

An Emperical Researchon Judicial Activism in India with Preference to Media

Mangaiyarkarasi S, Vidyassri S P

Mangaiyarkarasi.S, BCom., LLB (I st year) section 1, Saveetha School of Law, Saveetha Institute of Medical and Technical Science (SIMATS), Chennai 600 077, Tamil Nadu, India. (E-mail: mangaiyarkarasiuma@gmail.com)

Mrs. Vidyassri S P, Asst Professor of Law, Head of the department, Saveetha School of Law, Saveetha Institute of Medical and Technical Science (SIMATS), Chennai 600 077, Tamil Nadu, India. (E- mail: advocatespvidyassri@gmail.com)

Article Info

Volume 81

Page Number: 4886 - 4892

Publication Issue:

November-December 2019

Article History

Article Received: 5 March 2019

Revised: 18 May 2019

Accepted: 24 September 2019

Publication: 24 December 2019

Abstract:

The Independence of judicial activism is largely driven by people's perception from the role of the courts in a democratic country. While some believe that judicial activism is necessary for the protection of public interests, others are in the opinion that judiciary functions, The Honorable courts are required to interpret law and not to enact laws. For the purpose of this empirical study Descriptive research is used to show the public opinion on judicial activism, Convenient sampling method is used to collect the samples. Samples are collected with special reference to Chennai. The sample size is 1605. Dependent factor are the factors that influence judicial activism; no cause of action arises against media and rewritten judgments with personal option. It has significant impact of chi square is the research tool used in this research. The primary sources are taken from the general public in the form of survey method and also the secondary data from other journals and web sources. The outcome of the research is that by carrying out chi square test the value is 0.00 for all the three tables hence it is proved that null hypothesis is rejected at all. Media has the right to publish the facts. The reason why public support judicial activism because administration have been apathetic and non performing prevails. The aim of the research is to study about the judicial activism in India with preference to media

Keywords: Judicial activism, Judiciary , Constitutionality , Privilege , Legislature

I. INTRODUCTION

The term "Judicial activism" refers to court's rulings that are based on the judge's personal decision or ideas or personal considerations, rather than existing laws. The origin of judicial activism in India is not known exactly till this date. The constitution of India has provided that the judiciary has been recognized as a main organ under Government of India Act, 1935, However, there are a few instances even exist in that period, where certain appointed judges of High Courts established under the Indian High Courts Act, 1861 had started to interpret the laws in order to protect the rights of an individual. When it throws certain ideas of Judicial activism can be defined as "a philosophy of judicial decision made where by judges allow their personal views regarding a public policy instead of constitutionalism."

The Justice Mahmood from High Court delivered a dissenting judgment which sowed the seed for judicial activism in India. In that case, In that case the judicial activism has played a role by providing free legal aid. The press and the media have been recognized as the greatest influencing factors.. The aim of the researcher is to find about the new jurisprudence that has emerged in the recent times has undoubtedly contributed in a great measure to the well-being of the society

II. OBJECTIVES

1. To study about the judicial activism in India
2. To examine the media's role in judicial activism
3. To analyze about the support for judicial activism from public
4. To know that the judicial activism is activated properly

5. To know the action that is taken against the media for publishing data

III. LITERATURE REVIEW

The author explains that the Supreme Court extended its power in order to solve the problem of transparency which led the supreme court into intervention. In this case it is stated that there was an issue about the transparency and separation of power. (Shreeya)

The author states that getting appropriate information is important in democratic nation. Public interest litigations and judicial activism have a mere contact with every aspect of life. Judicial activism has played a vital role in protecting the rights and freedoms of individuals. After the Menka Gandhi case, courts have assumed an activist posture and come forward to the rescue of aggrieved citizens. (Anil Kumaran)

The author observed that the press is free however subject to sure certain restrictions obligatory by the Constitution of the union of India, 1950, as amended. However, with the onset of economic process and privatization, the case has undergone a banging amendment. (Media laws)

The contempt of court and other laws on media states the freedom to attend and report legal proceedings. It states about the leading open justice principle. The examination was done to make that judicial activism make possible to protect the rights of parties mainly the accused in criminal proceedings in society after proceedings have been concluded. (Palmer)

Media which plays a vital role in publishing the decisions and discussions and discourses of the courts from then also must have rights to criticise at the popular level also about the decisions of the court from the standpoint of policy and fundamental constitutional values. Such public criticism may lead to judges accountability (Legitimacy of judicial activism)

The author states that social media enables to access information about the court's decision also

social media issue are boundless permeating the legal disciplines. The law strives to adapt and for good reason. The interest of the press in court proceeding and evaluation undifferentiated media. Even when it contemplates has made on a gratutary basis. (Daithi Mac Sithigh).

The author states that the court held that the judicial activism plays an important role in binding the opinion of the public. It also said that the protective cover of press freedom should not be open for wrong doings. Therefore freedom of speech and peaceful public discussion or public good should result from free to person or reputation. In the case of misusing the rights of freedom to publish the author does not get protection of the constitutional right. Freedom of press is the "mother of all liberties". (Pawan, Vaishali)

The author states about the trial by media free speech versus fair trials legislation prevent the media from reposing anything prejudice the rights media try to highlight the improper functioning of the court. (SudhanshuRanjan)

The author examines the problem on legal corruption which corrupts proceedings which gives execution of law hence the interpretation of law must be in such a manner that it should not corrupt laws. (Ngira, David)

The author has explained that the press and the media is the main factor which determines the judicial activism. But, there are certain drawbacks because it sometime fails to publish the extraordinary functions of the judiciary. (Dr. Shobha Ram Sharman)

The author has explained that in Nural Islam V Bangladesh case the high court decision of policy making that is judicial activisam while applying to ban on tobacco advertisement in print and electronic medias. (RidwanualHoque)

The author examined that there are cases where a decision one way or the other will count for the future, will advance or retard sometimes much, sometimes little, the development of the law in a proper direction. in these cases the judges would

decide personally in order to remove the darkness.
(Chief Justice P.N Bhagwati)

The author examined that there were hard times for the Indian judiciary since it has to face the problem of separation of powers. In spite of such difficulties the Indian judiciary pronounced many judgments which shows that judiciary is an independent body .(Dhaker, Jitendra)

The author has explained that the case of KesavanandaBharati v. State of Kerala laid the concept of judicial activism though it is not clearly mentioned that this concept is used The basic structure concept was not mentioned anywhere dirly in constitution. (Hariharan)

The author states that the Indian Judiciary has played an important role which ensures the fundamental rights of the people, especially to the people below poverty line and transgenders also. (Prof. Dr. NishthaJaswal Dr. Lakhwinder Singh)

The journalist appeared to the court for pavement dwellers of Bombay. Several cases of this type followed. In dealing with such cases, the Court evolved a new provision of rights of citizens and obligations of the State and devised new methods for its accountability. In 1982, Justice P.N. Bhagwati, exactly stated the purpose of Public Interest Litigation as it originated..”(T R Andhyarujina)

The public reliance and faith are the ideal advantages and potential resistances to the judiciary for maintaining prompt and proper justice. The judiciary is the last resort to the public at the general to maintain tranquility and it delivers mandate with the explanation of legal queries and consequently, the society. Besides this, conduct contrary to the public confidence would be detrimental to the efficacious judicial process. (Md. Mostafizur RoshnaZahanBadhon)

The author ensures that for any Judiciary to be healthy , it's necessary that the population should grab the mechanics of legal and the final public

should participate within the court procedures. In any case, it's the requirement of open too to make sure that they're sufficiently participative to possess the knowledge known with the legal. (Siddhi thirupati)

The author ensures that the effectiveness of enforcing judicial decision is that the court's decision are not automatically implemented or obeyed. In some cases, federal judges were the only actor positioned to push country into politically unpopular changes because they would not lose their job . The decision made by judicial body is legal model, attitudinal model, new institutionalism flexible interpretation. (Longman)

IV. METHODS AND MATERIALS

For the purpose of empirical study , Descriptive research is used to portray accurately the public opinion on judicial activism with preference to media. Convenient sampling method is used to collect the samples. Samples are collected with special reference to Chennai. The sample size is 1605. The independent factors are educational qualification and age. Dependent variables are the factors that influence judicial activism; no cause of action arises against media and rewritten judgment with personal option. It has significant impact of chi square is the research tool used in this research. SPSS graphics are attached in this research work. cross table has been used for this research work. The primary sources are taken from the general public in the form of survey method and also the secondary data from other journals and web sources.

ANALYSIS

HYPOTHESIS :

Ho: There is no significant difference between the agreeability of the judicial activism and age of the respondents

Ha: There is a significant difference between the agreeability of the judicial activism and age of the respondents.

Frequency Table

1) Age

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Below 18	413	24.2	25.7	25.7
	Above 18	1189	69.7	74.1	99.8
	32	1	.1	.1	99.9
	37	1	.1	.1	99.9
	58	1	.1	.1	100.0
Total		1605	100.0		

Inference: We have got more number of responses from the age group above 18

TABLE 2

Ho: There is no significant difference between the agreeability of the factor press that influences the judicial activism and age

Ha: There is a significant difference between the agreeability of the factor press that influences the judicial activism and age

*1) AGE * 3) DO YOU 2 THAT THE PRESS AND THE MEDIA HAVE BEEN RECOGNIZED AS THE GREATEST INFLUENCING FACTORS OF JUDICIAL ACTIVISM?*

Crosstab						
Count						
	3) Do you 2 that the press and the media have been recognized as the greatest influencing factors of judicial activism?					Total
	Strongly agree	neutral	disagree	strongly disagree		
1) Below A 18		150	107	49	24	413
ge Above 18	1189	441	228	96	55	1189
32	1	1	0	0	0	1
37	1	0	1	0	0	1
58	1	0	0	1	0	1
Total	452	413	336	146	79	1605

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	40.910 ^a	16	.001
Likelihood Ratio	35.722	16	.003
Linear-by-Linear Association	.114	1	.735
N of Valid Cases	1605		

a. 15 cells (60.0%) have expected count less than 5. The minimum expected count is .05.

INFERENCE:

The P value is less than 0.05 hence it is proved that the null hypothesis is rejected

It is proved that the alternative hypothesis is accepted

Media has the right to publish the facts

TABLE 3

Ho: There is no significant difference between the agreeability of the action that is taken against

the media for publishing fair data and educational qualifications

Ha: There is a significant difference between the agreeability of the action that is taken against the media for publishing fair data and educational qualifications

*1) AGE * 4) DO YOU 2 THAT 2 CIVIL OR CRIMINAL ACTION WILL LIE AGAINST A NEWS PAPER FOR PUBLISHING A FAIR REPORT OF PROCEEDING OF A COURT?*

Crosstab						
Count						
		4) Do you 2 that 2 civil or criminal action will lie against a news paper for publishing a fair report of proceeding of a court?				
		Strongly agree	agree	neutral	disagree	strongly disagree
1) Age	Below 18	89	119	141	41	23
	Above 18	256	534	216	139	44
	32	0	0	1	0	0
	37	0	0	0	1	0
	58	0	1	0	0	0
Total		345	654	358	181	67

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	70.778 ^a	16	.000
Likelihood Ratio	65.465	16	.000
Linear-by-Linear Association	.001	1	.982
N of Valid Cases	1605		

a. 15 cells (60.0%) have expected count less than 5. The minimum expected count is .04.

*1) AGE * 5) JUDICIARY OFTEN REWRITES WITH PERSONAL OPINIONS , ARE YOU 2 WITH THAT?*

INFERENCE:

The P value is less than 0.05 hence it is proved that the null hypothesis is rejected

It is proved that the alternative hypothesis is accepted

No action arises against media for publishing fair facts as to provide a safety valve in

democratic nation and give hope that justice is not beyond the reach

TABLE 4

Ho: There is no significant difference between the satisfaction of the personal action of the judges and age

Ha: There is a significant difference between the satisfaction of the personal action of the judges and age

Count		5) Judiciary often rewrites with personal opinions , are you 2 with that?					Total
		Highly satisfied	satisfied	neutral	unsatisfied	strongly unsatisfied	
1) Age	Below 18	68	131	114	72	28	413
	Above 18	302	368	288	159	72	1189
	32	0	0	0	1	0	1
	37	0	1	0	0	0	1
	58	0	0	0	1	0	1
Total		370	500	402	233	100	1605

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	29.812 ^a	16	.019
Likelihood Ratio	26.499	16	.047
Linear-by-Linear Association	.241	1	.623
N of Valid Cases	1605		

a. 15 cells (60.0%) have expected count less than 5. The minimum expected count is .06.

INFERENCE:

The P value is less than 0.05 hence it is proved that the null hypothesis is rejected

It is proved that the alternative hypothesis is accepted.

The reason why public support judicial activism because administration have been apathetic and non performing, corruption and crime has spread out.

VII. RESULTS &DISCUSSION

Through this research it is proved that media has the right to publish the facts as it is a fundamental right to publish the true facts since the citizens have the right to be informed . No action arises against media for publishing fair facts as to provide a safety valve in democratic nation and give hope that justice is not beyond the reach since fair trials legislation prevent the media from reposing anything . People have expressed that judicial activism is a good idea .The reason

why public support judicial activism because administration have been apathetic and non performing, corruption and crime has spread out.

VIII. CONCLUSION AND SUGGESTIONS

The judiciary serves the people in democratic nation and it is not above the law of the land. In table 2, 3, 4 it was found that the p value is less than 0.05 by calculating chi square , it is proved that the alternative hypothesis is accepted The outcome of the research are 1. Media has the right to publish the facts, 2. No action arises against media for publishing fair facts as to provide a safety valve in democratic nation and give hope that justice is not beyond their reach. The public supported the judicial activism The reason is that why public support judicial activism because administration have been apathetic and non performing, corruption and crime has spread out. In the corruption and crime has spread out. consider law and morality is the same and should

consider them as independent of each other. Integrity, security, impartiality - equality high moral ethics are the key senses of social responsibility. There is no Independence of judiciary, but it is a community that should save as good to people's trust. As the judicial activism has a direct impact on the society and the rights of the people. They have the rights is responsibility protecting the rights of the people ensuring in the system.

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