

THE IMPACT OF JUDICIAL OVERREACH ON INDIA'S SEPARATION OF POWERS

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ABSTRACT

Judicial overreach happens when the judiciary goes beyond its powers and interferes with areas that should be handled by other branches of the government. This can impact the way the legislative, executive, and judiciary branches function. By looking at significant cases like the Assam National Register of Citizens (NRC)¹ and the Cauvery water dispute², we can see how court rulings can sometimes interfere with the government's power, disrupting the balance between branches. While active courts are crucial for protecting people's rights and ensuring justice, there's a downside too. Too much court involvement can hinder effective governance. To sum up, the article stresses the importance of responsible governance. It showcases how all three branches of government exhibit this quality and emphasizes that the judiciary should exercise self-control and honour the division of powers. The article asserts that systems promoting judicial accountability, such as judicial review, conduct commissions, and transparency, are crucial in safeguarding the judiciary's autonomy. However, it also highlights the need for judges to act responsibly in return.

Keywords: Judicial Overreach, Separation of Powers, Judicial Activism, Judicial Accountability, Judicial Independence.

INTRODUCTION

In any democratic government, the separation of powers is a key element. It essentially means there are different branches or sections in the government, each with its own boundaries. This setup is designed to make sure that no single branch has too much control. The idea is to prevent

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¹ Yasmin Saikia, 'The National Registry of Citizens: Violating Muslims, Violating Humanity in Assam' (ResearchGate, 18 October

2019) https://www.researchgate.net/publication/351852759_The_National_Registry_of_Citizens_Violating_Muslims_Violating_Humanity_in_Assam accessed 7th July 2024

² 'Explained: What is the Cauvery water dispute, why is Karnataka not giving water to Tamil Nadu' (The Economic Times, 15 October 2022) <https://m.economictimes.com/news/how-to/explained-what-is-the-cauvery-water-dispute-why-is-karnataka-not-giving-water-to-tamil-nadu/articleshow/103954029.cms> accessed 8th July 2024

any one part from becoming too powerful and to stop branches from interfering with each other. In a nutshell, this system splits the government into three parts: the lawmakers, the enforcers, and the interpreters of the law. This setup ensures that no one group holds all the power and provides protection against tyranny and misuse of authority. The significance of this division of powers in a democratic setup cannot be overstated. Dividing the power across various government branches establishes a system of checks and balances. Each branch oversees specific tasks, limiting the influence of others. This setup ensures accountability and transparency because each branch operates independently. For instance, the executive branch can reject legislation, but the central authority can block it by obtaining a majority of votes.³

In a similar way, the judiciary has the authority to declare laws or executive decisions as unconstitutional, guaranteeing that all government activities adhere to what the Constitution dictates. By overseeing the exercise of power, the division of powers also aids in better governance by allocating distinct duties to various branches. The independence of these branches enables them to focus on their specific tasks, leading to enhanced overall efficiency. One common setup is where the lawmakers (who are chosen by the people) focus on creating laws that reflect what most people want, while at the same time, the judiciary offers unbiased explanations of those laws. Moreover, the distribution of powers is crucial in safeguarding your freedoms. When no single branch holds all the power, it protects you from unjust government actions. This setup creates a system where authority is fairly shared, enhancing the chances of respecting and preserving your individual rights. In a community where the government has a duty to help its citizens, these safeguards play a crucial role in building trust and involvement in politics. Judicial activism happens when the courts are seen to go beyond their roles and get involved in matters meant for the legislative or executive branches.

When courts interpret and apply laws to make decisions that create new policies or change existing ones beyond their intended scope, that's what we call judicial activism. Critics believe that this practice goes against the separation of powers in a healthy democracy. They say it upsets the balance meant to keep any government branch from becoming too powerful. The main job of the judiciary is to explain the law and make sure it's used fairly for everyone. Sometimes, though, court decisions can have big effects that reach beyond just explaining the law. An example of this is when courts decide on really controversial social or political matters.

³ Separation of Powers (National Archives, n.d.) <https://www.archives.gov/education/lessons/separation-powers> accessed 10th July 2024

Let's take a look at how important decisions like abortion, same-sex marriage, and environmental regulations are made. These choices are often tied to strong societal beliefs. When courts step in and make significant judgments on these matters, some may view it as going around the usual process. Normally, elected officials are responsible for discussing and deciding on these issues based on what the public wants. Critics say that when courts do this, they go beyond their duty and reduce the democratic backing of the law-making process. But it's crucial to understand that defining when judges go too far can vary and cause disagreement. Advocates of judicial involvement believe that courts play a crucial part in safeguarding rights and upholding fairness, particularly when the government or majority neglects to act or when the rights of minorities are in jeopardy.⁴

Some people argue that the courts should intervene at times to fix unfair situations and defend the Constitution, even if it involves making daring choices that affect policies. This ongoing discussion about judicial overreach typically mirrors larger disagreements on the appropriate function of the courts in a democratic setup.

In India, the discussion about judicial overreach became more important, especially after the Emergency period from 1975 to 1977. This was a time when civil liberties and political freedoms were greatly restricted under the government of Prime Minister Indira Gandhi. At that time, many people criticized the judiciary for not keeping the government in check. One significant event was the ADM Jabalpur case⁵. In that case, the Supreme Court decided that citizens could not ask the courts for help in enforcing their fundamental rights during the Emergency. After the Emergency period, there was a noticeable change in how the courts worked. They became more active in defending constitutional rights and tackling public concerns. This time marked the emergence of Public Interest Litigation (PIL), which empowered the courts to tackle problems faced by the underprivileged and advocate for fairness in society. The Supreme Court's broader view of the right to life and personal freedom according to Article 21 of the Constitution showed a change. This resulted in important court decisions that widened the range of basic rights.

Yet, as judges became more active in interpreting the law, it triggered discussions on whether they were overstepping their bounds. They started giving orders on various policy issues

⁴ Apoorva Mandloi, 'A Critical Analysis on Judicial Review, Judicial Activism, and Judicial Restraint in India' (International Journal of Law Management & Humanities)

⁵ ADM Jabalpur v Shivkant Shukla 1976, AIR 1207 (Supreme Court of India)

usually handled by the government branches. Opponents believed that although judicial engagement was vital for progress and rights defence, it could lead to courts getting involved in areas meant for elected officials and administrators. In India, the history of the judiciary shows how its role has changed over time.⁶ There is a continuing discussion about finding the right balance between when the judiciary should step in and when it might be going too far in influencing how the country is run democratically.

When judges actively shape laws, it usually helps keep the government in check. However, too much of it can make them go too far, affecting the power balance. This judicial involvement has played a role in promoting fairness, defending basic freedoms, and tackling public concerns that other government branches might overlook. When the judiciary goes beyond interpreting laws and begins to make policy choices, it can threaten the democratic values it is supposed to protect. This can result in too much power in the hands of the judiciary, upsetting the balance meant by the separation of powers and possibly intruding into the roles of the legislature and the executive.

Judicial activism plays a vital role in keeping a check on the activities of other branches of the government. This is particularly important when the legislative and executive arms fail to protect individual rights and uphold justice.⁷ In countries like India, after the Emergency period, the judiciary became more proactive in addressing issues of public interest. This proactive stance led to notable progress in the areas of human rights and social justice. Significant legal decisions have broadened the understanding of basic rights, leading to beneficial shifts in laws related to the environment, women, and marginalized groups. These rulings have tackled deep-rooted injustices and provided support to individuals who couldn't easily impact laws through the government. Judicial activism plays a critical role in balancing power, holding the government responsible, and safeguarding the rights of individuals.

However, if judges get too involved in making decisions, it can lead to exceeding their authority and causing a disruption in the balance of power between the different branches of government. The court system is meant to interpret the law, not to create or enforce policies. These roles are specifically designated by the constitution to the legislative and executive branches, respectively. When courts start making policy decisions or cancelling laws and actions based

⁶ Megha Awasthi, 'Transformation of Judicial Activism into Judicial Overreach' (Project Juris, 2022) <https://www.project-juris.com/post/transformation-of-judicial-activism-into-judicial-overreach>, accessed 9th July 2024

⁷ *Ibid*

on reasons beyond just legal interpretation, they are stepping into the duties of other branches of government. This might cause a situation where judges who were not elected end up deciding things that should be left to elected officials. This can weaken the accountability and legitimacy of the democratic process. For example, in India, courts have given specific instructions on various topics, from economic policies to administrative issues. Some people criticize this, saying that the courts are going too far and getting involved in making policies.

Furthermore, too much judicial activism might weaken people's confidence in the legal system. If the courts are seen as going beyond their intended role according to the Constitution, it could provoke a negative reaction from the government and the public. Lawmakers and officials might try to limit the authority of the courts through changes in the system or disregard court decisions. This could result in constitutional conflicts and a loss of respect for the legal framework. Furthermore, when the public starts viewing the judiciary as a player in politics rather than a fair judge of the law, it can weaken its trustworthiness and autonomy. This decline in confidence can harm the well-being of a democracy where a separate and esteemed judiciary is crucial for safeguarding rights and settling conflicts.

Wrapping up, it's clear that judicial activism plays a crucial role in upholding justice and ensuring accountability. However, when judicial activism goes too far, it can result in judicial overreach, disrupting the balance of power between government branches. It's important for the judiciary to show restraint and adhere to the constitutional limits of its authority. Instead of creating policies, the focus should be on interpreting the law. By keeping this balance, the legal system can still safeguard rights and support fairness while respecting the democratic values of dividing powers and following the law.⁸

UNDERSTANDING SEPARATION OF POWERS

One of the key ideas in politics and how countries are run is the separation of powers. It goes way back in time and is a big part of how democracy works. This idea, made known by the philosopher Montesquieu during the Enlightenment period, is all about splitting up the jobs of government into different areas. The goal is to make sure no single part gets too much control. In 1748, Montesquieu's book "The Spirit of the Laws" had a big impact on how today's

⁸ Kermit Roosevelt. "Judicial activism". *Encyclopedia Britannica*, 29 Dec. 2023, <https://www.britannica.com/topic/judicial-activism>. Accessed 14 July 2024.

democratic systems are set up. He suggested that splitting the government into executive, legislative, and judicial branches could protect freedom and stop abuse of power.

Montesquieu believed that to protect your freedom in politics, it's essential to keep the three branches of government separate. He suggested that if the power to make laws and enforce them is concentrated in one person or group, it could lead to a loss of liberty. This is because there might be concerns that the same ruler or governing body could create oppressive laws and enforce them in a tyrannical way. He strongly stated that having a fair system means keeping the judiciary separate from the legislative and executive branches. If not, judges could end up with too much authority, possibly causing them to control things without reason.⁹

Montesquieu didn't just come up with a theory; he responded to the political situation of his era, especially in France and Britain. By looking at how the British system worked, even though not perfectly split, it still had a better separation of powers compared to the absolute monarchies in mainland Europe. This greatly shaped his thoughts and theories. In the British system, different parts have specific roles. The monarch handles executive tasks, the Parliament deals with making laws, and the judiciary explains laws.

The importance of Montesquieu's idea of separating powers in today's democracies is huge. This concept is fundamental in numerous constitutions globally, creating a system where different branches keep each other in check to avoid any one branch becoming too powerful. Take the United States, for instance. The U.S. Constitution, clearly defines what each of the three branches of government can do. Article I gives Congress the power to make laws. Article II says the President is in charge of executing these laws. And then, Article III sets up the courts to interpret and apply the laws. This setup is crucial for keeping a fair system in place. It ensures that no single branch becomes too powerful by allowing each one to keep an eye on the others. This way, the government can run smoothly and justly.¹⁰

In today's democratic systems, the way powers are separated keeps changing to meet fresh challenges. Even though we like to think of powers being neatly split, real governing usually needs a more adaptable strategy. For example, bodies like independent regulatory agencies could have roles in making laws, running things, and settling disputes to properly oversee tricky areas like finance or telecommunications. When different roles blend together, it can make you

⁹ Montesquieu, Charles de Secondat, baron de, *The Spirit of the Laws* (Hafner Pub. Co. 1949)

¹⁰ Montesquieu, *The Spirit of the Laws* (first published 1748, reprint Cambridge University Press 1989) book 11, ch 6.

worry about who should be accountable and if there might be too much control. However, this mix is usually seen as necessary to have specific and effective rules. Additionally, keeping the powers separate is crucial to make sure judges can work independently and keep people's rights safe.

In democracies, it's crucial to keep the judiciary independent from the executive and legislative branches. This helps uphold the rule of law and safeguard people's rights from power misuse. This idea is supported by many global human rights agreements and serves as a measure to evaluate how well democratic systems work worldwide. The Indian Constitution doesn't follow a strict separation of powers. Instead, it sets up a strong system of checks and balances among the three branches of government: the legislature, the executive, and the judiciary. This setup makes sure that none of the branches can have too much power without oversight. This way, it safeguards democracy and encourages effective governance.¹¹

In India, the Parliament plays a crucial role in making laws and overseeing government actions. It consists of two houses: the Lok Sabha and the Rajya Sabha. The Parliament has the power to pass legislation, manage finances, and monitor what the government does. The Constitution sets up ways for the Parliament to keep an eye on the government. Members of Parliament (MPs) can grill ministers, have discussions, and create groups to review government plans and spending. To keep the system in check, the executive must answer to the legislature. The President of India, who is also part of the Parliament, has a vital role in making laws. Even though the President mainly has symbolic powers, their approval is needed for a bill to become official. Moreover, the President can call, end, or dissolve the Lok Sabha, which helps in overseeing the legislature.

In India, the President leads the executive branch. They work with the Prime Minister and the Council of Ministers to put laws into action and run the country. But their authority is overseen by the legislature and the judiciary. The Prime Minister and the Council of Ministers are answerable to the Lok Sabha. If the Lok Sabha feels they are not doing a good job, they can vote to remove them from their positions. This system makes sure that the person in charge is responsible to the officials chosen by the public and can be questioned for what it does. Also, the President can send a bill back to Parliament for review, except for money-related bills.

¹¹ Anakha Hari, 'Separation of Power: A Critical Analysis on the Judiciary's Involvement with Policy Matters of the Government' (IJALR, 2022) https://ijalr.in/volume-2/issue-3-2/separation-of-power-a-critical-analysis-on-the-judiciarys-involvement-with-policy-matters-of-the-government-by-anakha-hari/#google_vignette accessed 11th July 2024

Although this authority is restricted, it serves as a way to monitor the legislature's power to make laws.¹²

In India, the legal system operates separately from the government. The Supreme Court, High Courts, and lower courts have the authority to explain the Constitution and settle legal conflicts. The independence of the judiciary is protected by various constitutional rules. For instance, judges have job security, and fixed pay, and are not allowed to work for the government after they retire. The judicial branch has the authority to review laws and actions of the other branches of government. It can reject laws and decisions that go against the Constitution, making sure that the legislative and executive branches follow the rules laid out in the Constitution and uphold citizens' rights.

In the Indian Constitution, there are checks and balances in place to prevent too much power in one place and to make sure things are accurate and transparent. Here are some important parts of this system:

Legislative Control Over Finances

The government can't raise taxes or spend money without the okay from the legislature. Parliament has to give the green light to the Union Budget that the government puts forward. This way, the legislative branch can keep an eye on how the executive branch handles finances.

Legal Check

The courts have the power to reject laws and decisions that go against the Constitution. Famous legal battles like *Kesavananda Bharati v. State of Kerala* show how the courts protect the core values of the Constitution by making sure changes don't mess with its main ideas.

Impeachment and Removal

The Constitution allows for the impeachment of the President and the removal of judges for wrongdoing. This system ensures that even the most powerful officials can be held accountable.

¹² M P Jain, *Indian Constitutional Law* (8th edn, LexisNexis India 2018)

In times of urgency, the leader can announce an emergency, but this decision needs to be confirmed by Parliament and reviewed by the courts. This system prevents the misuse of emergency authority and safeguards democracy.

The President can issue ordinances when Parliament is not meeting, but these ordinances must be endorsed by Parliament within six weeks of its next session. This process ensures that the executive branch doesn't sidestep the legislative branch.

The Indian Constitution clearly defines what each branch of the government – the legislature, the executive, and the judiciary – should do through different articles. These articles show how each branch works, making sure there's a fair balance of power and responsibility.¹³

In India, the Parliament is formed according to Article 79¹⁴. This article outlines that the Parliament includes the President and two Houses—the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). This setup is important as it establishes the dual-house system of the Indian Parliament, guaranteeing representation for both states and the people. State Legislatures have specific rules laid out in Article 196.¹⁵ These rules explain the steps a Bill must go through to become a law. The Bill needs approval from both Houses of the State Legislature and the Governor. This process highlights how crucial it is to follow legislative steps in each state. It ensures that laws are made carefully and in line with democratic values. Moreover, Article 245¹⁶ gives Parliament the power to create laws for all or specific regions of India. Similarly, State Legislatures can establish laws for their individual states. This article is important because it defines the legislative authority of both the Union and the States, strengthening the federal system of the Indian political framework. The division of powers makes sure that both the central and state governments can work independently in their own areas, supporting a fair sharing of lawmaking control.

In India, the top position in the executive branch is held by the President, as outlined in Article 52.¹⁷ This makes the President the chief of the Union's executive arm, holding the highest authority in the nation. Article 53¹⁸ grants the President the executive power of the Union, which can be wielded either directly or through officials reporting to them, as per the

¹³ Bakshi PM, *The Constitution of India* (LexisNexis 2023)

¹⁴ Constitution of India 1950, art 79

¹⁵ Constitution of India 1950, art 196

¹⁶ Constitution of India 1950, art 245

¹⁷ Constitution of India 1950, art 52

¹⁸ Constitution of India 1950, art 53

Constitution. This article highlights how the President delegates executive powers to manage the country effectively through subordinate officers. According to Article 74¹⁹, there must be a Council of Ministers led by the Prime Minister to assist and offer advice to the President. The President typically follows this advice, emphasizing the importance of the Council of Ministers in guiding executive choices. In this article, we'll explain how the executive branch works and highlight the significance of shared responsibility. The executive's answerability to the legislature is strengthened through processes like parliamentary inquiries, discussions, and the establishment of committees for reviewing government decisions and policies.

In India, the judiciary is set up according to Article 124²⁰, which focuses on the Supreme Court of India. This article outlines how judges are appointed, their qualifications, and how long they can serve on the Supreme Court. It highlights how the Supreme Court is the top legal authority in the country, responsible for interpreting the Constitution and resolving disputes. In Article 125²¹, the focus is on the pay, benefits, and working conditions of Supreme Court judges. This is vital to ensure the judges can work independently without financial pressure. It secures their impartiality in carrying out their responsibilities. Article 141²² emphasizes that decisions made by the Supreme Court must be followed by all courts in India. In this article, we discuss how the Supreme Court holds significant power in upholding a consistent legal system nationwide. Through judicial review, the court can overturn laws and actions that go against the Constitution, protecting people's rights and upholding the rule of law.

The Indian Constitution has a system of checks and balances in place to avoid too much power in one place and to ensure accountability and openness. A good example is how the legislative branch oversees finances to make sure the executive branch can't impose taxes or spend money without the legislature's consent. When the government presents the Union Budget, it needs Parliament's approval, which means that the executive's control over money gets reviewed by lawmakers. One important way the judiciary keeps a check on things is through judicial review. This means the judiciary can rule that laws or executive actions go against the Constitution and are therefore invalid. For instance, in cases like *Kesavananda Bharati v. State of Kerala*, the judiciary has shown its duty to protect the core principles of the Constitution, making sure that any changes made through amendments don't undermine its key foundations. In addition, the

¹⁹ Constitution of India 1950, art 74

²⁰ Constitution of India 1950, art 124

²¹ Constitution of India 1950, art 125

²² Constitution of India 1950, art 141

processes for impeaching and removing the President and judges make sure that everyone, even those in top positions, can be held accountable, which strengthens the checks and balances system. Emergency rules let the executive declare emergencies in specific situations, but these declarations need approval from Parliament and can be reviewed by the judiciary to prevent the misuse of emergency authority and safeguard democratic principles. The President can make executive orders when Parliament is not meeting. However, these orders need Parliament's approval within six weeks after it reconvenes. This system ensures the executive branch follows the proper legislative process.

To sum up, the Indian Constitution has a complex system of checks and balances. This system ensures that the legislature, executive, and judiciary stay within their roles and are accountable to one another. For instance, Article 79²³, Article 196²⁴, and Article 245²⁵ outline the legislature's powers. Meanwhile, the executive's functioning is defined by Articles 52²⁶, 53²⁷, and 74²⁸, and the judiciary's role is established by Articles 124²⁹, 125³⁰, and 141³¹. This framework helps keep the three branches in line and accountable to each other. This setup ensures power is evenly shared, avoids dictatorship, and protects the democratic values the nation is built on. While it doesn't strictly divide power, the Indian constitution effectively upholds the autonomy and cooperation among the government's three branches, ensuring they work together smoothly for the nation's benefit.

JUDICIAL OVERREACH: A CONTESTED TERRAIN

When judges get too involved and start making decisions that some people think are too bold, that's called judicial overreach. It's often linked with judicial activism, which is when judges get really active in making decisions that affect how the government works in a democracy. So, when judicial activism goes too far and starts looking like a legal adventure, that's when we talk about judicial overreach. Activism of this kind describes when the judiciary interferes often and without reason in matters that are meant for the legislative branch. Even though both

²³ Constitution of India 1950, art 79

²⁴ Constitution of India 1950, art 196

²⁵ Constitution of India 1950, art 245

²⁶ Constitution of India 1950, art 52

²⁷ Constitution of India 1950, art 53

²⁸ Constitution of India 1950, art 74

²⁹ Constitution of India 1950, art 124

³⁰ Constitution of India 1950, art 125

³¹ Constitution of India 1950, art 141

terms mean the judiciary goes beyond its usual job of just explaining the law, they have different effects and outcomes.

Judicial activism is when the judges take an active role in safeguarding rights, interpreting laws based on current social and moral standards, and delivering justice if the legislative and executive branches fall short. This idea stems from the view that the courts should play a hands-on part in defending basic rights and maintaining the principles laid out in the Constitution. Judicial activism happens when courts interpret constitutional rules broadly to increase citizens' rights. People usually like it when it fixes unfairness, deals with government inaction, and makes democracy work better by making sure other branches do their jobs.³²

Judicial overreach happens when the court goes beyond what it should do according to the Constitution. It means the court starts doing things that the Constitution says should be done by the legislature or the executive. This happens when the court, acting like activists, starts making laws from the bench or getting involved in creating policies. This way, the court is taking over powers that belong to the other branches of the government. Critics often frown upon judicial overreach as it can upset the delicate balance of power and weaken the core principle of separation of powers crucial in a democracy. This situation might arise when the judiciary, instead of playing a fair adjudicator's role, starts acting like a quasi-lawmaking entity, creating regulations and policies that fall outside its elected scope.

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When we talk about judicial activism and judicial overreach, it's all about how they affect the balance of power among the branches of government. Judicial activism means that the courts take an active role in interpreting laws and safeguarding constitutional rights, especially when the other branches of government are not doing their part. Consider this example with the Supreme Court of India. Over time, it has been known for using its judicial review authority to nullify laws and actions that go against the Constitution, thereby upholding the rule of law. This kind of activism falls under the court's authority and is seen as an essential step to protect justice and constitutional principles.³³

Sometimes, the judicial system goes too far by taking on roles that belong to the legislative or executive branches. For instance, when courts begin giving specific directions on how to handle policies, like overseeing administrative tasks or setting rules about environmental protection or

³² 'Judicial Activism: Empowering Rights & Impact On Democracy' (pwonlyias.com, 2023) <https://pwonlyias.com/ncert-notes/judicial-activism-impact/> accessed 6th July.

³³ 'Judicial Overreach, Judicial Restraint and Judicial Activism in India' (Lawctopus)

financial changes, they step into areas meant for other parts of the government. This upsets the power balance and makes people question the legitimacy and knowledge of the judiciary in dealing with intricate policy matters that need thorough discussion and democratic choices.

The Indian judiciary is known for its proactive approach and at times, it has gone beyond its limits. Notable cases such as the *Kesavananda Bharati* case³⁴, which introduced the basic structure doctrine, and the *Vishakha* case³⁵, which set rules to prevent workplace sexual harassment, highlight this proactive stance. These cases show how the judiciary has been instrumental in promoting rights and upholding the Constitution. On the flip side, some situations, like when the Supreme Court steps in on policy issues, for example, prohibiting alcohol sales close to highways without solid proof that it cuts down on accidents, have faced backlash for going too far. These rulings, impacting economic policies and how things run, show how the courts are getting into the territory of the government and law-making bodies.

A clear instance of judicial overreach in policy can be seen in the Supreme Court of India's ruling back in December 2016. The directive banned the sale of liquor within 500 meters of national and state highways. The court aimed to lower road accidents due to drunk driving, which is a worthy objective. Nevertheless, this ruling had a big impact on the economy, hitting many businesses and cutting down on state revenues. Critics slammed the directive for not having solid proof tying highway liquor sales to accident rates. They argued that decisions like this should be handled by the government branches, not the courts. Another example of the judiciary overstepping its bounds was when the Supreme Court stepped in to control traffic in Delhi by prohibiting diesel vehicles older than ten years and petrol vehicles older than fifteen years. This decision was made to cut down on pollution. It involved taking over tasks usually handled by the executive branch. Although the court's care for the environment was commendable, some people criticized the ruling for not thoroughly weighing its economic effects and for getting involved in a regulatory area it wasn't specialized in.

Sometimes, the courts overstep by getting involved in deciding who should be hired or fired, tasks that are usually handled by the executive branch. For instance, back in 1993, the Supreme Court made a significant call known as the "Second Judges Case,"³⁶ which resulted in setting up the collegium system for picking judges. By making this decision, the authority to select

³⁴ *Kesavananda Bharati v State of Kerala* (1973) SCC 225

³⁵ *Vishaka and Others v State of Rajasthan* (1997) SCC 241

³⁶ *Supreme Court Advocates-On-Record Association & Anr. v Union of India* 1993 SCC 441

judges shifted from the government to the courts. This changed the power dynamics and sparked concerns about the lack of transparency in appointing judges. Although the collegium system aimed to safeguard judicial autonomy, it has faced criticism for its secretive operations and the belief that it weakens the government's constitutional responsibilities. One example of judicial overreach in executive appointments occurred when the Supreme Court ordered the removal of P.J. Thomas as the Chief Vigilance Commissioner (CVC) in 2011 because of his connection to a corruption case. Although many appreciated the move for maintaining honesty in top positions, some viewed it as the judiciary stepping into the executive's power to hire and dismiss employees. These examples show that when judges get involved in what the government does, it can cause issues between different parts of the government and mess up the system of checks and balances.

One area where we've seen judicial overreach is interference in everyday administration. For example, sometimes the courts step in on matters that should be dealt with by the executive. Take the Supreme Court stepping in to run the Board of Control for Cricket in India (BCCI) and set up committees to keep an eye on how it operates. When the aim was to make cricket administration transparent and accountable, it unintentionally led to the judiciary stepping into the daily operations of a sports organization that usually runs itself. This involvement was seen as going too far since it put the judiciary in a position usually held by administrative teams. Sometimes, court orders can slow things down in the government, making it hard for the executive branch to work efficiently. For instance, during the COVID-19 pandemic, legal actions in how resources were handed out caused some mix-ups and made it take longer for the government to put its plans into action. While the courts tried to make sure that government decisions followed the constitution and worked well, sometimes getting involved in a crisis that was changed quickly fast slowed down how quickly the government could react. This showed that when judges go too far, it can create problems.

The Supreme Court's involvement in the Assam National Register of Citizens (NRC)³⁷ case is a significant instance of judicial overreach. In this case, the court went beyond its usual role by overseeing and directing the NRC updating process. By imposing deadlines and instructions on the government, the court essentially assumed the responsibilities of the executive branch,

³⁷ Yasmin Saikia, 'The National Registry of Citizens: Violating Muslims, Violating Humanity in Assam' (ResearchGate, 18 October 2019) https://www.researchgate.net/publication/351852759_The_National_Registry_of_Citizens_Violating_Muslims_Violating_Humanity_in_Assam accessed 7th July 2024

which was considered excessive. The court stepping in made a big difference in how power was divided. It limited the executive's freedom in dealing with a touchy subject like the NRC.

One more instance that shows excessive judicial involvement is when the Supreme Court ruled on the Cauvery water conflict³⁸ involving Karnataka and Tamil Nadu. In this case, the court not only settled the dispute but also issued specific directives about how the water should be shared. This went beyond its usual duty of just explaining the law. The court's decisions significantly affected how policies were made and carried out by top leaders. These rulings had a big influence on the way the government was structured and how much independence the states had in the disagreement.

These examples show how important it is to find the right balance between judicial activism and overstepping boundaries. The judiciary has a key role in keeping the executive and legislative branches in check, but it's vital to also respect the separation of powers. When the judiciary gets too involved in areas that belong to other branches, it can weaken the checks and balances system crucial for a robust democracy.

To sum up, the judiciary is vital for safeguarding the Constitution and defending basic rights. However, it's important for judges to be cautious and not overstep boundaries by deciding matters that are more suitable for elected officials and administrators. Judicial activism, where the judiciary actively ensures fairness and upholds constitutional principles, is crucial for tackling injustices and keeping other branches of government in check. Yet, if the judiciary goes too far, it can upset the balance of power and weaken democratic governance. It's crucial to uphold the separation of powers and acknowledge the unique duties of the legislature, executive, and judiciary for a democracy to work well. When judges get too involved in policy decisions, selecting or firing officials, or meddling in daily operations, it can upset the balance. This interference can create issues and disagreements that make it harder to run the country smoothly.

Many people who advocate for change believe that having a judiciary that takes action is crucial when the legislative and executive branches are not doing enough to protect fundamental rights

³⁸ 'Explained: What is the Cauvery water dispute, why is Karnataka not giving water to Tamil Nadu' (The Economic Times, 15 October 2022) <https://m.economictimes.com/news/how-to/explained-what-is-the-cauvery-water-dispute-why-is-karnataka-not-giving-water-to-tamil-nadu/articleshow/103954029.cms> accessed 8th July.

³⁸ 'Separation of Powers' (National Archives, n.d.) <https://www.archives.gov/education/lessons/separation-powers> accessed 10th July 2024

and uphold justice a Constitution. Those who back an active judiciary think that a robust court system plays a vital role in stepping in where other government branches may be lacking. This ensures that fairness is maintained and that the values of the constitution are safeguarded. Many believe that having an active judiciary is crucial as it serves as a protective measure against any missteps or overreaches by the legislative and executive arms of government. In numerous democracies, the courts are viewed as the final option for individuals looking to address their complaints. When laws are made that go against your basic rights or when unfair policies are put into action, the courts are there to safeguard your rights. This safeguarding role is vital to keep the power balanced and prevent any branch of the government from becoming too strong or unfair. In India, the legal system frequently steps in to overturn laws and policies that go against the Constitution and the rights it promises. This means that the judiciary acts as a protector of the Constitution and the rights it ensures.

Judicial activism is seen as necessary to make sure everyone has access to justice. Sometimes, people who are marginalized or vulnerable don't have the resources or power to seek justice through laws or government actions. A proactive court system can help by recognizing problems that affect these groups and making decisions that protect their rights. In India, Public Interest Litigation (PIL) has played a crucial role in giving a voice to those often unheard in politics. The courts in India have been open to considering PIL cases and have made important decisions on various issues, including environmental protection and human rights. This proactive approach by the judiciary has been instrumental in addressing the concerns of marginalized groups.

Judicial activism has its supporters due to the way it interprets the Constitution and laws. By analysing these legal texts, the judiciary can adjust the Constitution to fit modern social, economic, and political situations. This adaptability is crucial in a fast-changing world where unexpected challenges and problems arise that the Constitution's creators did not foresee. As times change, the way laws are understood can change too. This helps the Constitution stay relevant. An excellent example of this is when the Indian Supreme Court acknowledged the right to privacy as a crucial right in the Puttaswamy case. It shows how legal interpretations can adjust to modern worries about privacy in today's tech-driven world. Moreover, when the judiciary takes a proactive approach, it can spark social change. There have been numerous occasions where court decisions have triggered important reforms and adjustments in policies. By interpreting laws in a way that supports fairness and equal rights, the judiciary can

encourage other government branches to operate in a more accountable and forward-thinking manner. Significant legal decisions regarding topics like gender equality, LGBTQ+ rights, and environmental conservation have frequently come before official laws, showing how the courts help push society forward. For instance, in India, when Section 377 of the Indian Penal Code was revised to decriminalize homosexuality, it marked a crucial moment where court actions led to increased recognition and legal safeguards for LGBTQ+ individuals.³⁹

To sum up, supporting a proactive judiciary boils down to its key roles: safeguarding basic rights, facilitating access to justice, interpreting the Constitution dynamically, and driving social progress. While being careful not to go too far, judicial activism is crucial for delivering justice and maintaining constitutional principles. When the government branches drop the ball, having a proactive court is key to keeping the system in check and safeguarding your rights.

Supporters of judicial activism stress its importance in safeguarding rights and upholding justice. However, opponents raise valid concerns about the downsides of judicial overreach. They contend that when the courts go beyond their designated duties, it can upset the checks and balances, weaken democratic values, and cause problems and inconsistencies in how the government operates. One big worry with judicial overreach is how it messes with the idea of separation of powers, which is key to how a democracy works. This doctrine sets up clear lines between the legislative, executive, and judicial parts of the government, each with its own jobs and duties. If the courts start doing the work of the lawmakers or the leaders, it blurs these lines and throws off the power balance. When one branch of government starts overstepping its boundaries, it can cause clashes with other branches, which can erode the system of checks and balances crucial for preventing power abuse. For instance, if the judiciary starts giving instructions on policy issues like economic rules or environmental policies, it can disrupt the executive's capacity to carry out well-structured policies, resulting in chaos and inefficiency in administration.⁴⁰

When judges overstep their bounds, it can weaken democratic responsibility and the credibility of the courts. In a democracy, lawmakers in the government are answerable to you, the public, through regular voting. They create rules and plans according to the authority granted by voters. If the judiciary gets too involved in creating policies, it skips this democratic system and makes

³⁹ Rishi Pandey, Judicial Activism in India, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4101375, accessed 17th July 2024.

⁴⁰ Perna Sharma, Judicial Activism VIS-A-VIS Judicial Overreach: A Comparative Study, International Journal for Multidisciplinary Research (IJFMR), Volume 5, Issue 3, May-June 2023

choices that are supposed to be decided by elected leaders. When situations arise where the public starts losing faith in the democratic process, it could lead to a belief that the judiciary is exceeding its boundaries. The judiciary, unlike the elected legislature, may face challenges as it lacks similar accountability measures. This could result in doubts about the legitimacy of the judiciary when making significant policy choices that impact everyone.

One big problem with judicial overreach is that it can cause inconsistency and unpredictability in governance. Judges are skilled in interpreting the law, not in creating policies or handling administrative tasks. When they start getting involved in fields beyond their knowledge, their rulings might miss the broad understanding and real-world aspects needed for making policies that work well. Sometimes, when policies are made without much thought, they can end up being hard to put into action. This can cause problems and make things confusing. For example, when the courts get involved in tricky topics like economic rules or public well-being, it can mess up what's already in place and make it tough to carry out plans for the future.⁴¹

Sometimes, when judges make decisions that need a lot of attention to follow or try to control how the government works too closely, it can cause problems for the executive branch. This might make it harder for them to make decisions quickly and create issues with how things run smoothly. It becomes a bigger concern in urgent situations when quick and clear actions are necessary, like in emergencies or crises. When the judiciary gets too involved in the daily running of things, it can make things tough for the executive branch. This can add more rules and checks that slow down how well the executive can work. For instance, in the COVID-19 crisis, when courts had a say in how medical gear was shared and hospitals were run, it sometimes caused delays and mix-ups. This shows that when the courts go too far, it can stop the executive from acting fast in emergencies.

Moreover, when judges overstep their bounds, it can stretch the court system thin and shift its focus away from its main job of resolving conflicts and explaining laws. If courts start handling tasks that fall under the jurisdiction of other parts of the government, they might find themselves swamped with duties that aren't really their responsibility. As a result, case resolutions could slow down, leading to a buildup of cases in the legal system, which hampers the court's capacity to provide swift justice. When judicial resources get diverted to handle

⁴¹ Judicial Overreach, Testbook <https://testbook.com/ias-preparation/judicial-overreach>, accessed 5th July 2024

policy matters, it might take away attention from solving legal conflicts, which is the main job of the courts.⁴²

Ultimately, although judicial activism has its advantages, going too far can be problematic for democracy and how the government works. It can weaken the idea of separating powers, reduce democratic responsibility, and create confusion and inefficiency in running the country. Moreover, excessive judicial involvement can place extra demands and rules on the executive branch, which might slow down its ability to address pressing issues. Furthermore, it puts a strain on the resources of the judiciary and shifts its focus away from its main task of resolving conflicts. To keep the power balance intact and guarantee efficient leadership, it's essential for the judiciary to show self-control and acknowledge the unique duties of the legislative and executive arms.

IMPACT ON SEPARATION OF POWERS

When judges exceed their authority, it can impact how lawmakers make laws. This might make elected officials less confident and effective in doing their jobs. If courts keep getting involved in making laws, it could make lawmakers hesitant to pass new laws. They might worry that the courts will review, reject, or change their work. When judges get too involved in making laws, it can mess with how the government makes laws and weaken the power of lawmakers. The big issue with judges stepping in too much is that it makes lawmakers second-guess themselves. They might start being too careful when creating new laws, worried that the judges will come in and change what they worked hard to put in place.

When legislators are cautious, they might hold back from tackling tricky problems that need careful solutions. They may worry about facing legal challenges, causing them to get stuck and not pass crucial but controversial laws. This could slow down the government's ability to meet the changing needs of the people effectively.

Judicial overreach can upset the balance in the democratic process. It can divert the attention of elected officials to the courts. In a democracy, lawmakers are in charge of creating laws that represent the desires of the public, as shown in elections. When the judiciary gets involved in making laws often, they take over this responsibility. They end up making choices that should

⁴² National Judicial Academy, 'Judicial review - Activism and Overreach' (2021-22) https://nja.gov.in/Concluded_Programmes/2021-22/P-1287_PPTs/1.Judicial%20review%20-%20Activism%20and%20Overreach.pdf accessed 16th July 2024

be done by those who answer directly to the voters. When rules start getting made by non-elected people instead of the representatives you choose, it can make you feel like your vote doesn't count. This can make you feel left out and not listened to.

When judges frequently interfere, it can make laws inconsistent. If the courts change or cancel laws, it can cause a mix of judicial rulings that might not match the overall legislative plan. This can make the law unclear and confusing because different courts interpret and change laws in various ways. When rules keep changing, it can mess up how laws are made, making it tough for the government to stick to its plans for the future. Lawmakers might struggle to create laws that hold up in court, causing them to react instead of planning ahead when making laws.

When judges overstep their boundaries and interfere with the legislature's job of making laws, it can weaken the idea of parliamentary sovereignty. In places where lawmakers are meant to hold the highest authority in making laws, excessive judicial involvement can blur this line by giving judges, who were not elected, the power to impact or even decide on laws. When one branch of government starts to interfere with another, like the judiciary meddling with the legislature, it can mess up things. This meddling can make it hard for the legislature to do its job of making laws and setting policies. Plus, it can stir up a power battle between the judiciary and the legislature. This clash can cause a lot of confusion about who should do what and who is in charge of what in the government.

Moreover, when judges overstep their bounds, it can make lawmakers hesitant to tackle tricky topics that involve balancing different interests. If legislators fear that their decisions might get challenged or annulled by the courts, they may steer clear of addressing such matters. This hesitance can lead to a situation where important matters are left hanging without resolution, creating holes in the legal and policy structure. For example, sometimes economic changes, rules about society, and laws might not get dealt with because lawmakers worry about judges getting involved. This lack of action can slow down progress and make it tough for the government to manage well and handle what people urgently need.

To sum up, when judges overstep their bounds, it can greatly affect how laws are made by the government. It might make lawmakers second-guess themselves and hold back, upset the balance of democracy, cause confusion in creating laws, weaken the idea that Parliament is supreme, and make legislators shy away from tackling tough topics. For a well-functioning

democratic system, it's essential that the judiciary shows restraint and acknowledges the unique roles of the legislature. This way, they preserve the separation of powers, making sure that each part of the government sticks to its defined boundaries and plays its part in keeping the system working smoothly.

When judges get too involved in reviewing or changing executive decisions, it can slow down the government's ability to act quickly and effectively. They might put a stop to new policies or orders with court orders, causing significant delays when urgent action is needed. In times like a public health crisis or a national emergency, the government might have to act fast with emergency measures. But, if the courts step in and hold up these measures with legal battles, it can weaken the government's ability to respond promptly. When things get delayed, it doesn't just make things slow; it can also make problems more urgent. This can make it harder for the government to deal with important issues quickly.⁴³

When courts get too involved and challenge the actions of the executive branch, it can slow things down and cause policy problems. This can make it hard for the executive branch to move forward or change its plans because of all the legal battles. You might end up with a lot of uncertainty and hesitation in how the executive branch operates when the courts are constantly questioning their actions. In a situation where legal battles are common, the executive might hold back on introducing new policies or changing existing ones. The fear of facing legal consequences can stop them from taking bold and creative steps. The ongoing risk of legal disputes can make the executive overly careful, resulting in a standstill on important reforms that end up being delayed or scrapped. When things stay the same, it makes it hard to start new projects and hinders the executive team from dealing with new problems efficiently.⁴⁴

Additionally, when the judiciary oversteps its bounds, it can make governing less effective by adding more rules and legal processes for the government to follow. Having to fight legal battles and adhere to court rulings takes up valuable time and resources that could otherwise be used for essential government tasks. Rather than concentrating on creating and putting policies into action, government agencies might end up more concerned with defending themselves legally and bargaining. This shift in focus can put a strain on the executive branch's capacity to handle daily tasks effectively and reach their goals in the long run. When judges

⁴³ *Ibid.*

⁴⁴ Kush Kalra, 'Separation of Powers in India' 2019 (1) Pure JGU, <https://pure.jgu.edu.in/id/eprint/5891/1/Separation%20of%20Powers%20in%20India.pdf> accessed 6th July 2024.

overstep their bounds, it can cause problems for the government. Instead of focusing on running the country smoothly, the executive branch has to deal with legal battles. This can drain the energy and resources that could be better used for governing.

Moreover, too much interference from the judiciary can weaken the power of the executive branch and upset the equilibrium among the government branches. The U.S. Constitution lays out specific duties for the legislative, executive, and judicial branches, with each branch functioning within its designated domain. When courts go beyond their usual role and start getting involved in what the executive branch should be doing, it can mix up the responsibilities of these two branches. This kind of mix-up weakens the power of the executive branch. As a result, the executive may find it harder to make policies and carry out its duties the way it should. When the judiciary starts getting involved in the executive's tasks, it goes against the idea of separating powers. This separation is meant to make sure each part of the government sticks to its own roles.

When judges get too involved in executive matters, it can take the spotlight off political responsibility from the executive branch. In a democracy, voters hold the executive accountable through elections. They assess how well the executive's policies and choices work. But if courts start playing a big role in executive tasks, this responsibility can get blurry. When judges make decisions, it can be tough for you to link the results to what the government is doing. This makes it tricky to hold the government responsible for its wins or losses. This change can make democracy less strong because it's harder for you to impact or keep an eye on what the government does through voting.

Finally, when judges go beyond their usual limits, it can cause unexpected issues that make things worse or bring about fresh hurdles for those in charge. Rulings meant to solve one problem may end up causing more problems that affect how the executive branch manages things. Let's say a court ruling aims to safeguard personal rights. It could lead to new rules or limits that make it tough for the executive branch to run things smoothly. These unexpected results might make it harder for the branch to reach its policy targets and handle government tasks.

To sum up, judicial review plays a crucial role in democratic governance. Yet, when the judiciary goes too far, it can seriously impact how well the executive branch can lead. This includes delays in putting policies into action, a standstill in policymaking, reduced efficiency,

a weakening of executive power, changes in who is held responsible in politics, and unintended adverse effects that might occur due to judicial overreach. Maintaining a well-functioning government is all about making sure that both the judicial and executive branches play their parts effectively. It's important that each branch sticks to its defined roles and meets its obligations to the public.

JUDICIAL ACCOUNTABILITY: A BALANCING ACT BETWEEN INDEPENDENCE AND RESPONSIBILITY

In a democratic system, judicial accountability is a crucial notion. It means that judges should take responsibility for what they do and decide. At the same time, it's important to make sure they can work without being influenced by outside forces. Understanding this concept is crucial. The judiciary is key in enforcing the rule of law, safeguarding individual rights, and overseeing the accountability of government branches. Yet, it's just as essential to establish systems that keep the judiciary in check for its decisions. This helps strike a balance between judicial independence and accountability.

Essentially, judicial accountability means ensuring that judges are accountable for their behaviour, choices, and compliance with legal and ethical norms. It covers various aspects such as judges being answerable to the public, following the law, and meeting legal requirements. One of the main tasks of the judiciary is to keep the legislative and executive branches accountable. This involves interpreting laws, settling disputes, and making sure that government actions follow the rules set by the constitutional laws. This responsibility is crucial for keeping a system of checks and balances in place within the government. Essentially, the judiciary acts as a protector against any possible misuse of power by the other branches.⁴⁵

Yet, the role of the judiciary in ensuring government accountability brings up crucial concerns about holding judges accountable. Judicial independence, a key element in democratic setups, guarantees that judges can decide without outside pressure or repercussions. Having independence in the judicial process is vital for fairness and impartiality. However, this freedom may raise worries about judges being unanswerable for their actions. If judges operate without any oversight, there is a potential for biased decisions or overstepping boundaries, which could erode people's confidence in the legal system.

⁴⁵ Eirik Bergmann, 'Understanding Accountability in Democratic Governance' (Research Gate, 2023)

To tackle these issues, there are various methods established to maintain a balance between judicial independence and accountability. A key method involves the process of judicial review and appeals. In this system, superior courts assess the rulings made by lower courts to guarantee that legal principles are followed and that judicial judgments are founded on solid legal arguments. The appeal process acts as a way to review the quality of judicial decisions and fix any mistakes or misinterpretations of the law. Yet, even though this system allows for a review of judicial rulings, it doesn't specifically deal with concerns about how judges behave or their ethical conduct.⁴⁶

One way to ensure that judges are held accountable for their actions is through judicial conduct commissions or disciplinary bodies. These groups are in charge of looking into complaints about judges and making sure they follow the rules. For instance, in the United States, state judicial conduct commissions check claims of misbehaviour, while the Judicial Conference of the United States deals with complaints against federal judges. These groups are important in making sure that judges follow ethical rules and face consequences for any wrongdoings. Yet, there are discussions on how well these commissions actually work and if they can keep judges responsible without affecting their freedom to make fair decisions.

Transparency plays a vital role in holding the legal system accountable. When court proceedings, opinions, and records are accessible to the public, it helps ensure that the judiciary works openly and honestly. Being transparent about how judges make decisions lets everyone, including legal experts and the public, review and understand why judges decide the way they do. This transparency is crucial for holding judges responsible for their choices and ensuring they follow legal rules. However, while transparency is essential for accountability, it needs to be handled carefully to safeguard judges' independence and prevent unwanted public or political influence on their decisions.

Furthermore, how judges are chosen and approved also affects the accountability they have. This includes checking candidates to make sure they are qualified, honest, and dedicated to upholding the law. Making sure that judges have the right qualifications and ethical values helps keep them accountable. Yet, political factors can sometimes affect these processes, making it tricky to maintain a good balance between independence and accountability.

⁴⁶ OECD, *Accountability and Democratic Governance: Orientations and Principles for Development* (OECD Publishing 2014)

One crucial aspect of ensuring judicial accountability is public education and awareness. When the public understands the judiciary's role, the significance of judicial independence, and how to hold judges accountable, it leads to a more knowledgeable and involved community. A well-informed public is more capable of using democratic channels to hold judges accountable, like pushing for judicial improvements or engaging in conversations on the judiciary's function in governance.

Simply put, judicial accountability is a tricky concept that involves making sure judges take responsibility for what they do while staying independent. Judges help keep the legislative and executive branches in check, but it's crucial to have ways to hold the judges accountable too. The system uses various methods to ensure fairness and accountability in the judiciary. These methods include reviewing decisions, overseeing judicial behaviour, being transparent, appointing judges, and educating the public. All these ways work together to create a system that checks and balances the judiciary, making sure it stays fair, unbiased, and answerable. It's important to balance judicial freedom with the responsibility to keep the judicial system honest and uphold the law in a democratic setting.⁴⁷

CONCLUSION

To sum up, the issue of judicial overreach poses a big obstacle to the fundamental democratic concept of the separation of powers. Looking at key legal cases and the historical growth of judicial activism in India highlights the importance of judicial involvement in protecting constitutional rights and upholding justice, but it needs to be done carefully. The judiciary plays a crucial role in interpreting the law and safeguarding individual rights. Yet, it must be careful not to exceed its authority, as this can upset the balance of power between the legislative, executive, and judicial branches. In India, especially after the Emergency period, the fine line between judicial activism and going too far is evident. The judiciary's active role in advancing human rights and social justice has brought about significant progress. However, it has also triggered discussions on how much power the courts should have. It is crucial for the judiciary to show restraint and follow the rules set by the Constitution to ensure its credibility and impact are preserved.

⁴⁷ American Bar Association, 'Promoting Independence, Integrity, and Impartiality of the Judiciary' (American Bar Association).

To uphold the democratic process's integrity, it's vital to have systems in place that support judicial accountability and transparency. Measures like judicial review, conduct commissions, and safeguarding the judiciary's independence play a critical role. Ultimately, the judiciary needs to act responsibly by respecting the separation of powers. This ensures that it continues to safeguard the Constitution without overstepping into the realms of other government branches. By taking these steps, the legal system can keep safeguarding rights, ensuring fairness, and playing a vital role in how the country is run. This is all done while staying true to the democratic values of dividing power and being accountable.

