon (VII)* v. *Home Secretary, State of Bihar* (1995) 5 SCC 326

Denial of free legal services to the poor accused persons or undertrial prisoners would vitiate the principles of 'reasonable, fair and just' procedure which is implied in the right to life and personal liberty under Article 21 of the Indian Constitution. The Supreme Court has in a series of decisions[64] extended its arm to the poor accused persons or undertrial prisoners and held that right to free legal services is an essential ingress of reasonable, fair and just procedure for a person accused of an offence and it must be held implicit in the guarantee of Article 21.

The judgments of the Supreme Court while dealing with the 'third-degree' methods adopted by the police[65] has dealt a blow to the primitive concept of the police authorities who feel that solitary confinement, putting bar fetters and handcuffing of accused persons and suspects and parading them on the roads on the way to court or jail will minimise the crime rate. The judiciary has also upheld the trust of the common people by taking a serious and prompt action against the wrongdoers and has controlled the unlawful activities of custodial violence[66] to a large extent by holding that police cannot be a law unto themselves expecting others to obey the law. The Supreme Court has added further dimension to the above initiative by laying down a number of requirements to be followed strictly in cases of arrest and detention.[67] The judiciary has also tried to

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[64] *M.H.Hoskot* v. *State of Maharashtra* AIR 1978 SC 1548; *Khatri (II)* v. *State of Bihar* AIR 1981 SC 928; *Sheela Barse* v. *State of Maharashtra* AIR 1983 SC 378

[65] *Sunil Batra* v. *Delhi Administration* AIR 1978 SC 1675; *Prem Shankar* v. *Delhi Administration* AIR 1980 SC 1535; *Kishore Singh Ravinder Dev* v. *State of Rajasthan* AIR 1981 SC 625; *Sunil Gupta* v. *State of M.P.* (1990) 3 SCC 119; *Citizens for Democracy* v. *State of Assam* (1995) 3 SCC 743

[66] *Joginder Kumar* v. *State of U.P.* AIR 1994 SC 1349; *Sheela Barse* v. *State of Maharashtra* AIR 1983 SC 378

[67] *D.K.Basu* v. *State of West Bengal* (1997) 1 SCC 416

provide some relief to the prisoners by compensating their labour in prison and recommending 'equitable' (not equal) wages for the work done during their term in jail.[68] The judiciary has also realised that the reform in the prison conditions and the prisoners cannot be achieved without the reformation of the police system. It has laid down exhaustive guidelines in order to separate the police from the executive interference and make it accountable to the people.[69] The above dynamism of the judiciary has tried to uplift the conditions of the persons behind bars without denuding their right to life and personal liberty.

The decision of the Supreme Court in *Bangalore Water Supply*[70] case has revamped the whole concept of the definition of 'industry' under the Industrial Disputes Act, 1947. The work which was to be done by the legislature in the changing circumstances has been done by the judiciary.

The existence of the Bonded Labour System (Abolition) Act. 1976 could not eradicate the system of bonded labour in India. The judicial dynamism gave an impetus to the Act by providing for abolition as well as rehabilitation of the bonded labourers[71] and reinforcing of the antagonists of judicial activism that judicial legislation is possible even within the parameters of the interpretative role theory. The judicial initiative provided a thrust for social action groups to work with more

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[68] *In the matter of: Prison Reforms Enhancement of Wages of Prisoners* AIR 1983 Ker 261; *Gurudev Singh* v. *State of H.P.* AIR 1992 HP 76; *State of Gujarat* v. *Hon'ble High Court of Gujarat* (1998) 7 SCC 392

[69] *Prakash Singh* v. *Union of India* (2006) 8 SCC 1

[70] *Bangalore Water Supply and Sewarage Board* v. *A. Rajappa* (1978) 2 SCC 213

[71] *Bandhua Mukti Morcha* v. *Union of India* AIR 1984 SC 802; *Neeraja Chaudhary* v. *State of M.P.* (1984) 3 SCC 243

vigour and commitment to expose the areas susceptible to bonded labour system.

The attitude of the judiciary towards strikes and bandhs (bundh) has provided some relief to the general public. The holding of the society at ransom by the government employees has been severely criticised by the Supreme Court.[72] The calling of bandhs by the political parties, organised bodies or associations which restricts the free movement of the citizen and his right to carry on his avocation has been deterred by the judiciary. This has provided some relief to the general public and the daily wage workers who are the worst sufferers in the bandhs and has provided balance and tried to harmonise the competing and conflicting claims of individual vis-à-vis, the society. However, the duty of implementation of the directions rests upon the legislature comprising of the political parties who themselves call for such bandhs.

The judgment of the Supreme Court in *Steel Authority of India Ltd.*[73] has denied the right of contract labour to be absorbed, on abolition of contract labour system. This has removed the conflict between the management and workers which would have stalled the progress of the country. Furthermore, it has introduced flexibility in the appointment of contract labour without any future liability and is in tune with the current demand of industrialisation and globalisation.

The judiciary has been vibrant enough to expand the horizons of Article 21 by incorporating within its ambit the right to health and

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[72] *T.K.Rangarajan* v. *State of Tamil and others* (2003) 6 SCC 581

[73] *Steel Authority of India Ltd.* v. *National Union Waterfronts Workers* (2001) 7 SCC 1

medical treatment.[74] This has ensured that the State is obliged to extend medical facilities to every section of the society. The recommendations and suggestions of the Supreme Court in providing for supply of uncontaminated blood in *Common Cause* case[75] is salutary in ensuring the proper working of the blood banks all throughout the country.

The judiciary has examined the issues relating to HIV/AIDS patients with a human rights lens by drawing a fine balance between the importance of maintaining confidentiality and that of disclosure which has given a new dimension to the fight against the misconceptions regarding HIV/AIDS. The judiciary has discussed about the rights of an AIDS patient[76] and now it is the duty of the legislature to frame separate legislations and enactments to protect the basic civil rights of AIDS patient.

The Constitution enjoins upon the State to 'secure for the citizens a uniform civil code throughout the territory of India.'[77] This provision had reference to the existence of personal laws for different communities that govern matters such as marriage, divorce, matrimonial remedies, inheritance and succession, and adoption. When the Constitution was made, many members of the Constituent Assembly were obsessed with the question of national integration. The partition of the country had created fears of further balkanization. Therefore, the debate on uniform civil code was dominated by concerns for national integration and secularism.

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[74] *Paramanand Katra* v. *Union of India* (1989) 4 SCC 286; *Paschim Banga Khet Mazdoor Samity* v. *State of W.B.* (1996) 4 SCC 37

[75] *Common Cause* v. *Union of India* (1996) 1 SCC 753

[76] *Mr. 'X'* v. *Hospital 'Z'* (1998) 8 SCC 296

[77] Article 44 of the Constitution of India.

In contrast to its interventions on affirmative action, the courts have attempted to steer clear of controversies over the uniform civil code. On occasions the judiciary has strongly advocated for a uniform civil code[78] and on some, it has even gone for a common civil code rather than a uniform civil code. [79] The direction of the Supreme Court in *Seema* v. *Ashwani Kumar*[80] to the State Governments and the Central Government to take steps for compulsory registration of marriages of all persons who are citizens of India belonging to various religions is seen by some fundamentalists as a step towards the introduction of a uniform civil code. However the observations of the Supreme Court is noteworthy-

> If the record of marriage is kept, to a large extent, the dispute concerning solemnization of marriages between two persons is avoided. As rightly contended by the National Commission, in most cases non-registration of marriages affects the women to a great measure. If the marriage is registered it also provides evidence of the marriage having taken place and would provide a rebuttable presumption of the marriage having taken place. Though, the registration itself cannot be a proof of valid marriage per se, and it would not be the determinative factor regarding validity of a marriage, yet it has a great evidentiary value in the matters of custody of children, right of children born from the

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[78] *Mohd. Ahmed Khan* v. *Shah Bano Begum* (1985) 2 SCC 556; *Jordan Diengdeh* v. *S.S.Chopra*(1985) 3 SCC 62; *Sarla Mudgal* v. *Union of India* (1995) 3 SCC 635

[79] *John Vallamattom* v. *Union of India* (2003) 6 SCC 611

[80] (2006) 2 SCC 578. See also *Seema* v. *Ashwani Kumar* (2008) 1 SCC 180 where three months time was given to comply with the directions of the judgment of *Seema* v. *Aswani Kumar* (2006) 2 SCC 578

wedlock of the two persons whose marriage is registered and the age of parties to the marriage.[81]

Uniformity of laws is not a condition precedent to national integration. Different laws may apply for different communities since every community wants to retain its identity. The aim should be to gradually reform these personal laws. Some changes have already been started in the Hindu, Parsi and the Christian law. The reforms in the Muslim personal law will have to wait until the political environment improves. It is vitiated by aggressive majoritarianism from within and embittered India-Pakistan relations from outside.[82] This process of reform can only be initiated by the legislature, keeping in mind the religious sentiments of the various religions as well as the goal of a secular India.[83] The judiciary has done what it could do in its limited sphere of action in this debatable and controversial area.

It is wrong to apprehend that the judiciary, especially the Supreme Court, is trying to function as a super-legislature or usurping jurisdiction in matters which squarely lies within the competence of the executive. The activist attitude of the judiciary has been performed to keep the executive as well as the legislature within the limits of the law. Only the judiciary can ascertain the legality of legislation and the exercise of this

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[81] *Ibid* at 582

[82] S.P.Sathe, *Judicial Activism in India*, p. 193 (2nd Edition 2003)

[83] In view of the recent developments, it would be advisable to create a social climate before introducing any legislation for amending any of the family laws of the Hindus, Muslims, Christians and Parsis in order to provide social justice to them. It would be better to reform Hindu law to stop its violation by Hindu men and to rid it of its present position of all round anti-woman attitude. Muslim law is to be reformed to stop the gross misuse of the rules relating to bigamy and *Talaq*. Christian and Parsi law is to be reformed so that they are at par with the other laws in the twenty-first century.

power should not be misconstrued as usurpation of powers of the executive or the legislature. Law cannot remain static; it is an effective and the most important weapon of the judiciary to bring in changes in the society according to its changing needs, if such is not done by the legislature. There is no fixed parameter of the functioning of the judiciary, the executive or the legislature. Inspite of the absence of such limits, the judiciary has in recent years imposed self-restraint upon itself.[84]

While remaining activist, the judges must maintain a fine balance between activism and excessivism. In other words, they must not take on issues, which though pressing, are outside the domain of the judiciary. They must be activists only within the confines of the judiciary. The tradition may be expanded but it should remain within the confines of the judiciary otherwise, the judges would forfeit their legitimacy and be accused of overstepping their limits and resorting to judicial populism. It must be remembered that judicial creativity even when it takes the form of judicial activism should not result in re-writing of the Constitution or any legislative enactments irrespective of the nature of the procedural jurisprudence resorted to by it.

Democracy cannot survive in a system in which civil rights and freedoms have no protection. The preservation of freedoms requires the elimination of concentration of power and the distribution of whatever

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[84] *National Textile Workers' Union* v. *P.R. Ramakrishnan* (1983) 1 SCC 228; *Madhu Kishwar* v. *State of Bihar* (1996) 5 SCC 125; *Tata Cellular* v. *Union of India* AIR 1996 SC 11*P.Ramachandra Rao* v. *State of Karnataka* AIR 2002 SC 1856; *Raghunath Rai Bareja* v. *Punjab National Bank* (2007) 2 SCC 230; *State of U.P.* v. *Jeet S. Bisht* (2007) 6 SCC 586; *Divisional Manager, Aravali Golf Club* v. *Chander Hass* (2008) 1 SCC 683; *Common Cause* v. *Union of India* Judgment dated 11th April 2008 reported in http://www.judis.nic.in visited on 7th June 2008

power has to be achieved as a part of a system of 'checks and balances.'[85] The notion of democracy is not merely a simple majoritarian idea. The democracy also implies participation; and it means tolerance and freedom. A judiciary reasonably independent from majoritarian whims can contribute much to democracy; and so can a judiciary-active, dynamic and creative enough to be able to assume both the preservation of a system of 'checks and balances' vis-à-vis the political branches and adequate controls vis-à-vis those other non-governmental or quasi-governmental centres of power which are so typical of our modern societies.

However, the judicial process cannot by itself bring about this social change and social welfare without the active support of the executive. Moreover, the people who are denied their civil liberties should also come forward to assert their right. Social welfare and relief institutions must help the people in exercise of their fight in the war to implement the rights denied to them. The social institutions should also put pressure upon the government to properly implement and mete out the rights as enshrined in the Constitution as well as forge new rights according to the changing circumstances. The legislature, comprising of the citizens of India, should also realise the need to adapt itself to the modern conditions of change. If they do not adapt themselves then the people of this country will show their grievance in the ballot box. If the politicians want to remain in power, they have to understand the pulse and the need of the society and act accordingly.

The judiciary has to find a golden mean between passivism, dynamism and excessivism. It cannot be forgotten that the judiciary has

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[85] *All India Judges' Association (II)* v. *Union of India* (1993) 4 SCC 288

the obligation to expand and interpret the law within the Constitutional framework so as to respond to the hopes and aspirations of the changing society. The Trinity-Legislature, Judiciary and Executive-is an accomplished phenomenon. Harmonious existence is a theory and the differences a reality. If the three organs work hand in hand, the dream of the freedom fighters and the founding fathers of a free, strong, united and developed India will be a reality in the true sense.