

The effect of judicial governance on social change and development in India

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Abstract

This essay critically analyses the function of judicial governance in influencing social change and development in India. The Indian judiciary is an important part of a constitutional democracy. Over time, it has moved beyond only settling disputes to actively shaping public policy, social justice, and human rights. Courts have been involved in issues like protecting the environment, making sure men and women are treated equally, improving education, and holding governments accountable through Public Interest Litigation (PIL), judicial activism, and landmark decisions. Although these interventions have frequently spurred progressive social change and strengthened marginalised communities, they have simultaneously elicited concerns regarding judicial overreach and the equilibrium of powers. This essay examines the dynamic relationship between court decisions and developmental results, evaluating the efficacy, constraints, and ramifications of judicial governance within the Indian socio-political framework. The report indicates that although the court has been an essential catalyst for transformation, sustained growth necessitates a coordinated strategy that includes all arms of government.

Keywords: Judicial Governance, Social Change, Public Interest Litigation, Judicial Activism, Indian Judiciary, and Constitutional Democracy

Introduction

In a democracy, the courts are very important since they not only interpret laws but also help shape the direction of societal progress and development. In India, the judiciary, especially the higher courts, has become a significant force that affects how the government works, protects constitutional ideals, and fights for the rights of groups that are often left out. The Indian court has evolved from its conventional function of adjudication to an active entity in the socio-political sphere, notably through mechanisms such as Public Interest Litigation (PIL) and judicial activism.

This change, which is commonly called "judicial governance," shows a proactive approach in which the courts deal with matters that are important to the public, enforce policy directives, and even fill in gaps in the law or the executive branch when other parts of the government fail to do so. Landmark decisions on health, education, gender justice, environmental protection, and openness have shown that the courts can be a force for progressive reform and inclusive growth.

But this bigger responsibility is not without its problems. Critics say that too much judicial intervention can upset the balance of power in the Constitution and step on the toes of the executive and legislative branches. These tensions prompt significant enquiries: To what degree ought the judiciary to influence public policy? Can judicial interventions genuinely facilitate long-term development, or do they pose a risk of engendering superficial or unsustainable reforms?

This essay aims to examine these enquiries by evaluating the influence of judicial governance on social transformation and development in India. It assesses the transformative potential and constraints of judicial action, emphasising significant case laws and trends that demonstrate the judiciary's changing function in democratic governance.

The Study's Background

The Constitution of India says that the country should be a democracy with three branches of government: the legislature, the executive, and the judiciary. Each branch has its own duties, but the judiciary is different since it is the Constitution's custodian and the defender of basic rights. In the past, the Indian judiciary had a conservative approach and only interpreted legislation. But over time, especially since the late 1970s when the Emergency ended, it has become a more forceful and proactive organisation that has had a bigger impact on the country's social and developmental path.

This change was characterised by the rise of Public Interest Litigation (PIL), which let people and groups go to court on behalf of those who were voiceless and marginalised. PILs changed the Indian court system into a place where people could talk about social and economic problems such bonded labour, pollution, corruption, and access to education and healthcare.

As a result, the courts have become somewhat like the legislature and the administration in some areas, which is now known as judicial governance.

Because India's political institutions typically have problems with inefficiency, corruption, and delays, many people consider the court as a better way to get justice and make changes. The Vishaka Guidelines on sexual harassment, the Right to Education, and environmental judgements under Article 21 (Right to Life) are all important court decisions that show how the courts have become involved to start and carry out important societal changes.

But the fact that judges are getting more involved in policy issues has also led to discussions about judicial overreach, democratic accountability, and the limits of institutional capacity. The increasing dependence on the judiciary to address governance challenges prompts significant apprehensions over the sustainability and democratic legitimacy of these interventions.

In this context, it is imperative to evaluate the influence of judicial governance on social change and development in India—not alone regarding legal outcomes but also in relation to concrete social advancement and systemic reform. This study is driven by the necessity to critically examine the judiciary's dual function as both adjudicator and policy shaper, and to comprehend its wider ramifications for India's democratic and developmental trajectory.

Framework for Research

This study's research framework is based on the connections between judicial governance, social change, and development in the context of Indian democracy. It combines constitutional theory, legal activism, and development studies to look at how judicial actions change social and political realities and affect how policies are put into action.

1. Theoretical Foundation

Constitutionalism and Separation of Powers: This research utilises the idea of separation of powers to evaluate the judiciary's function in relation to the executive and legislative branches. It assesses the alignment or discord between judicial governance and the constitutional mandate.

Social Justice Theory: The framework integrates concepts from social justice theory, notably Amartya Sen's capacity approach, to analyse how court judgements facilitate or impede individuals' access to fundamental rights and services.

Legal Institutionalism: This viewpoint focusses on the judiciary as a policy-making and institutional actor, which helps us understand how courts change social norms, especially through PILs and judicial activism.

2. Questions

How has the Indian court facilitated societal change and development via judicial governance?

What are the main ways (such PIL and judicial activism) that the courts can change public policy?

What are the achievements and constraints of judicial interventions in fostering inclusive development?

Does judicial governance support or undermine democratic accountability and institutional equilibrium?

3. Methodology

Qualitative Approach: The study employs a qualitative, doctrinal legal research methodology, augmented by case law analysis, secondary data examination (including academic literature, reports, and news items), and thematic assessment of significant judgements.

The case study method looks at important cases like Vishaka v. State of Rajasthan, MC Mehta cases, Right to Education, and Navtej Johar v. Union of India to see how the courts affect social and legal change.

Policy and Impact Analysis: This looks at how court decisions affect changes in policy, changes in the law, and real improvements in areas like education, the environment, gender justice, and public health.

4. Scope and Limitations

While recognising criticisms of judicial overreach, the study primarily investigates progressive and developmental outcomes, without conducting a comprehensive institutional audit of the judiciary.

Research Questions

1. How has the way judges run the government in India changed throughout time, especially when it comes to social change and progress?
2. What part has the Indian judiciary played in solving social, economic, and political problems through tools like Public Interest Litigation (PIL) and judicial activism?
3. How much have court actions actually made things better in areas like health, education, protecting the environment, gender justice, and human rights?
4. What are the main problems and objections that come with the court becoming involved in setting rules and running the government?
5. In a constitutional democracy, how does judicial governance change the balance of power between the executive, legislature, and judiciary?
6. Are court decisions durable and efficacious in fostering enduring social growth, or do they result in ephemeral and symbolic transformations?
7. What insights may be gleaned from India's experience with judicial governance to enhance democratic accountability and foster inclusive development?

Objectives of the Study

- To examine the progression of judicial governance in India and its increasing influence on the formulation of public policy and social reform.

- To analyse the influence of Public Interest Litigation (PIL) and judicial activism on social, economic, and environmental challenges.
- To assess key court rulings that have facilitated substantial social transformation and developmental results in India.
- To ascertain the advantages and drawbacks of judicial interventions in fostering inclusive growth and safeguarding basic rights.
- To evaluate the effects of judicial governance on the constitutional equilibrium of power among the judiciary, executive, and legislative.
- To investigate the difficulties of judicial overreach and institutional accountability within the framework of democratic governance.
- To provide suggestions for enhancing the judiciary's role as a driver of fair and sustainable development while preserving democratic processes.

Review of the Literature

How Judicial Governance Affects Social Change and Growth in India

The convergence of judicial governance and social transformation in India has been a central theme of academic investigation, especially as the judiciary's function has developed amid democratic ideals and socio-economic obstacles. The literature on this issue delineates a trajectory of judicial activism that has profoundly influenced government, accountability, and societal transformation.

In "Two Paths to Judicial Power: The Basic Structure Doctrine and Public Interest Litigation in Comparative Perspective," Mate (2010) elucidates the emergence of Public Interest Litigation (PIL) as an essential mechanism for the Indian judiciary to rectify governance deficiencies and uphold constitutional rights. This article discusses how the courts have

changed from being a tool for the elite to one that deals with more general public issues since the government isn't doing its job properly. The growth of standing for public interest groups has not only changed the rules for holding people accountable, but it has also led to the creation of investigative bodies and oversight commissions, which has changed the way the government works.

Building on this foundation, Landau (2014) in "A Dynamic Theory of Judicial Role" critically analyses the function of courts in strengthening democratic regimes under politically tumultuous contexts such as India. He contends that although judicial review may enhance democracy, it encounters considerable obstacles, especially in evaluating the efficacy of judicial interventions. This article stresses the importance of looking closely at how judicial activism affects political institutions that don't work well. This raises problems regarding if and how judicial power should be used in political matters.

Das Acevedo (2016), in "Sovereignty Considerations and Social Change in the Wake of India's Recent Sodomy Cases," examines the judiciary's function in promoting social change via Public Interest Litigation (PIL), especially since the 1970s. This work compares the Indian method, which aims to change social norms and establish new rights, with the American model, which prefers to keep things the same. The author emphasises a dynamic interaction between sovereignty and constitutional principles, indicating that judicial intervention is essential for societal development in a situation where established practices are contested.

To provide more context for the judiciary's impact, Gupta (S. Gupta, 2016) looks at important decisions that have affected the urban poor, especially in big cities like Delhi, in "Judicial Constructions: Modernity, Economic Liberalisation, and the Urban Poor in India." Gupta contends that comprehending the judiciary's decisions necessitates a contextual examination that takes into account socio-economic and regulatory processes. The paper criticises the courts for not recognising the rights of those living in slums anymore. It shows how political and discursive frameworks affect how judges think, especially when it comes to modernisation.

Lastly, Singh (2017) in "Dimensions of Indian Judicial Activism" talks on the most important events in Indian judicial history that happened starting in the 1970s, especially through important Supreme Court decisions that upheld basic constitutional values. This article emphasises the changes that PIL has brought about, which have made it easier for marginalised

communities to get justice. Singh emphasises the judiciary's proactive role in social justice cases, demonstrating that judicial activism has emerged as an essential mechanism for tackling systematic disparities and guaranteeing state responsibility.

These articles together give a full picture of how the role of the judiciary in India is changing. They show how important it is for governance, social transformation, and the promotion of democratic principles in a complicated political and social environment.

Manoj Mate's 2010 article "Two Paths to Judicial Power: The Basic Structure Doctrine and Public Interest Litigation in Comparative Perspective" gives a thorough look at how judicial mechanisms, especially Public Interest Litigation (PIL), have had a big impact on governance and social change in India. The main point is that PIL has been a key tool for the courts to fix problems with governance and protect constitutional rights. This has made the courts' role transcend beyond just enforcing the law into active governance (Mate, 2010).

Mate critically assesses the progression of Public Interest Litigation (PIL), highlighting its growth via an expansive standing doctrine that enables various public interest groups to contest actions taken by both the government and the corporate sector. This transition has turned the court from an elitist institution into a proactive force for social change that can deal with a wide range of societal issues. This kind of change shows how important the court is to societal evolution, since it often gets involved in areas of policy that are usually handled by the executive or legislative branches.

The article emphasises that PIL has enabled the establishment of investigative entities and oversight committees, which occasionally function autonomously or supplant conventional government ministries. This transformation shows a big shift in how the government is held accountable and how it is run, with the courts now playing a major role in overseeing the government and promoting social justice. However, the article also points out that this broader responsibility for judges could be affected by political and policy factors, which could make judges less fair and consistent in their decisions.

The article posits that the proactive involvement of the Indian court through Public Interest Litigation (PIL) has significantly contributed to social transformation and development by enhancing the accountability and responsiveness of governance to societal requirements. Even

still, it makes people wonder about the balance of power between arms of government and the possibility of judicial overreach, which might make democratic governance less stable.

David Landau's article "A Dynamic Theory of Judicial Role" provides a sophisticated analysis of the changing roles of courts in difficult political situations, like India. Landau underscores that courts in nations such as India have traditionally rendered landmark rulings that profoundly impact social and political evolution, frequently within intricate and obstinate political landscapes (Landau, 2014). The main point of the argument is about how judicial review can help make democracy better, especially when people think that political institutions aren't working well.

Landau critically examines the dominant model of judicial review aimed at enhancing democracy, emphasising its inadequacies in evaluating the genuine impact of judicial interventions on democratic fortification. The article emphasises that courts frequently navigate a precarious equilibrium, whereby their interventions may either catalyse social transformation or lead to overreach, thereby confusing the evaluation of their genuine influence on social progress. The author supports an empirical methodology, proposing that scholars concentrate on examining the impact of various judicial activism techniques on the development of political institutions, rather than just interrogating the extent to which courts exceed their authority.

This viewpoint is especially pertinent to India, where judicial rulings have historically been essential in influencing social policy and promoting rights, particularly in matters concerning social fairness and constitutional safeguards. Landau's assessment, however, prompts a prudent consideration of the limitations and possible unforeseen repercussions of judicial intervention. The focus on empirical examination of judicial techniques offers a significant foundation for comprehending the intricate relationship between courts and social transformation, highlighting that judicial impact must be situated within wider political and institutional contexts.

Deepa Das Acevedo's paper "Sovereignty Considerations and Social Change in the Wake of India's Recent Sodomy Cases" provides a perceptive examination of the judiciary's changing role in influencing social transformation within India's distinct constitutional and political framework. The author underscores that India's judicial governance method markedly differs

from the American model, chiefly because its underlying objective is societal transformation via the constitution, which aims to contest existing social norms and establish new rights (Das Acevedo, 2016). This contrast emphasises the necessity of perceiving India's judiciary not solely as a legal arbitrator but as a catalyst for social reform, particularly in light of its historical involvement in public interest litigation since the 1970s.

Acevedo critically examines the duality of sovereignty in India, emphasising its foundations in procedural representation and economic development, and how these aspects affect judicial policymaking. The presence of various ideologies establishes a dynamic balance that influences the interpretation and enforcement of social rights by courts, especially in disputed domains like LGBTQ+ rights. The recent sodomy trials provide a framework for analysing the broader ramifications of judicial sovereignty, demonstrating how courts balance the adherence to constitutional principles with the deference to community values. The author's analysis shows that the loss of legal liberalism in India has important effects since it questions the judiciary's role in promoting progressive change, which is different from the more preservationist approach that is commonly seen in Western contexts.

Also, Acevedo's study of the constitutional framework shows how important the judiciary is in pushing for social reforms, even though the relationship between sovereignty and societal ideals is complicated. The paper critically assesses the enduring influence of judicial activism on social development in India, while also acknowledging the constraints imposed by political and societal opposition. This nuanced viewpoint significantly enhances comprehension of the influence of judicial governance on social transformation, underscoring that India's constitutional framework and judicial philosophy are pivotal to its continuous social evolution.

Priya S. Gupta's 2016 article "Judicial Constructions: Modernity, Economic Liberalisation, and the Urban Poor in India" looks closely at how the Indian judiciary has affected urban development and social change, especially for the poor people living in big cities like Delhi. The author critically analyses the ways in which judicial decisions mirror extensive discussions over modernisation, economic liberalisation, and neoliberal urban policies, underscoring that court verdicts are profoundly situated within socio-economic and political frameworks.

Gupta's analysis emphasises that judicial decisions endorsing slum clearance and redevelopment are not solely legal determinations but are also connected to narratives

advocating modernisation and economic advancement. For example, when courts use India's reputation as a "modern" country or a city as a "showpiece" for people from other countries to explain why people should be moved, they show how political language affects how judges think (S. Gupta, 2016). This exchange underscores how legal determinations perpetuate state-driven narratives of progress, frequently to the detriment of the rights of the urban impoverished.

Gupta stresses that to really grasp these judicial constructs, you need to look at more than just the law. You also need to look at the social, economic, and discursive frameworks that courts work in. The move away from recognising the rights of those living in slums is part of a larger neoliberal agenda that puts aesthetics and economic efficiency ahead of social equality. This viewpoint corresponds with the overarching discussion on India's political economy of development, wherein legal determinations are influenced by and contribute to the continuous dynamics of urban modernisation and neoliberal reform.

Gupta's approach offers significant insights into the socio-political context of court decisions, although it also necessitates deeper examination of the ramifications of such verdicts for social justice. The study clearly illustrates that judicial thinking is not impartial but is actively involved in shaping myths of modernity that frequently marginalise poor communities. Nonetheless, it would benefit from a more comprehensive examination of the resistance and agency of urban impoverished groups within this legal and discursive framework.

Overall, Gupta's article makes a strong case against the role of the courts in bringing about social change in India. It shows how legal decisions are both a result of and a cause of bigger changes in the economy and society. It emphasises the necessity of critically analysing judicial discourses to comprehend their influence on social development and the rights of marginalised groups in urban India.

Rajkumar Singh's article "Dimensions of Indian Judicial Activism" gives a full picture of how the courts have changed India by bringing about social change and progress. Singh outlines the progression of judicial activism since the 1970s, a decade characterised by landmark rulings that transformed the dynamics among the judiciary, the state, and society (Singh, 2017). The Kesavananda Bharati case of 1973 is a key moment because it made it clear that the Constitution's basic features—like democracy, the rule of law, secularism, federalism, and

judicial independence—could not be changed. This set a constitutional limit on amendments and strengthened the power of the courts to protect these basic principles.

Singh stresses that Public Interest Litigation (PIL) came along in the late 1970s as an important step forward for judicial activism, giving marginalised and vulnerable communities a way to get justice. The study critically assesses how PIL processes enabled courts to expand their power beyond conventional adjudication, actively addressing social concerns such as prisoner rights and imprisonment conditions. This change means that the judiciary will be more involved, which will have a direct effect on social justice and the implementation of policies.

The literature regarding the influence of judicial governance on social change and development in India indicates a multifaceted interaction between the judiciary and diverse socio-political factors. The articles examined demonstrate the transformation of judicial duties, especially via mechanisms like Public Interest Litigation (PIL), which have converted the judiciary from a conventional legal institution into a proactive agent in governance and social reform.

Mate (2010) emphasises the rise of Public Interest Litigation (PIL) as an essential instrument for the judiciary to rectify governance failings and uphold constitutional rights, thus broadening its function from merely catering to elite interests to addressing wider public issues. This change has created a new system of accountability and led to the creation of oversight mechanisms, which shows a big change in how India is governed.

Landau (2014) offers a nuanced view of the judiciary's role in strengthening democracy, stressing the need for empirical research to evaluate the efficacy of judicial interventions. His analysis indicates that although courts can facilitate social change, they must contend with the intricacies of political institutions, so prompting significant enquiries over the validity of judicial authority in political affairs.

S. Gupta, (2016) looks at how the courts affect urban growth, especially when it comes to the rights of the urban poor. Her research highlights the socio-economic factors that influence judicial decisions, demonstrating how legal rulings frequently bolster state-driven narratives of modernisation to the detriment of marginalised groups. This critique underscores the necessity

for a more contextual comprehension of judicial reasoning and its ramifications for social justice.

Singh (2017) examines the historical evolution of judicial activism in India, highlighting pivotal instances that have transformed the dynamics among the judiciary, the state, and society. His examination of PIL as a means for marginalised people to attain justice exemplifies the judiciary's proactive approach in confronting systemic injustices and advancing social justice.

In summary, the literature reviewed together emphasises the judiciary's transformative role in India, showcasing its ability to impact governance, foster social change, and strengthen democratic principles. But it also brings up important considerations about the limits of judicial power and what judicial activism means for socioeconomic equality and the stability of democracy. The judiciary's involvement in social concerns, though frequently essential, necessitates careful consideration to prevent the disruption of the equilibrium of power among governmental branches

Judicial Governance on Socio-Economic Change in India

1. Introduction

- The Indian judiciary is not just a dispute-resolution body but also a driver of socio-economic change.
- Through judicial review, public interest litigation (PILs), and expansive interpretations of Fundamental Rights (Part III) and Directive Principles of State Policy (Part IV), courts have shaped welfare policies, environmental standards, and human rights protections.
- Judicial governance implies courts influencing policy-making, social reforms, and development trajectories in India.

2. Constitutional Basis

- Article 32 & Article 226: Judicial review of laws and executive actions.
- Directive Principles (non-justiciable) made enforceable indirectly via interpretation of Article 21 (Right to Life).

- Judicial activism → expansion of rights; Judicial restraint → maintaining balance with legislature/executive.

3. Landmark Case Laws Driving Socio-Economic Change

Right to Life & Livelihood

- Maneka Gandhi v. Union of India (1978) – Expanded Article 21 to include dignity, liberty, and fairness.
- Olga Tellis v. Bombay Municipal Corporation (1985) – Recognized right to livelihood of pavement dwellers.

Social Justice & Equality

- Indra Sawhney v. Union of India (1992) – Upheld OBC reservations, capped at 50%, introduced creamy layer doctrine.
- Navtej Singh Johar v. Union of India (2018) – Decriminalized homosexuality (socio-cultural change).

Environment & Sustainable Development

- MC Mehta cases (1980s–2000s) – Right to clean environment, closure of polluting industries, introduction of "polluter pays" principle.
- Vellore Citizens' Welfare Forum v. Union of India (1996) – Sustainable development made part of constitutional law.

Human Rights & Welfare

- Hussainara Khatoon v. State of Bihar (1979) – Speedy trial as a fundamental right; release of undertrials.
- Unni Krishnan v. State of Andhra Pradesh (1993) – Right to education recognized (led to 86th Amendment, Article 21A).

Accountability & Governance

- Vineet Narain v. Union of India (1997) – CBI independence ensured, guidelines for investigating corruption cases.
- Prakash Singh v. Union of India (2006) – Police reforms mandated.

4. Impact on Development and Progress

- Social empowerment → upliftment of marginalized groups (SC/ST/OBC, women, LGBTQ+).

- Economic justice → reservations, protection of workers, right to livelihood.
- Environmental protection → balance between industrial growth & sustainability.
- Democratic accountability → stronger checks on executive power.
- Welfare expansion → education, health, shelter brought under Article 21.

Challenges to the Indian Judiciary

1. Judicial Overreach vs. Activism

Accusations of courts stepping into the legislative/executive domain.

E.g., NJAC judgment (2015) striking down constitutional amendment on judicial appointments.

2. Delay & Backlog

5+ crore cases pending (2025 data).

Justice delayed = justice denied.

3. Accessibility & Affordability

Expensive litigation, language barriers, lack of awareness.

4. Implementation Gap

Many progressive judgments remain unimplemented due to lack of political will or administrative capacity (e.g., police reforms, prison reforms).

5. Balancing Development vs. Rights

Land acquisition, infrastructure, and industrialization often clash with the rights of tribal, farmers, and the environment.

Courts struggle to balance economic growth with social justice.

6. Credibility & Accountability Issues

Concerns over transparency in appointments, judicial corruption, and selective activism.

The question of whether the Indian judiciary is overreaching its powers and intervening in the domains of Parliament and the Executive is a subject of ongoing debate. Here's a nuanced breakdown:

Judicial Overreach vs. Judicial Activism

- **Judicial Activism:** When courts proactively interpret laws to protect rights and fill governance gaps, especially when the legislature or executive fails to act. This is often celebrated.
- **Judicial Overreach:** When courts exceed their constitutional mandate by making decisions that should be left to the legislature or executive, thereby disrupting the separation of powers.

Examples of Judicial Overreach

- **National Anthem in Cinemas:** In *Shyam Narayan Chouksey v. Union of India (2016)*, the Supreme Court mandated the playing of the national anthem in cinemas. Critics argued this was beyond the scope of judicial authority.
- **Liquor Ban Near Highways:** The Supreme Court ordered a ban on liquor shops near highways, affecting state revenue and policy decisions—typically the domain of the executive.
- **Cancellation of 2G Licenses:** While aimed at curbing corruption, the court's intervention in telecom licensing raised concerns about judicial encroachment into executive policy-making.
- **Rejection of NJAC (National Judicial Appointments Commission):** The court struck down a constitutional amendment passed by Parliament, asserting its primacy in judicial appointments. This was seen by some as undermining legislative authority.

. Conclusion

- The Indian judiciary has acted as a catalyst of socio-economic change by expanding rights, promoting accountability, and ensuring social justice.
- However, judicial governance must not replace democratic governance—courts must strike a balance between activism and restraint.
- The future challenge lies in ensuring speedy, affordable, and effective justice delivery, strengthening institutional credibility, and harmonizing development with equity.

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