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Judicial Activism under Article 21 from Innovation to Overreach in India

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This paper critically examines the expanding role of judicial review in India, with particular emphasis on the Supreme Court's evolving engagement with governance through Public Interest Litigation (PIL) and the expansive interpretation of Article 21 of the Constitution. It traces the judiciary's transition from a traditionally restrained institution to a more proactive constitutional actor, highlighting its increasing involvement in addressing structural deficiencies arising from legislative inaction, executive non-compliance, and governance failures. The study analyses how judicial intervention has been justified through a rights-based framework centred on the protection of life, liberty, dignity, and constitutional accountability. It further explores landmark decisions that have broadened the scope of fundamental rights and enhanced access to justice for marginalised groups. At the same time, the paper critically evaluates the constitutional and institutional implications of judicial activism, including concerns regarding judicial overreach, democratic legitimacy, federal balance, and the separation of powers. It argues that while judicial review remains an essential safeguard of constitutional governance, its exercise must be balanced against the functional autonomy of other branches of government.

Keywords: *judicial review, judicial activism, article 21, public interest litigation, counter-majoritarian difficulty.*

INTRODUCTION

We are aware of the fact that we cannot do a narrow interpretation of Article 21 of the Indian Constitution. Many rights are inculcated within the ambit of Article 21, such as the right to life, right to live with human dignity, right to health and medical care, right to clean environment and water, right to shelter, right to education, right to fair trial and legal aid, the right to privacy, etc. Hence, we can understand the analogy through which this section was enacted in the Constitution of India. It states that-

Article 21: 'No person shall be deprived of his life or personal liberty except according to procedure established by law.' Hence the phrase here 'life' make it accessible to the all the aspects that are there in a person's life and the word 'personal liberty' demolish all the grounds that can adversely affect the person from achieving that state of freedom which now not only considered as to that of the physical state of being free but also inculcate in itself the freedom from the arbitrary arrest and detention, right to travel anywhere in India and abroad, freedom to choose the one's profession or livelihood, freedom to choose partner, reproductive freedom, etc.

JUDICIAL ACTIVISM VS JUDICIAL OVERREACH: CONCEPTUAL DISTINCTION

Judicial Activism: This approach can be considered as a positive approach, as in accordance with this ideology, the Supreme Court tries to be flexible by not strictly adhering to the precedents given by the Supreme Court previously in similar matters. A phenomenal example of when the Supreme Court applied this 'Judicial Activism' approach was in the case of *Maneka Gandhi v Union of India*.¹ Precedent to this case, *AK Gopalan v State of Madras*, it was established that the term 'personal liberty' has a 'procedure established by law' approach and not the 'due process'. This precedent led to an arbitrary interpretation of the 'personal liberty' through which it is stated that if a person is physically restrained unlawfully, then only there is a violation of 21, but if a law made by the legislature allows the government authority to detain anyone, then such detention will be considered valid even if the law seems unfair. The ideology of the Supreme Court was highly criticised by Justice Fazal Ali in the case of *AK Gopalan*, but later in the *Maneka Gandhi v Union of India*, his opinion turned out to be a landmark change in Article 21 of the Constitution. Hence, it

¹ *Maneka Gandhi v Union of India* (1978) 1 SCC 248

must be understood that sometimes even a better interpretation of the law can be overruled due to the majority opinion. Moreover, judges often play a crucial role in delivering such phenomenal interpretations that completely transform the way the law is perceived and applied. A more comprehensive constitutional theory about the legitimacy of judicial power in a democratic democracy must be used to assess judicial activism under Article 21. Alexander Bickel's concept of the counter-majoritarian difficulty, which emphasises the inherent conflict between the principle of democratic self-governance exercised through elected legislatures and executives and judicial review exercised by unelected judges, is a key concern in this regard. Although judicial review is permitted by the Constitution, judicial restraint and adherence to institutional constraints are necessary for its legitimacy. Bickel warned that when courts push beyond constitutional interpretation into long-term policy-making or administrative control, they jeopardise democratic credibility. This theoretical issue is especially pertinent to the Indian experience under Article 21, as the Supreme Court's broad interpretations have made it seem less like an impartial constitutional judge and more like an active participant in governance. Nonetheless, John Hart Ely's representation-reinforcement theory,² which contends that courts are most legitimate when they step in to rectify democratic failures, especially when marginalised or structurally excluded groups are unable to obtain protection through majoritarian political processes, can be used to justify some aspects of Indian judicial activism. This justification structure is closely aligned with the Supreme Court's early interventions under Article 21, particularly in situations involving inmates, detainees awaiting trial, the urban poor and environmental degradation.

Judicial Approach: It is also true that not every matter needs to have an innovative interpretation. This approach nonetheless follows the same path as that of judicial activism, but it somehow surpasses the extent to which such an interpretation was acceptable. Although there is no such limit that tells us that after crossing it, the judicial overreach will be done, it has to be understood through the principle of 'separation of powers.' This separation of powers states that each branch of the government of a country is given different responsibilities, such as those of the legislative, executive and judiciary; each of them have their own specific roles and powers. The legislature makes laws, the executive implement it,

² Anita S Krishnakumar, 'Representation Reinforcement: A Legislative Solution to a Legislative Process Problem' (2009) 46 Harvard Journal on Legislation
 <https://scholarship.law.stjohns.edu/faculty_publications/64/> accessed 11 April 2026

and the judiciary interprets. Even after such a distinction is made, the judiciary sometimes has acted out of its authority and inferred too much in the functioning of the other two. When this kind of situation it is referred to as judicial overreach. We can see the present example as that of the stray dogs, Supreme Court on August 11, 2025 has made the order to remove and house all the stray dogs, after that they should be vaccinated, sterilized and then they have to be returned to their original localities unless they are rabid or behaving aggressively. There was a huge protest against this decision made by the Supreme Court, as it was highlighted firstly that the power to make these kinds of decisions was under the power of the state government. Secondly, the Supreme Court should have respected the authority given to the municipal and local government as these institutions are also made to address such kind of issues in society. Lastly and most importantly, the court is allowed for intervention only and only if the issue is somehow related to the constitutional law or if the fundamental rights are being violated, but for the present issue, there was no need for judicial intervention; rather, a policy could have worked easily. Hence, in this case, there was overactivity that had been performed by the judiciary.

HISTORICAL DEVELOPMENT OF JUDICIAL REVIEW

Judicial Review is a process where the judiciary has the power to examine the actions of the government, legislature or any public authority to ensure that they are within the law. It also denotes the action taken by the superior court regarding any decree or sentence made by a lower court.³ When we talk about the concept of judicial review, it is important to understand that this concept is not something which has recently been introduced; it has always been present since the democratic states came into existence. Since the time of the Historical world, whenever any kind of decision was made regarding the public at large by a ruling emperor, a committee was always there which used to review the decision taken in order to provide an analysis of whether such a decision was justified or not. There is a whole sequenced system that is the legislature will be engaged in making the law, the executive will be engaged in executing the law made by the legislature on the ground level, and the judiciary will be engaged in interpreting the law and settling disputes under the law. This system is especially known as 'Separation of Powers'. Apart from this, the judiciary also has the power

³ R Shunmugasundaram, 'Judicial activism and overreach in India' (2007) 72 *Amicus Curiae* 22 <https://sas-space.sas.ac.uk/1719/1/Amicus_Curiae_2007_Issue_72_22-28.pdf> accessed 11 April 2026

to check whether a law made by the legislature is in accordance with justice or not. The Supreme Court itself held in the case of *P Ramachandran Rao v State of Karnataka*,⁴ that they don't see themselves as a power above all powers and also that they don't intend to act like a dictator or an authority that controls the government.

EMPOWERED BY THE LAW

The power of judicial review is provided in the Constitution of India under Article 32 and Article 226; the former one gives authority to the Supreme Court, while the latter one gives it to the High Court. Now, let's have a look at how they have actually turned out to be a medium in providing justice to the people. In cases like -

Maneka v Union of India: In this case, the restriction on the judiciary was lifted, and a holistic review of the legislative laws was recognised as falling within the judiciary's responsibility. That is, they can conduct judicial review on any of the laws that are coming to understand their constitutional validity.

Keshvananda Bharti v State of Kerala: This case established that the judicial review as mentioned under Article 13 of the Constitution will be coming under the ambit of the basic structure doctrine of the Constitution, and that structure cannot be changed.

Hence, the above-mentioned cases are not ordinary but have actively involved the fact of judicial review made by the Supreme Court and have turned out to be providing a very crucial and innovative aspect of the rights given under the Constitution of India. Hence, this is referred to as 'Judicial Activism'. The Supreme Court's judgment in *Maneka Gandhi* provided the philosophical foundation for a revolutionary expansion of Article 21. It was said that no longer confined to a mere physical existence, the terms 'life' and 'personal liberty' were interpreted to encompass those facets that make life meaningful, dignified, and worthwhile as we have discussed earlier.

THE VOICE OF ARTICLE 21: JUDICIAL ACTIVISM EVOLVED

After that many judgment came under which the supreme court has followed the method of only looking up to the literal interpretation of the test mentioned by the legislation in the law

⁴ *P Ramachandran Rao v State of Karnataka* (2002) 4 SCC 578

and a very significant example of this act was seen in the case of *AK Gopalan v State of Madras* where the Supreme Court interpreted the phrases 'personal liberty' was article 21 of the constitution of India as, if the person is not chained then it will be considered that the fundamental right under article 21 is not violated. Then, the judgment of *Maneka Gandhi v Union of India* came, which acted as the breaking point for the proper functioning of the fundamental rights given in the Constitution of India, which was completely different from what was held in the *A.K. Gopalan* matter. *Maneka Gandhi v Union of India*⁵ provides us with a concept of the golden triangle, which is considered to include the most important fundamental rights of the people, that is, right to equality (Article 14), right to Freedom of Speech and Expression (Article 19), right to life and personal liberty (Article 21). Discussing with respect to article 21, it was said that the procedure that will be followed in article 21 against an individual cannot be unfair, oppressive or unreasonable, and the procedure needs to follow the principles of natural justice. Hence, we see the whole difference in the pattern of thinking of the Supreme Court in the former and the latter case, which represents the doctrine of judicial activism, is thoroughly and efficiently applied. Let's have a comprehensive look at how the elucidation of Article 21 changed with the help of different cases.

When Liberty was reduced to Chains: We see in the *A.K. Gopalan v State of Madras*⁶ case the implementation of 'procedure established by law' under Article 21, which indicates that any procedure enacted by the legislature, even if such a procedure is either unreasonable or arbitrary. Till this time period in India, articles 14, 19 and 21 were considered as operating in isolation and not related to each other, and violation of one of them will not affect the other rights in any manner.

Privacy was a Stranger: This narrow-minded thinking and not considering the interdependence of rights on each other made it really hard for the legal structure to actually understand that whatever action is done, whether it is actually under the ambit of law or not. This narrowed approach was seen in the context of 'privacy'. The term privacy has now evolved to the extent that people are deterring from the devices or technologies that do not grant them the basic function of privacy, which is also considered a part of human rights.

⁵ *Maneka Gandhi v Union of India* (1978) 1 SCC 248

⁶ *A K Gopalan v State of Madras* AIR 1950 SC 27

When considering the earlier aspect regarding privacy in the Indian jurisprudence, we see that it was totally out of scope for people to actually consider the fact that they actually deserve to get privacy. In the case of *M.P. Sharma v Satish Chandra*⁷ (1954), the court observed that the Constitution of India do not regard the importance of protection against unreasonable searches and seizures. It was said that since the Indian Constitution does not contain provisions similar to the Fourth Amendment of the United States Constitution, such protection cannot be considered inherent to the people. In view of this, it decided that a right to privacy could not be used to contest the government's authority to carry out search and seizure activities. Therefore, the Court declined to broaden the definition of personal liberty and instead chose to defer to the State's authority when the chance to recognise privacy as a personal liberty interest under Article 21 presented itself. The early stage of judicial restraint, in which Article 21 was viewed literally rather than as a source of broader substantive rights, was further supported by this ruling.⁸

The First Spark of Dignity: Then, later, the Supreme Court maintained a relatively limited approach to Article 21 in *Kharak Singh v State of Uttar Pradesh*,⁹ although it deviated slightly from the strictness of previous rulings. The Court determined that even while the Constitution does not specifically guarantee a right to privacy, Article 21's definition of 'personal liberty' is broad enough to encompass a range of rights not protected by Article 19(1). It also made it clear that Article 21's definition of 'life' encompasses more than just animal existence and calls for the preservation of one's physical integrity and dignity. Using this logic, the Court declared that the UP Police Regulation's provisions permitting unauthorised nighttime domiciliary visits were unconstitutional invasions of personal freedom. Simultaneously, the Court maintained the legality of the clause allowing police to monitor and shadow history-sheeters, or we can say record-keepers, citing the fact that such actions did not directly infringe upon the protected area of individual liberty. The judges Subba Rao and J.C. Shah filed a forceful dissent, arguing that Article 21 protects people from both direct and indirect intrusions. They claimed that the entire regulation framework violated both the freedoms of travel and expression as well as personal liberty under Article

⁷ *M P Sharma and Ors v Satish Chandra, District Magistrate, Delhi and Ors* AIR 1954 SC 300

⁸ 'The right to life and personal liberty under Article 21: A timeline' (Supreme Court *Observer*, 26 June 2025) <<https://www.scobserver.in/journal/the-right-to-life-and-personal-liberty-under-article-21-a-timeline/>> accessed 11 April 2026

⁹ *Kharak Singh v State of Uttar Pradesh and Ors* AIR 1963 SC 1295

21 since it amounted to an ongoing psychological restriction. They concluded that the entire regulation was illegal and ought to have been declared void.

Liberty under Bars: Then, later, the case of *State of Maharashtra v Prabhakar Pandurang*¹⁰ stands out as the first case where the Supreme Court gave a substantial meaning of the 'personal liberty' under Article 21. The court laid down the conditions of detention mentioned in the Bombay Conditions of Detention Order, 1951 determine the lawful extent to which a detainee's liberty may be restricted. These conditions cannot be treated as mere concessions granted by the state at its discretion. The government's refusal to permit publication was determined to be an unreasonable restriction on the personal liberty guaranteed by Article 21, since the Order did not forbid a detainee from authoring or publishing a book. The Court further noted that when a detention violates the very legislation that authorises it, the declaration of an emergency does not halt judicial review.

Article 359 restricts the enforcement of fundamental rights during an emergency, but it does not shield the State from criticism when its actions violate the laws governing incarceration. As a result, the Court determined that the State's refusal to allow publication violated the detainee's personal liberty and went beyond the parameters of lawful confinement. This ruling establishes the foundation for subsequent judicial activism by reflecting the judiciary's slow transition from a limited interpretation of Article 21 to a more rights-oriented and interventionist approach. The approach held in the following case was said to be a deliberate departure from the *A.K. Gopalan v State of Madras*, indicating a judiciary willingness to reinterpret Article 21 not only as a procedural requirement but rather it should be as a substantive safeguard of individual freedom. Then later, the case of *R.C. Cooper v Union of India*,¹¹ which made it crystal clear that the word personal liberty mentioned is not something which can be seen with a narrow lens, but it will inculcate Article 21 and also the other 6 fundamental rights given under Article 19(1).¹²

When the Constitution Fell Silent: The Supreme Court's ruling in *ADM Jabalpur v Shivkant Shukla* (1976)¹³ marked the lowest point in Article 21's trajectory during the Emergency. The Court ruled by a 4:1 majority that, even in situations of unlawful incarceration, no one may

¹⁰ *State of Maharashtra v Prabhakar Pandurang Sangzgiri and Anr* AIR 1966 SC 424

¹¹ *Rustom Cavasjee Cooper v Union of India* AIR 1970 SC 564

¹² Constitution of India 1950, art 21

¹³ *Additional District Magistrate, Jabalpur v Shivkant Shukla Etc* AIR 1976 SC 1207

petition the courts to vindicate their right to life or personal liberty under Article 21 after an Emergency declaration under Article 359 is in effect. The majority argued that individual liberty may lawfully be subjugated to the state's interests during extraordinary national crises and that fundamental rights are not unqualified. Essentially, rather than seeing human liberty as an unalienable fundamental promise, the majority saw it as a conditional privilege that may vanish at the discretion of the State. ADM Jabalpur represents the antithesis of judicial activism during the Court's renunciation of its constitutional obligation to protect individual liberty when seen in the broader perspective of Article 21. Later extensions of Article 21 were often justified in the name of reinstating the judiciary's obligation to protect individual rights against excessive state power because the ruling serves as a sobering reminder of how the judiciary's interpretive decisions can either strengthen or weaken fundamental liberties.

The Rebirth of Article 21: The decision in *Maneka Gandhi v Union of India* was a constitutional turning point in the interpretation of Article 21. The Court deviated from the narrow interpretation of *A.K. Gopalan* and determined that 'procedure established by law' cannot be equated with any legislative technique. Rather, if someone is to be deprived of their life or personal freedom, the process must be logical, fair, and just. As a result, the Court rejected the earlier idea that Article 21 operates independently and maintained an integrated approach, stating that any regulation restricting personal freedom must simultaneously satisfy the standards of justice under Article 14 and logic under Article 19.

Using this method, the Court recognised that the right to travel abroad is a fundamental component of individual liberty and cannot be curtailed unless a rule conforms with constitutional rights. Crucially, the decision construed Article 21 not as a purely negative restriction on the State but as a reflection of the broad and fundamental idea of individual liberty that the Constitution protects. With this change in interpretation, the Court turned Article 21 from a procedural protection into a rich source of fundamental rights, setting the standard for further judicial actions that aimed to uphold human dignity outside the bounds of the Constitution. Immediately following *Maneka Gandhi*, the Supreme Court expanded Article 21 in a way never seen before, making it a dynamic storehouse of substantive rights.

Voices Rising from Prison Walls: According to the Court's ruling in *Sunil Batra v Delhi Administration*,¹⁴ a conviction does not strip a person of his constitutional rights; even inmates are entitled to life and personal freedom, which cannot be restricted until a fair and legal process is followed. In *Hussainara Khatoon v State of Bihar*,¹⁵ the Court swiftly expanded this basis by ordering the release of under-trial inmates and ruling that pre-trial imprisonment that exceeds the maximum punishment permitted violates Article 21. The right to a prompt trial and the right to free legal aid were also made constitutional by the ruling. The court was facing a lot of PIL from the prisoners, as it was normalised for the people to be imprisoned even before they were convicted of their crime.

Hence, the judicial review in this case was considered activism, as per the Britannica encyclopedia. The judicial activism approach is where a judge is inclined towards discussing the constitutional issues to invalidate legislative or executive actions.¹⁶ In the present situation, the phrase 'executive authority' primarily refers to the police authorities in charge of carrying out the inquiry and the prison administration in charge of the detainee's custody. Since these executive agencies are collectively tasked with upholding the State's coercive powers, their decisions regarding the arrest, custody, and treatment of the accused directly affect the Article 21 protections of personal liberty. In the context of *Francis Coralie Mullin v Administrator, Union Territory of Delhi*,¹⁷ the Court made clear that Article 21 protects a broad range of liberties essential to dignity and that preventive detention must adhere to both Article 22 and the substantive and procedural safeguards of Article 21. This decision marked a significant turning point in this trajectory. *Olga Tellis v Bombay Municipal Corporation*,¹⁸ which found that the right to livelihood is an essential component of the right to life and that deprivation of livelihood cannot be justified through procedural formalism, was informed by the same normative reasoning.

ROLE OF PUBLIC INTEREST LITIGATION (PIL) IN FUELING JUDICIAL ACTIVISM

Public Interest Litigation: The term PIL is used in both sense whether it is narrow and broader perspectives than may be familiar. Whenever we talk about narrower, we refer to the efforts

¹⁴ *Sunil Batra Etc v Delhi Administration and Ors Etc* AIR 1978 SC 1675

¹⁵ *Hussainara Khatoon and Ors v Home Secretary, State of Bihar, Patna* (1980) 1 SCC 98

¹⁶ Kermit Roosevelt, 'judicial activism' (*Britannica*, 30 April 2010)

<<https://www.britannica.com/topic/judicial-activism>> accessed 11 April 2026

¹⁷ *Francis Coralie Mullin v The Administrator, Union Territory of Delhi and Ors* AIR 1981 SC 746

¹⁸ *Olga Tellis and Ors v Bombay Municipal Corporation and Ors Etc* AIR 1986 SC 180

that are primarily based on improving the welfare of the less-advantaged members of society. Whereas the broader refers to no restriction to the advocacy of generalised interests such as the environment and other regulatory matters.¹⁹

In India, Public Interest Litigation filing is done basically by two methods:

- If the legal right is violated, then an individual can go to the High Court under Article 226.
- If the fundamental rights are violated, then a person can file Public Interest Litigation (PIL) under Article 32 and can access the Supreme Court for the same.

The system was made to make it easy for poor, disadvantaged or voiceless people to bring their problems to court. When we have to understand the analogy of actually understanding the importance of PIL, we have to consider that a PIL case can be filed by any person, even an organisation or group. Following Cassels's analysis, unlike in countries like the US, Public Interest Litigation (PIL) in India did not naturally emerge from grassroots social movements in India. Rather, it was an innovation produced by judges. By easing procedural restrictions, liberalising locus standi, and creatively interpreting Articles 21 and 32, the Supreme Court itself increased access to justice. These doctrinal changes were intentionally embraced as part of a larger activist stance rather than being reactionary. In this regard, it is better to think about PIL in India as a direct result of judicial activism as opposed to social mobilisation.

Even after that we cannot answer the question that whether having the facility of PIL to handle the complex issues was actually helpful or not, this is because to decide a PIL case properly and by following the justice principles the courts need good data, significant understanding regarding the ideology with which the courts make their decisions upon the public policies of the legislature and also their ability to have a balance approach²⁰ in case of conflicting interest.

Second, we need to know whether the PIL orders are interfering with the government's work. Courts need to be aware of such questions because, firstly, they are going beyond their discretion and not following the fundamental concept of the separation of powers, and

¹⁹ Jamie Cassels, 'Judicial Activism and Public Interest Litigation in India: Attempting the Impossible?' (1989) 37(3) American Journal of Comparative Law 495, 497 <<https://doi.org/10.2307/840090>> accessed 11 April 2026

²⁰ *Subramanian Swamy v Union of India, Ministry of Law and Ors* (2016) 7 SCC 221

secondly, if they interfere too much, which subsequently results in the disruption of the government plans, then such interference is nothing but insignificant and such interference can lead to ignorance of the important topics that need prompt attention.

Third, courts have to understand that all they have is the public trust, and if they fail in that, then it will lead to weakening of the court process in India. It was acknowledged by one of the judges that courts can survive only if people believe that courts are functioning with enough fairness and legitimacy.

Fourth, the PIL has genuinely helped in increasing the popularity of the courts, as a subsequent increase in the PIL regarding environmental issues like the Bhopal gas tragedy, the river linking project called the Interlinking of Rivers project, the Ganga pollution cases, etc. Having a look at the activism on the PILs on these environmental issues-

Ganga Pollution Case:²¹ The present M.C. Mehta Ganga Pollution case represented a turning point in the development of Article 21 and was one of the Court's most significant incursions into environmental regulation. The Supreme Court effectively remade itself as an environmental regulator of last resort by turning a PIL into an ongoing supervisory jurisdiction in response to decades of administrative lethargy and systemic regulatory failure. The Court forced the installation of effluent-treatment facilities, ordered the closure of non-compliant tanneries, and issued monitoring directives that lasted for several years, citing the right to life as comprising the right to a clean and pollution-free environment.

The ruling is sometimes referred to as a classic example of 'continuing mandamus', a legal development that permitted the Court to keep the case on its docket and conduct iterative oversight of executive agencies. The case is praised for reviving India's dormant environmental framework, but it also highlights the conflict between institutional constraints and judicial innovation. The Court's takeover of policy-making and enforcement duties, which have heretofore been the purview of the executive branch, has sparked ongoing discussions over whether these actions, despite their good intentions, indicate a shift away from essential constitutional innovation and toward possible excess.

²¹ *M C Mehta v Union of India and Ors* (1987) 4 SCC 463

Delhi Vehicular Pollution Case:²² One of the strongest interpretations of Article 21 in the environmental field is the Supreme Court's involvement in the Delhi Vehicular Pollution case. The Court filled a policy gap and took on the function of a de facto environmental regulator in an atmosphere where rising air pollution was accompanied by persistent governmental inaction. The Court issued a series of revolutionary instructions requiring Delhi's public transport fleet to switch from diesel to compressed natural gas (CNG), based on the growing jurisprudence of Article 21, which holds that the ability to breathe clean air is part of the right to life. These directives evolved through a complex system of ongoing mandamus that forced executive authorities to establish stringent emission rules through expert monitoring committees, set compliance deadlines, and have iterative hearings. They were not only one-time court orders. The case emphasises the greater dilemma of judicial activism in India from a constitutional perspective.

Despite administrative lethargy, the Court is prepared to create and carry out environmental policies. Although the CNG transition is often praised for significantly lowering some pollutants and altering Delhi's urban ecology, scholars are still debating whether such deep judicial engagement effectively replaces executive policymaking, marks a necessary constitutional innovation or veers into institutional overreach. As a result, the case continues to be a benchmark in debates concerning the boundaries of judicial authority under Article 21. In the above case, the Court's intervention was grounded in the protection of the fundamental right to life under Article 21, which inherently includes the right to breathe clean and healthy air. When this basic entitlement is compromised, constitutional violations necessarily arise. Viewed strictly through a legal-doctrinal lens, the Court's actions may appear to verge on judicial overreach; however, through the lens of justice, the decision reflects judicial activism prompted by extraordinary circumstances, such as Delhi's severely high AQI levels. Yet, even if the intervention was substantively justified, deviation from established doctrines cannot be lightly condoned. Failure to deter such departures risks enabling future judicial actions that may become increasingly expansive or arbitrary.

Guidelines on Stray Dogs: In August 2025, the Supreme Court, while taking into consideration the relative increase in the cases of dog attacks, which had a high chance of increasing the rabies cases in India. The Supreme Court took a very holistic perspective, and

²² *M C Mehta v Union of India and Ors* (1998) 6 SCC 63

without delaying, they issued initial directives in the *Suo Moto Writ Petition (Civil) No. 5 of 2025*, focusing on creating shelters, sterilisation, and vaccination, and expanding beyond the Delhi-NCR region. After taking notice of a *Times of India* article titled 'Delhi Hounded by Strays, Kids Pay Price',²³ the Supreme Court of India launched *Suo Moto* proceedings²⁴ on July 28, 2025, marking a significant judicial intervention. The report, which detailed the death of six-year-old Chavi Sharma in Delhi's Pooth Kalan after contracting rabies from repeated stray dog bites, was deemed 'deeply disturbing and alarming' by the Bench of Justices Pardiwala and Mahadevan. Kaushiki Saha, a trainee journalist, wrote the piece, which further claimed persistent civic neglect in spite of numerous reports regarding violent dogs.

The Bench also mentioned the equally terrifying attack on four-year-old Abhishek Rai on July 23 in the Alipur neighbourhood of Delhi, noting that these kinds of instances have made parents more reluctant to let their kids play outside. The Court appointed Senior Advocate Gaurav Agarwal as an 'amicus curiae' after expressing serious concern about the reported 20,000 dog bite cases per year worldwide, including an estimated 2,000 instances per day in Delhi alone. As a result, the Court requested administrative directives from the Chief Justice. According to court documents, five applications for intervention were submitted between July 28 and August 11. On August 11, 2025, the Bench gave broad directives to remove stray dogs from Delhi and the National Capital Region as soon as possible, without considering the interveners. The August 11 Order mandated that authorities begin picking up stray dogs at the earliest, allowing for the creation of a specialist unit if necessary. Any opposition, whether from individuals or organisations, would result in strict actions, the Bench warned.

The Court further required the immediate installation of dog shelters or pounds capable of sheltering at least 5,000 canines, forcing authorities to report the creation of such infrastructure within eight weeks. These shelters have to have enough personnel to provide general care, immunisations, and sterilisation. Crucially, the Bench insisted on CCTV surveillance to guarantee compliance and outright forbade the release of detained pets back onto the streets. The Court questioned whether moral justifications could make up for the deaths caused by rabies and bites, and it also chastised animal-rights activists who opposed

²³ Amit Anand Choudhary, "Delhi hounded by stray dogs, kids pay the price': Key Observations by Supreme Court in landmark decision' *The Times of India* (12 August 2025)

<<https://timesofindia.indiatimes.com/city/delhi/delhi-hounded-by-stray-dogs-kids-pay-the-price-key-observations-by-supreme-court-in-landmark-decision/articleshow/123248010.cms>> accessed 11 April 2026

²⁴ *In Re: City Hounded By Strays, Kids Pay Price* 2025 INSC 977

relocation throughout the hearing. The Order sparked intense public condemnation, with critics claiming the Court had imposed measures of questionable viability, acted without consulting all relevant parties, and showed little consideration for the difficulties involved in managing stray dogs.²⁵

In response, on August 12, AOR Jasmine Damkewala of the NGO All Creatures Great and Small filed a motion to recall or amend the Order. Advocate Nanita Sharma brought up the issue before Chief Justice B.R. Gavai on August 13. She claimed that the Order ignored her pending Special Leave Petition against a Delhi High Court ruling on sterilisation duties and was in violation of Supreme Court precedent. The August 2025 directions conflicted with established Supreme Court precedent. In *Swati Chatterjee (2022)* and *Animal Welfare Board of India v People for Elimination of Stray Troubles and Ors. (2024)*,²⁶ the Court had underscored that the ABC Rules, 2023, prohibit indiscriminate killing or relocation of stray dogs and require sterilised dogs to be returned to their original territories, framing compassion as a constitutional value. On 13 August, it was noted that the Rules allow capture only of unsterilized dogs and forbid permanent removal. Advocate Sharma also highlighted her pending SLP on failures in sterilisation programmes. Recognising these inconsistencies, CJI Gavai referred the matter to a larger Bench for authoritative resolution.

So far, we have seen the whole case analysis from the bench and the public side. Even though his particular issuance order is categorised as a very irrelevant and a very cruel judicial overreach by the judiciary, there was a continuous rebellion against such a decision of the Supreme Court. But if we see this particular case from the lens of Article 21, we need to understand that it is the duty of the authorities of the state to provide a safe and healthy environment to the people who are residing in it, and in case there are certain cases where the people are prevented from living in such a manner, then requisite actions need to be taken in that aspect. The same was done by the Supreme Court, agreeing with the fact that the execution of the order was not at all in line and the lives of the animals were made to suffer,

²⁵ V Venkatesan, 'Stray Dog 'Menace': Making Sense of the Supreme Court's intervention' (*Supreme Court Observer*, 16 August 2025) <<https://www.scobserver.in/journal/stray-dogs-menace-making-sense-of-the-supreme-courts-intervention/>> accessed 11 April 2026

²⁶ 'STRAY DOG SUPREME COURT JUDGEMENT EXPLAINED: ANIMAL RIGHTS' (*NEXT IAS*, 11 August 2025) <<https://cdnstatic.nextias.com/newuploads/Nextias/2025/8/stray-dog-supreme-court-judgement-explained-1755496695022.pdf>> accessed 11 April 2026

but we cannot say that the order itself was not justified and was just an act of judicial overreach.

EXPANDING THE UMBRELLA OF 'LIFE' AND 'LIBERTY'

The most significant procedural breakthrough in this era was the advent of Public Interest Litigation. Spearheaded by judicial visionaries like Justice P.N. Bhagwati and Justice V.R. Krishna Iyer, the PIL marked a significant break from the conventional Anglo-Saxon locus standi theory. The Court evolved from a passive arbiter of disputes between specific parties to an active institution that offers social justice to the underprivileged and disenfranchised. The core innovation of PIL was the relaxing of the traditional locus standi rule. The Supreme Court permitted any group or individual with a strong sense of civic responsibility to file a petition on behalf of marginalised groups who were unable to access justice due to poverty or socioeconomic disadvantage.

In this way, the court is allowing everyone to receive justice, regardless of their financial situation. What matters most in this case is that the judicial review process was established only to safeguard the basic rights of those covered by Part III of the Indian Constitution. This change signalled the beginning of a new era of judicial activism, in which the courts ceased to be only arbiters of disputes and instead became defenders of communal rights. Through PILs, justice was democratised, reaching those previously excluded from legal access. It laid the foundation for the judiciary's expanded role in social justice and governance in India.

Having a philosophical ideology towards what life mean does, we need to crucially analyze the way different people live. By this I mean to indicate the societal discrimination based on certain factors, like some people don't have a roof over their head, hence, in this, they have the right to live life with adequate means needed for survival, similarly, like this as was described in the case of *M.C. Mehta v Kamal Nath*,²⁷ where the river water was getting affected, hence an order was made as everyone dependent on that river has the right to access to clean water. In this case, while upholding Article 21, the court applied the 'Public Trust Doctrine', which regarded it as the duty of the government to act as a trustee of the natural resources for the benefit of the public and not those of private enterprises.

²⁷ *M C Mehta v Kamal Nath and Ors* AIR ONLINE 1996 SC 711

Analysing the above doctrine application, we can say that the judiciary's act of giving directions to the government, i.e., the executive, was not under their adjudicating power, and also the judiciary's power is only to adjudicate the cases based on the laws that were made by the legislature and imposed by the executive. Their job was, is and will never be of becoming a law-establishing authority, as if that happened, then there would be no diversification in the organs, and it can potentially lead to the monopolistic rule by the judiciary. A significant reconsideration of Article 21 was made possible by the PIL mechanism, which was introduced in instances such as *Hussainara Khatoon v State of Bihar*.²⁸

The Court eliminated customary standing standards by permitting any public-minded person or organisation to file a lawsuit on behalf of underrepresented and voiceless groups. This made it possible for judges to directly address social inequality. More than just procedural, this institutional innovation served as a prerequisite for many hermeneutical discoveries that construed Article 21's stringent language to encompass new, uncompensated rights. The research that follows looks at how important PIL rulings functioned as tools of judicial activism, gradually broadening the scope of Article 21 while also sparking ongoing discussions about the proper limits of judicial authority and the threat of judicial overreach.

Sunil Batra v Delhi Administration:²⁹ This case showed that death row inmates are entitled to basic rights, which brought about a significant shift in the interpretation of Article 21 of the Indian Constitution. These individuals were granted access to both life and liberty, and their right to a decent lifestyle was actively extended. This move plainly rejected the Hobbesian notion of complete state authority over inmates. The Court demonstrated its activity by brazenly removing the abstract ideal of human dignity from the core of the Constitution by drawing on the Preamble and Directive Principles of State Policy. Instead of only reading the law, the Court created constitutional criteria to evaluate the equity of detention conditions.

This expansive step held two vital implications: it enshrined dignity as the foundational value underpinning Article 21, anchoring future legal growth, and it confirmed the

²⁸ *Hussainara Khatoon and Ors v Home Secretary, State of Bihar, Patna* (1980) 1 SCC 98

²⁹ *Sunil Batra Etc v Delhi Administration and Ors* (1978) 4 SCC 494

judiciary's duty as the ultimate defender of individual dignity against the state's coercive power, even behind bars. Any critique of judicial overreach was thoughtfully addressed by invoking the *Parens patriae* principle,³⁰ framing the Court as a guardian parent for those stripped of autonomy. '*Parens patriae*, meaning 'parent of the nation' in Latin, is a legal doctrine that empowers the State or courts to intervene as a protective guardian for individuals who are unable to defend their own interests, such as vulnerable prisoners, minors, or persons with mental illness.'

Olga Tellis v Bombay Municipal Corporation: The court in the present case engaged in a very profound socio-economic interpretation of Article 21, declaring that the 'right to life' includes the 'right to livelihood' for the people. Having a look at it from a historical perspective, according to 'Social Contract Theory', people engaged together to make a stable and non-chaotic state. They engaged together and formed a state for which they gave their certain rights, and the state, in exchange, will provide due security, safety and assistance to the people so that people can reside with adequate means.

Also, the directive principles of state policy also mention that it is the duty of the state to provide adequate living standards to the people and if that is not done, then the people have the democratic governance, and people can change the leader. This was a monumental act of activist interpretation. It bridged the classical divide between civil/political rights (Part III) and socio-economic rights (Part IV, DPSP), reading the Directive Principles, especially Article 39(a) and 41, into the enforceable fabric of Fundamental Rights. The activism lay in recognising that a formal right to life is hollow without the material basis to sustain it.

By doing so, the Court placed substantial affirmative requirements on the state to take into account how its actions, such as evicting pavement dwellers, may affect residents' ability to survive at all. The judiciary was immediately introduced into the fields of welfare economics, housing and urban policy as a result of this development. Opponents could contend that using adjudication to legislate a socioeconomic right amounted to overreach. Nonetheless, the Court deliberately grounded its ruling in procedural due process (the right to a hearing

³⁰ 'Doctrine Of Parens Patriae' (*Drishti Judiciary*, 09 October 2023)

<<https://www.drishtijudiciary.com/current-affairs/doctrine-of-parens-patriae>> accessed 12 April 2026

before eviction), combining substantive expansion with a procedural safeguard, a subtle strategy that lessened accusations of pure policy-making.

Unni Krishnan v State of Andhra Pradesh:³¹ Education in India is still not given the importance it deserves, as education matters a lot, no matter what phase of life a person is going through. This judgment made it mandatory for the right to education for children up to age 14 to be a fundamental right. This is an implicit right that people get in Article 21. In this, the court has done a very constructive interpretation as they have correlated the education with that of the human personality, strengthening democratic citizenship and overcoming social and economic disadvantages. This was activism of the most revolutionary kind.

By connecting it intimately to the fundamental principle of dignity under Article 21, the Court recognised a central social benefit that was not specifically included in Part III and raised it to the status of an enforceable fundamental right.³² State spending and goals were drastically reoriented as a result of the ruling. The Court's function as a catalyst for constitutional growth is demonstrated by the conclusion of this activity in the constitutional amendment that inserted Article 21A. This is a rare example of judicial interpretation actually causing a formal textual change in the Constitution. Here, this step was given the name of the judicial overreach cause the fiscal implications and separation of powers were taken into consideration. The executive was of the view that the judiciary has no right to tell the state where to spend and how much to spend. However, the Court's position was based on the fundamental, non-negotiable nature of education for substantive freedom, which it believed was too important to be left up to the whims of majoritarian politics.

M.C. Mehta v Union of India: The M.C. Mehta environmental jurisprudential cases show that judicial activism has always been something very interpretive in the domain of environment, and not previously interpreted by the lawmakers before. The Court engaged in ecological interpretation by deriving the right to a clean and healthy environment from Article 21, acknowledging that clean water and air are essential for 'life' itself. This expansion was particularly preventive and proactive. Beyond compensating victims ex post facto, the

³¹ *Unni Krishnan, J P and Ors v State of Andhra Pradesh and Ors* AIR 1993 SC 2178

³² Arya Senapati, 'Unnikrishnan v State of Andhra Pradesh (1993)' (*iPleaders*, 23 September 2024)

<<https://blog.iPLEaders.in/unnikrishnan-vs-state-of-andhra-pradesh-1993/>> accessed 12 April 2026

Court established new institutions and regulatory principles, such as the 'Polluter Pays' and 'Precautionary Principles', and even issued comprehensive ongoing mandamus orders for their implementation, such as in the Delhi vehicular pollution and Taj Trapezium cases. With the Court serving as a permanent supervisory body, this signifies a change from adjudication to administration.

In the face of an ecological crisis, the judiciary is filling a perceived legislative and executive void, demonstrating the highest level of activism. In the face of an ecological crisis, the judiciary is filling a perceived legislative and executive void, demonstrating the highest level of activism. In this setting, the debate over overreach is at its most heated. Opponents contend that the Court became an unelected environmental ministry that made difficult techno-economic decisions, such as moving industries or establishing fuel standards, without democratic responsibility or knowledge. However, supporters saw this as essential 'activist stewardship' in which the Court was forced to take on a prescriptive role to safeguard the fundamental principles of Article 21 due to state lethargy and a fundamental threat to life.

Parmanand Katara v Union of India:³³ Being healthy was part of the social contract theory, and this case addresses the issue of accessibility to the people without giving regard to the monetary or societal aspect. The Court established an immediate, positive responsibility that flows immediately from Article 21 by requiring all physicians and hospitals to give emergency medical assistance without waiting for legal formalities. The practical, life-saving urgency of this expansion was its defining feature. The activism was less about articulating a broad socio-economic right to health (which came later) and more about enforcing a non-disposable, immediate duty on state and private actors to preserve life in peril.

The Court created a protective procedural barrier around 'life', interpreting it in its most immediate, biological sense. This action can be viewed as a prime illustration of lawful judicial activism to close a deadly procedural vacuum in the public health and justice systems. The criticism of overreach is low in this case because the Court concentrated on eliminating a particular, inhumane barrier (medico-legal procedures) that prevented a dying

³³ *Pt Parmanada Katara v Union of India and Ors* (1989) 4 SCC 286

person from exercising their right to life, rather than dictating health policy or budgets. It was a focused, ethically sound expansion with broad social acceptance.

In these kinds of cases, to protect the jurisprudential aspect of the separation of power doctrine, we need to respect the fact that when someone is authorised with certain responsibility, then it also implicitly imposes the responsibility of the other organs, so that they will not be doing the authorised work and also will not create interference for the assigned authority regarding the work.

THE SUPREME COURT OF INDIA: THE RISE OF JUDICIAL POWER AND THE PROTECTION OF FEDERALISM

In India, the higher authority is that of the Supreme Court, and this court plays a very important role in shaping the legislative nature of the state, as we need to give regard to the position that this authority holds in resolving the fundamental or significant disputes happening in the state. The Supreme Court and the state's high courts act as significant authorities in defining and developing the federalism system of India.³⁴ The Supreme Court's activism under Article 21 must be considered in the context of India's evolving judicial power, especially following *Kesavananda Bharati v State of Kerala*.³⁵ Scholars point out that the Court's rights-review authority has frequently resulted in consistent policies and national standards, bolstering the Constitution's parliamentary and national character.

However, notwithstanding the lack of a defined notion of strong state rights in the Constitution, the Court has tended to uphold state autonomy in federalism matters. The legal establishment of the 'basic structure doctrine', which gave the Supreme Court the authority to examine and invalidate even constitutional amendments, marked a turning point. The drastic modifications of Article 21, where 'procedure established by law' was no longer considered narrowly as in the *A.K. Gopalan* case, were made possible by this enlargement of judicial jurisdiction. The extensive, substantial due-process method created in *Maneka Gandhi* took its place. The definitions of 'life' and 'personal liberty' were broadened under this paradigm to encompass a variety of rights, such as a clean environment, legal assistance,

³⁴ Manish Tewari and R Saxena, 'The Supreme Court of India: The Rise of Judicial Power and the Protection of Federalism' in Nicholas Theodore Aroney and John Kincaid (eds), *Courts in Federal Countries: Federalists or Unitarists?* (University of Toronto Press 2017) 223–255

³⁵ *Kesavananda Bharati Sripadagalvaru and Ors v State of Kerala and Anr* (1973) 4 SCC 225

livelihood, shelter, education, and dignity. Many of these rights, which reflect Article 21's inventive phase, were established by judicial interpretation rather than by Parliament.

However, judicial excess was made possible by the same Court powers that bolstered democratic protections and rights. The Court has increasingly stepped into areas that have historically been the purview of the legislative and executive branches by transforming policy objectives into fundamental rights and issuing specific administrative directives. This reflects a larger pattern in federalism and constitutional amendment review; the line between interpretation and legislation becomes hazy when judicial power grows without explicit textual boundaries.

Therefore, the Court's larger post-Kesavananda trajectory, where innovations intended to preserve constitutionalism have occasionally resulted in judicial overreach, includes the activism under Article 21. This particular analogy is also by the High Courts to decide on the matter not coming under their domain or in the matter of policy like recent decision made on the free seats in schools, supply of drinking water in schools, number of free beds on public land use and misuse of ambulances, requirements for establishing a world class burns ward in the hospital the air which Delhi people were breathing, the use of subways by people, the nature of buses we board, the legality of construction in Delhi, identifying the buildings to be demolished the size of speed breakers on Delhi roads, etc.

Having a holistic view of the matter as mentioned above, they are exclusively meant for the legislature and executive to take care of such matters and not by the judiciary. But the matter was not decided by the authority that actually had the authority to decide upon them.³⁶ It was remarked by Justice A K Mathur and Justice Markandey Katju that, if judges do not control themselves and start going beyond what was set as their limit to adjudicate matters. It is to be understood that if this becomes the prominent act of the judiciary, then the legislature and executive may limit the power of the judiciary, which will eventually affect the power of the judiciary and will make the matters to be resolved by the elected leaders and public institutions and not by judicial independence.

³⁶ Sidharth Sharma, 'Myth of Judicial Overreach' (2008) 43(10) Economic and Political Weekly 15-18
<<https://www.epw.in/journal/2008/10/commentary/myth-judicial-overreach.html>> accessed 12 April 2026

Hence, it is to be understood that the power and the authority that is given to the judiciary can be taken away from them at any moment when it is of the larger public interest that the inference has increased way too much. Now let's talk about the law-making action by the judiciary as done in the case of *Vishakha v State of Rajasthan*³⁷, where the legislature regarding the laws against the harassment at the workplace when such legislature was brought into India it was considered as judicial activism even though the fact that judiciary has no authority to make laws under such domain but such legislation did help in reducing the cases of harassment at workplace.

Now, while engaging in such law-making acts by the judiciary, it needs to be respected that the judiciary needs to inculcate factors like just, fair and reasonable while engaging in such law-making processes. If by any chance such factors are not given the significance which they deserve, then since the court is making the legislature go not as per the separation of powers, then such legislation made can be quashed without giving much importance.

Also, we need to give importance to how the other organs of the governing body react after such legislation is made by the court, in the sense that the requisite actions upon the guidelines set by the court are performed by the other organs or not. In the *Vishakha* guidelines, even after the judiciary inculcated the CEDAW guidelines from the international legislation, the legislature did not take any action to make the Indian legislature address the domain of harassment at the workplace. Hence, in this kind of situation, it becomes important for the legislature to be more proactive in interpreting such legislation on such important issues. Hence, it is not wrong to say that many of the times judicial activism happens due to 'inactivism' from the other wings of the state. Hence, the court in this situation plays an important role rather than just being a mute spectator to the callousness and apathy of the executive class.

The Creeping Shadow: The Transition to 'Overreach': The expansive interpretation of Article 21 by the court does fill the gap which was present due to the inaction of the other two organs of governance. But gradually this act turned from judicial activism to judicial overreach, where the courts dictate the policy, manage the administration and then set the governance priorities without accountability or institutional competence. Let's have a look

³⁷ *Vishaka and Ors v State of Rajasthan and Ors* (1997) 6 SCC 241

at how the cases mentioned aforementioned was actually judicial overreach in disguise of judicial activism.

FROM ADJUDICATION TO ADMINISTRATION: ENVIRONMENTAL REGULATION BY DECREE

M.C. Mehta v Union of India: Right to clean and healthy environment is an inherently important part of fundamental rights and the continuing mandamus to the Supreme Court. Judiciary, without having the requisite expertise, made the observations that a specific type of fuel, i.e. CNG, mandating effluent treatment technology, ordering industrial relocations and setting up monitoring committees. This amounted to a direct takeover of key executive tasks, such as regulatory enforcement and policy development (such as energy mix and industrial strategy). The Court's intricate techno-economic decisions, which ignore elected governments and statutory regulators, are an overreach.

LEGISLATING FROM THE BENCH: CREATING BINDING LAW WITHOUT MANDATE

Vishakha v State of Rajasthan: This intervention was more than just surpassing the fundamental principle of separation of powers, as the judiciary, without consultation with the legislation or executive, they have derived their own guidelines upon the harassment against women done at the workplace. The creation of this substantive law had set a precedent that the judiciary, without due consultation with the other running organs of the government, can make a decision unilaterally, and such a decision cannot be challenged due to the large public interest attached to that decision. Having an intrinsic view of the problem, the judiciary cannot be faulted for articulating guidelines in domains where the legislative framework is absent or indeterminate. In doing so, the Court is discharging its constitutional obligation to safeguard individual rights and to prevent a legal vacuum from undermining the rule of law.

MANDATING FISCAL PRIORITIES: REORDERING STATE BUDGETS

Unni Krishnan v State of Andhra Pradesh: The decision was made by taking into consideration the futuristic approach for India. The court, while mandating the state to put in a large amount of investment in the education sector, must understand that it cannot tell

the state where to spend and where not, because this can cause unwanted chaos in the stable running of the government. The responsibility of spending state funds fell under the authority of the state government executive branch, with the ultimate approval and scrutiny of the state legislature. The whole procedure works where a bill is produced before the legislature by a Member of the Legislative Assembly (MLA). Then debate and approval are taken, and the 'demands for grants' are included in the appropriation bill, which authorises the government to withdraw money from the consolidated funds of the state.³⁸ While the executive and legislature bear primary responsibility for the prudent and accountable use of public funds, judicial directions that impose immediate and mandatory obligations can inadvertently constrain these organs from performing their constitutional functions effectively. Accordingly, the judiciary must refrain from bypassing established procedural frameworks and should extend due deference to processes designed to secure institutional balance and maintain orderly governance within society.

JUDICIARY INTERFERING IN THE WORKING OF THE GOVERNMENT

R.C. Cooper v Union of India: The government was not at all in support of the decision of the Supreme Court, as the act of denying the decision of nationalisation of the banks itself was nothing but only interfering with the economic policy of the state. The act of nationalisation was important because the Indian economy was on a continuous decline, and if such a policy had not been brought into the picture, then the whole economy would have never recovered from that adverse state.

Madhav Rao Scindia v Union of India:³⁹ In this, the Supreme Court's decision to strike down the abolition of privy purses was viewed by the government as an overstep into an area firmly rooted in executive and legislative discretion. The Court held that the executive measure violated constitutional assurances, but for the government, this ruling, arriving immediately after earlier judicial setbacks, was emblematic of an unwarranted interference with core policy decisions. Together, these developments strengthened Indira Gandhi's conviction that the judiciary was encroaching upon the policy-making domain, thereby

³⁸ Tushar Chakrabarty, 'Overseeing Public Funds - How to scrutinise state budgets' (*PRS Legislative Research*) <<https://prsindia.org/budgets/discussionpapers/overseeing-public-funds-how-to-scrutinise-state-budgets#:~:text=Oversight%20of%20government%20finances%20by,oversight%20of%20the%20state%20governme>> accessed 12 April 2026

³⁹ *H H Maharajadhiraja Madhav Rao Jiawaji Raoscindia Bahadur v Union of India* AIR 1971 SC 530

deepening the institutional friction between the branches of government and setting the stage for a more pronounced constitutional confrontation.

Micro-Managing Urban Governance and Civic Affairs: As noted, courts began issuing directives on the number of free beds in hospitals, specifications for burns wards, sizes of speed breakers, management of stray dogs and use of subways. These are quintessential municipal governance and public administration matters. Judicial intervention in such granular detail represents a clear overreach into the executive domain, based on the unsustainable assumption that courts can better manage day-to-day civic affairs than elected municipal bodies and the bureaucracy.

Suo Moto Overreach: The Stray Dogs Case (2025): The abuse of power is exemplified by the Supreme Court's August 2025 *Suo Moto* ruling on stray dogs. In response to a media article, the Court issued broad administrative directives for the management, apprehension and sheltering of stray dogs throughout the National Capital Region. The order that was made was actually overriding the judicial power in many ways.

The order override the already existing policy that was there for the animals that is Animal Birth Control, 2023 in which the detailed humane handling and management of stray dogs throughout sterilization and vaccination making the process responsible for implementation with state putting local organizations in charge of implementation with state or district committees and organizations approved by the Animal Welfare Board of India (AWBI) in an effort to lessen rabies and human-animal conflict.⁴⁰ Not giving respect to the already present pending litigations on the same issue. Taking into account the initiative to build the shelters, facilities for surveillance of these stray animals.

Giving the order without hearing out the relevant stakeholders of the case. Now talking about the consequences of such an arbitrary decision, it was very much adverse as people were on protest in Delhi against this stray dog's judgment affecting the smooth functioning of the state. Hence, it is the duty of the courts to maintain a balance between law and order, and when such orders are made, it is their duty to also modify them if that order is not working out properly. Also, while issuing such an order, they should be aware of the fact that whether such an order is within the executive's power to carry out or not, if not, then

⁴⁰ Animal Birth Control Rules 2023

such an order will remain merely as words and will not be able to have legislative enforcement on society.

CONCLUSION

The evolution of Article 21 stands as one of the most remarkable achievements of Indian constitutional jurisprudence. Through judicial activism, the Supreme Court transformed a narrowly framed guarantee of life and personal liberty into a dynamic source of substantive rights encompassing dignity, livelihood, education, health, privacy, environmental protection, and access to justice. This expansion has significantly strengthened constitutional governance and enabled the judiciary to address situations where legislative inertia and executive inaction threatened fundamental rights. Public Interest Litigation further democratized access to justice, allowing the courts to become effective protectors of vulnerable and marginalised communities.

However, the very activism that facilitated constitutional progress also raises concerns regarding institutional legitimacy and the separation of powers. Judicial intervention becomes problematic when courts move beyond constitutional adjudication into areas of policy formulation, administrative management, and budgetary allocation. Such actions risk undermining democratic accountability and disturbing the delicate balance among the organs of government. Therefore, while judicial activism remains an indispensable mechanism for safeguarding constitutional values, it must be exercised with restraint and institutional sensitivity. The future of Article 21 jurisprudence lies in maintaining a careful equilibrium between protecting fundamental rights and respecting the constitutional boundaries that preserve democratic governance, federal balance, and the rule of law.