

# ABSTRACT

*Our Constitution has incorporated the provision of the judicial review into itself. To safeguard the liberty and rights of individuals, the judicial review is recognized as necessary and a basic requirement for construction up of a novel civilization, which is constructed on the perception of community and well-being morals. The powers of judicial review are vested significantly by means of the higher judiciary of states and the Supreme Court of India. The privileges of persons are sure fire in the transcription of the Constitution of India. This research paper analyses the role of Indian Judiciary in the establishment of an orderly and civilised society.*

*In the actions of a Welfare State, the constitutional mandates occupy predominant position even in administrative matters. It operates in public domain and in appropriate cases constitutes substantive and enforceable right. This work throws light upon the new legal order which has influenced the administrative process greatly. An attempt has been made researcher to analyse the role of judiciary in India in checking the growing abuse of administrative powers and in this process role of judiciary in United Kingdom in developing this doctrine has also been studied. It reflects how reasonable opportunity of being heard is given to the affected parties against administrative action, although it does not create any legal right as such.*

*Hence Parliament was invested with the power to amend the Constitution. Article 368 of the Constitution gives the impression that Parliament's amending powers are absolute and encompass all parts of the document. But the Supreme Court has acted as a brake to the legislative enthusiasm of Parliament ever since independence. With the intention of preserving the original ideals envisioned by the constitution-makers, the apex court pronounced that Parliament could not distort, damage or alter the basic features of the Constitution under the pretext of amending it. The phrase 'basic structure' itself cannot be found in the*

*Constitution. The Supreme Court recognised this concept for the first time in the historic Kesavananda Bharati case in 1973. Ever since the Supreme Court has been the interpreter of the Constitution and the arbiter of all amendments made by Parliament. This research paper analyse the emergence of the Basic Structure Concept and its impact on the power of judicial review.*

*Judicial activism is criticized on the ground that it is nothing but interference in the spheres of the executive and the legislature. However, it may be seen as a tool to fill the vacuum created due to the inability of the legislature and the executive. Thus, judicial activism may also be termed as a necessary evil” which is required when the legislature and the executive are unable to perform their functions properly. The scope of this research work is limited to a brief study of judicial and executive overreach in India and its merits and demerits in the present society. The object of this research paper is to analyse the development of the concept of ‘Judicial Activism’ in India in the light of development of Public Interest Litigations (PIL).*

*It is found on analyse that the expanded concept of locus standi in connection with PIL, by judicial interpretation from time to time, has expanded the jurisdictional limits of the courts exercising judicial review. It is found that there has be a substantial shift in the Judicial Interpretation in regard to the mandate laid in the Universal Declaration and the Court has substantiated the fact that “Law is an instrument of Social Change.” This research paper highlighted that with this shift, International Human Right Standards have been made available to the Indian Citizens as well.*

*This research paper analyses how the Supreme Court of India, through its activism and assertiveness, has emerged as arguably the most powerful court among democratic politics. Over the past four and a half decades, the Court dramatically expanded its role in the realm of rights and governance, asserting the power to invalidate constitutional amendments under the basic structure doctrine, govern in the areas of environmental policy, monitoring and investigating government corruption, and promoting electoral transparency and accountability. This paper illustrates how the broader shifts in the Court’s activism and assertiveness reflected a shift from the meta-regime of “social justice” to one of “liberal reform.*

*Ever-widening horizon of Article 21 is illustrated by the fact that the Apex Court in India, has read into it, inter alia, the right to health, livelihood, free and compulsory education up to the age of 14 years, unpolluted environment, shelter, clean drinking water, privacy, legal aid, speedy trial, and various rights of under-trials, convicts and prisoners. It is important to note that in a majority of cases the judiciary relied upon directive principles of state policy for such extension. The judiciary has also invoked Article 21 to give directions to government on matters affecting lives of general public, or to invalidate state actions, or to grant compensation for violation of fundamental rights.*

*The judicial inclusion of socio-economic objectives as fundamental rights has been criticized as an unviable textual exercise, which may have no bearing on ground-level conditions though the unenforceability and inability of state agencies to protect such aspirational rights could have an adverse effect on public perceptions about the efficacy and legitimacy of the judiciary. Also, a question arises whether poor enforcement is a sufficient reason to abandon the pursuit of rights whose fulfillment enhances social and economic welfare. At this point, one can recount Roscoe Pound's thesis on law as an agent of social change. This research paper analyses how the express inclusion of legal rights is an effective strategy to counter-act social problems in the long-run. At the level of constitutional protection, such rights have an inherent symbolic value which goes beyond empirical considerations about their actual enforcement.*