



JUDICIAL ACTIVISM AND ITS ROLE IN PROMOTING HUMAN RIGHTS: AN ANALYSIS

Pratyush Mahapatra * Devi Prasad Mishra *

INTRODUCTION

Judicial Activism as an objective could recognize its significance as a catalysis of social change only in recent times. In the 21st century, the foremost significant and outstanding instruments of social change that we may study to assess their real worth are religion, education, law, and public opinion. Out of the instrumentalities, one of the other has played a striking role in achieving the object of social change at one time or another. The distinction between the voluntary characters of law seems to be an artificial one and logically this dichotomy seems to be unsustainable. After all, the law sets norms and expects the members of a given society to follow a pattern of normative behavior ignoring the fact whether the individuals are following these norms of their own volition or otherwise. The individual in a legal order may choose to follow the norms set by such legal order. That is how the compulsive character of law may be explained and the emphasis of sovereignty and command ascribed by common law and lawyers may be explained away.

RESEARCH OBJECTIVES

The primary objective of this research paper is to analyze the current status of the impact of judicial activism to uphold the human rights in India & challenges in enforcement human. This includes identification of available legal mechanisms, loopholes and absence of concrete rules regarding practice of human rights jurisprudence.

RESEARCH QUESTIONS

1. For the promotion of human rights, how judicial activism has functioned as a catalyst?

*BBA LLB, FOURTH YEAR, LAJPAT RAI LAW COLLEGE, UNIVERSITY COLLEGE OF LAW, SAMBALPUR UNIVERSITY.

* BBA LLB, FOURTH YEAR, LAJPAT RAI LAW COLLEGE, UNIVERSITY COLLEGE OF LAW, SAMBALPUR UNIVERSITY.

2. How the voluntary and compulsive nature of legal compliance in a democratic society has been reconciled by judicial activism?
3. How the human rights not been successfully enforced in India?
4. How does judicial activism align with the principles of sovereignty and legal command, and what are the jurisprudential justifications for it as an instrument of social change?

RESEARCH HYPOTHESIS

Judicial activism has developed a plethora of rights by liberal interpretation of law. However it needs to be more active in order to reach the grass root level for protecting human rights.

RESEARCH METHODOLOGY:

The methodology for research adopted in this paper is purely doctrinal in nature. Doctrinal research, also known as library research, is a distinctive method for legal research. As included in doctrinal research, a thorough study of the existing literature was conducted. Many cases, articles, books, committee reports, and acts spanning the last few years were studied and analyzed to thoroughly study the intricacy of the role of judicial activism in the protection of human rights. Legal databases such as Indian Kanoon, e-Court, SCC Online, Case Mine & Court Kutcheri have been used. The case laws incorporated in the research paper are those that intricately deal with the dimension of judicial activism in the field of human rights in India. This methodology is suited for examining technical and conceptual aspects of law and for providing a systematic arrangement of legal doctrines and established principles. The primary sources for this research paper include statutory materials, judicial precedents, and authoritative texts. On the other hand, secondary sources such as commentaries, committee reports, articles, legal digests, and scholarly work are also consulted. The process of this research involves the identification, collection, and logical analysis of these sources to make judicious conclusions and suggestions. Though doctrinal research restricts the sources, data, and interpretation have been compared to provide a comprehensive and coherent understanding of the legal framework governing the subject matter at hand.

LITERATURE REVIEW:

The literature reviewed in the paper provides an activist approach adopted by the Indian judiciary in the promotion of human rights. The paper draws upon key provisions of the

Protection of Human Rights Act, 1993 and the Constitution of India, 1950. We refer to books that were written by famous writers like Dr. G.P. Tripathi, Dr. U. Chandra, and Dr. Bhagyashree A Deshpande. The paper analyzes in depth the report of the National Human Rights Commission of India in its Annual Report of 2022. Also, several cases have been referred to make this paper. This includes *Maneka Gandhi vs. Union of India*, *Kesavananda Bharati v. State of Kerala*, and *Hussainara Khatoon vs. State of Bihar*, amongst others. The case laws describe the role played by the judiciary in the protection of human rights. The paper seeks to analyze the loopholes of law on the complete realization of human rights by examining statutory provisions alongside authoritative judicial pronouncements.

JUDICIAL ACTIVISM IN INDIA

The concept of judicial activism originated in the USA. This term was introduced by Arthur Schlesinger Jr. However in India, the concept of judicial activism can be traced to the mid-1970s, Hon'ble Justice V.R. Krishna Iyer, Justice P.N. Bhagwati, Justice O. Chinnappa Reddy & Justice D.A. Desai were the pioneers of judicial activism in India. Judicial activism denotes the proactive role of the judiciary in the protection of the rights of citizens and the promotion of justice in society. As per Black's Law Dictionary Judicial activism is a way of exercising judicial power that motivates judges to depart from normally practiced strict adherence to judicial precedent in favor of progressive & new social policies. It is commonly marked by decisions calling for social engineering and occasionally which decisions represent an intrusion into legislative and executive matters.

Judicial activism is the practice in the judiciary of protecting or expanding individual rights through decisions that depart from established precedent or are independent of or in opposition to supposed constitutional or legislative intent.¹ Judicial activism can be defined as the process of law making by judges it means an active interpretation of existing legislation by a judge made with a view to enhance the utility of that legislation for social betterment judicial activism is different from judicial pessimism which means interpretation of existing provisions of law without an attempt to enhance its beneficial aspects.²

¹ Legal Knowledge Base, 'What Is Meant by Judicial Activism? Evaluate Its Role in the Context of the Functioning of Indian Polity' (Legal Knowledge Base, date) <https://legalknowledgebase.com/what-is-meant-by-judicial-activism-evaluate-its-role-in-the-context-of-the-functioning-of-indian-polity> accessed 6th March.

² V G Palishikar, 'Judicial Activism' (1998) AIR (J) 201.

Judicial activism is a philosophy of judicial decision making whereby judges allow their personal views about public policy, among other factors to guide their decisions.³

DEVELOPMENT OF JUDICIAL ACTIVISM IN INDIA:

Despite the constitutional incorporation of principles such as fundamental rights, directive principles of state policy government often become despotic which makes the life of the powerless miserable. In the past years, the responsibility of maintaining constitutional checks and balances and upholding the dignity of citizens against government led the judiciary to assume an activist role. During the primitive days of the constitution of India, the judiciary was more focused on being politically neutral and adopted a conservative approach. While the government committed to general welfare it sought more powers to curtail fundamental rights through a constitutional amendment which ultimately limited the power of the judiciary. The power of parliament and government gradually increased and even was abused during the emergency period.⁴ Generally judicial activism is understood as the practice of judges to overrule legislative enactments on the ground of inconsistency with the provision of the constitution of India. However it is sometimes characterized as progressive exercise of judicial power or use of judicial power to effect socio-economic and political changes through policy making.⁵

Judicial activism in India can be discussed under the following headings:

1. Judicial Activism in pre- Emergency Period
2. Judicial activism in the post-emergency period

1. Judicial activism in pre- emergency period:

The role of the Indian judiciary lies somewhere between the British judicial system and the American judicial system. During its initial days, the court was more radical in its approach to strike down the legislation on the ground that it violates the fundamental rights of the citizens, even if the legislation aims to bring socio-economic transformation. The first such case was of *Kameshwar Singh*.⁶ when the apex court declared the Zamindari Act void on the

³ Rainer Grote, 'Judicial Activism in Comparative Perspective' in Rainer Grote and Tilmann Roder (eds), *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (Springer 2012) https://link.springer.com/chapter/10.1007/978-3-319-18549-1_4 accessed 5th March.

⁴ Upendra Baxi, 'Judicial Activism: Usurpation or Re-Democratization' in Jagga Kapur (ed), *Supreme Court on Public Interest Litigation*, vol 3 (LIPS Publication 1999) A-131, 144.

⁵ *ibid*

⁶ *Kameshwar Singh Vs. State of Bihar*, AIR 1951 SC 252

ground that it violates the fundamental right to equality and the fundamental property right. Similarly, the court declared the Madras Reservation scheme unconstitutional in *the Champakam Dorairajan case*⁷. This paved the way for the first constitutional amendment providing for insulation of certain laws from judicial scrutiny. While introducing the 1st amendment J. Nehru remarked that “the magnificent edifice of the constitution is being purloined by the judges and the lawyer.”⁸ During this first phase of judicial activism, the Supreme Court clarified its stand by distinguishing fundamental rights as justifiable and Directive Principles of State Policy as non-justifiable.⁹ After Nehru era elements not committed to constitutional values and democratic principle began to dominate. Several amendments were carried out in the name of general welfare that curtailed the constitutional authority of the courts. It was manifested during the emergency period in 1975 to 1977. Its consequences were the widespread violation of civil liberties and tyranny of the majority rule.

2. Judicial activism in the post-emergency period:

The post-emergency activism was inaugurated with rigorous enforcement of the rights of prisoners, disadvantaged groups, and the suppressed class people. The 44th Constitutional Amendment has made it harder to impose an emergency and guaranteed the right to life even during an emergency. After the emergency period, the court liberated itself from the shackles of the principle of Locus Standi and gave birth to Public Interest Litigation in India. Further in the case of *Maneka Gandhi vs. Union of India*¹⁰ the court overturned its previous ruling in the *A.K. Gopalan case*¹¹ and upholds the validity of personal liberty under Article 21 of the Constitution of India. Judiciary's passive stance during the emergency period particularly in the case of *ADM Jabalpur vs. Shivkant Shukla*¹², where the court upheld the suspension of habeas corpus led to a crisis of credibility. In response to that the concept of PIL emerged through the efforts of Justice P.N. Bhagwati and Justice V.R. Krishna Iyer in the landmark case of *Hussainara Khatun vs. the State of Bihar*¹³, where justice was provided to the under-trial prisoners to enforce their rights.

⁷ *State of Madras vs. Champakam Dorairajan*, AIR 1952 SC 226

⁸ Upendra Baxi, 'Judicial Activism: Usurpation or Re-Democratization' in Jagga Kapur (ed), *Supreme Court on Public Interest Litigation*, vol 3 (LIPS Publication 1999) A-132, 133

⁹ M Hidayatullah, *Right to Property and the Indian Constitution* (Calcutta University Press 1983) 143.

¹⁰ *Maneka Gandhi vs. Union of India*, AIR 1978 597

¹¹ *A.K. Gopalan vs. State of Madras*, AIR 1950 SC 27

¹² *ADM Jabalpur vs. Shivkant Shukla*, AIR 1976 SC 1207

¹³ *Hussainara Khatun vs. State of Bihar*, AIR 1979 SC 1369

DEVELOPMENT OF HUMAN RIGHTS LAW IN INDIA:

The concept of human rights is not of recent origin it can be traced back to the period of natural philosophers like Locke and Rousseau. According to Locke, man is born with a title to perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the law of nature and he has by nature the power to preserve his property.¹⁴ Development of the concept of human rights started from the era of 1215 Magna Carta, which was the first ever written recognition of certain fundamental rights. Further the France declaration of rights of man and the Citizen 1789 declares sacred, natural and inalienable rights of man.¹⁵ Following the spirit of these instruments, the USA introduced the Bill of Rights having constitutional status in 1776.

The universal declaration of human rights, being the primary source of human rights was adopted on 10th December, 1948 by the united nation general assembly.¹⁶ Through this instrument, human rights were declared as universal, inalienable, and enjoyable by all people irrespective of caste, creed, religion, sex, and language. This was followed by two additional instruments as International Covenant on Civil and Political Rights adopted on 16th December 1966 and the Covenant on Economic, Social and Cultural Rights came into force on 3rd January 1976, which developed most of the rights contained in UDHR. Later on, the general assembly also adopted two optional protocols for the International Covenant on Civil and Political Rights. Besides that many international treaties and instruments have been adopted by the United Nations to strengthen human rights. Some of the core instruments have been listed here:

1. International Convention On Elimination Of All Forms of Racial Discrimination (Adopted On 21st December, 1965)
2. Convention Against Torture, And Other Cruel, Inhuman Or Degrading Treatment Or Punishment (Adopted On 10th December 1984)
3. Convention On The Rights Of Child (Adopted On 20th November, 1989)
4. International Convention On The Protection Of Migrant Workers And Their Families (Adopted On 18th December 1990)

¹⁴ Law Note, 'Origin of the Fundamental Rights' (Law Note, date) <https://lawnote.in/origin-of-the-fundamental-rights/> accessed 5th March.

¹⁵ J N Pandey, *Constitutional Law of India* (Central Law Agency) 51

¹⁶ UN General Assembly, 'Universal Declaration of Human Rights' (GA Res 217 (III), 10 December 1948)

5. Convention On The Rights Of Persons With Disabilities (Adopted On 12th December, 2006)
6. International Convention On The Protection Of All Persons From Enforced Disappearance (Adopted On 20th December 2006)

After the independence of India Fundamental Rights are incorporated in part three of the constitution. These rights are guaranteed to the citizens of India with legal enforceability. Provisions incorporated under part three of the Indian Constitution are similar to those of the provisions under Articles 3 to 21 of the Universal Declaration of Human Rights and the provisions under the International Covenant on Civil and Political Rights. Furthermore, The Protection of Human Rights Act, of 1993 has also been passed by the parliament of India to provide for the constitution of a National Human Rights Commission, State Human Rights Commission in states, and Human Rights Court for better protection of human rights and for matter incidental thereto. This legislation is significant for the empowerment of human personality in the civil, political, economic, social, and cultural spheres through the protection and enforcement of all kinds of human rights in India. With time the apex court by interpreting the law has given birth to many such human rights. Some of them have been discussed here.

In *Sunil Batra v. Delhi Administration*¹⁷, the Supreme Court held that even culprits have a right to dignity. Thus, the Court protected the right to dignity of culprits which is one of the valuable human rights.

In *Premshankar Shukla v. Delhi Administration*¹⁸, the Supreme Court held that handcuffs should be used in the rarest of rare cases.

In *Consumer Education and Research Centre v. Union of India*¹⁹, the Supreme Court held that the right to health and medical care is a fundamental right. Article 21 of the Constitution envisages the right to health under Article 47.

Hon'ble Supreme Court held that the right to life in Article 21 includes the right to livelihood in *Olga Tellis v. Bombay Municipal Corporation*.²⁰ Thus, the Court protected and enforced one of the basic human rights i.e. right to livelihood as a part and parcel of the right to life.

¹⁷ *Kesavananda Bharati v. State of Kerala*, AIR 1978 SC 1579.

¹⁸ *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1535.

¹⁹ *Consumer Education and Research Centre v. Union of India*, (1995) 3 SCC 42.

In *Vishaka v. State of Rajasthan*²¹, the Supreme Court has laid down exhaustive guidelines to prevent sexual harassment of working women in place of their work until legislation is enacted for the purpose. Thus, in the present case, the Court has given directions for the protection of the dignity of working women which is one of the valuable human rights. The court held that it is the duty of the employer or other responsible person in workplaces or other institutions, whether public or private, to prevent sexual harassment of working women.

In *Apparel Export Promotion Council Vs A.K. Chopra*²² The Supreme Court applied the law established in the Vishaka case and upheld the dismissal of a senior officer for harassing a female employee.

In *Association for Environmental Protection V. State of Kerala*²³ the apex court held a project violative of article 21 of the constitution as it was approved without a comprehensive evaluation of an expert body.

In the case of *Randhir Singh V. Union of India*²⁴, the court evolved the principle of equal pay for equal work for both men and women as one of the dimensions of equality, under article 14 of the constitution.

In *Nilabati Behra V. State Of Orissa*²⁵, the awarded compensation to the mother of the deceased for the custodial death of her son.

The Hon'ble Supreme Court held that the right to life under Article 21 includes the right to get a polluted environment and also uncontaminated water in *M.C. Mehta v. Kamal Nath*²⁶ case.

In *National Human Rights Commission v. State of Arunachal Pradesh & Anr.*²⁷, the National Human Rights Commission filed a writ petition under Article 32 in the Supreme Court to bring the disabilities of 65,000 Chakma Tribals. Popularly, this case law is known as "Chakma Tribals' Case". The Supreme Court held that our country is governed by the Rule of Law and hence the State is bound to protect the life and liberty of human beings. It was held

²⁰ *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

²¹ *Vishaka v State of Rajasthan* AIR 1997 SC 3011, (1997) 6 SCC 241.

²² *Apparel Export Promotion Council v A K Chopra* AIR 1999 SC 625.

²³ *Association for Environmental Protection V. State of Kerala*, AIR 2013 SC 2500.

²⁴ *Francis Coralie Mullin v. Union Territory of Delhi*, AIR 1982 SC 879.

²⁵ *Nilabati Behra V. State Of Orissa*, AIR 1993 SC 1960

²⁶ *M C Mehta v Kamal Nath* AIR 1993 SC 1960, (1993) 2 SCC 746.

²⁷ *National Human Rights Commission v State of Arunachal Pradesh & Anr* (1996) 1 SCC 742.

that non-citizens are also entitled to have the right to life and the State is bound to protect their right to life and liberty and also protect them from cruelty, torture, and inhuman treatment.

In *Management of the Barara Cooperative Marketing cum Processing Society Ltd. v. Workman Pratap Singh*²⁸, the SC observed that Section 25(H) of the Industrial Disputes Act is required to be implemented as per the procedure prescribed in Rule 78 of the Industrial Disputes (Central) Rules, 1957 which in clear terms, provides that Section 25(H) of the ID Act is applicable only when the employer decides to fill up the vacancies in their set up by recruiting persons. So to attract the Provision of Section 25(H) of the Industrial Disputes Act, it must be proved by the workman that firstly he was the "retrenched employee" and secondly his employer has decided to fill up the vacancies in their setup and therefore he is entitled to claim preferences over those persons who have applied against such vacancies for a job while seeking re-employment in the services.²⁹

In *Leena Bai and Another v. Seema Chauhan and Another*³⁰, it was observed that the man's work does not consist solely in the task which he is employed to perform it also includes matters incidental to that task.

In *Director, Steel Authority of India Ltd. v. Ispat Khandan Janta Majdoor Union*³¹, the Supreme Court has laid down the broad tests in examining the nature and control of the employer and whether the agreement pursuant to which contract labour has been engaged through contractor can be said to be sham, nominal and camouflage.³²

In *Alakh Alok Srivastava v. Union of India*³³, a petition was filed by an advocate practicing in the Supreme Court, seeking immediate action to safeguard the rights of migrant workers, and also seeking direction for the state to provide them with necessities like food, drinking water, shelter, and medical help. About reporting fake news, taking note of Section 54 of the

²⁸ *Barara Cooperative Marketing cum Processing Society Ltd v Workman Pratap Singh 2019 Latest Case Law 1 SC (Online)*.

²⁹ SCC Online, 'Retrenched worker can't claim preference over a regularized employee for re-employment under Section 25H of ID Act' (SCC Online, 2 January 2019)

<https://www.sconline.com/blog/post/2019/01/02/retrenched-worker-cant-claim-preference-over-regularised-employee-for-re-employment-under-section-25h-of-id-act/> accessed 6th March.

³⁰ *The Workmen's Compensation Act 1923 (Act No 8 of 1923)*.

³¹ *Director, Steel Authority of India Ltd. v. Ispat Khandan Janta Majdoor Union, 2019 Latest Case Law 538 SC (Online)*.

³² *Indian Kanoon, 'Case Document' <https://indiankanoon.org/doc/129388780> accessed 6th March.*

³³ *Alakh Alok Srivastava v Union of India, Writ Petition No 468/2020 (30 March 2020)*.

Disaster Management Act 2005 and Section 188 of the Indian Penal Code the court indicated that

1. All concerned shall comply with directions, advisories, and orders passed by the Union of India in the interest of public safety;
2. Stressed on the duty of the media to be more vigilant and responsible and ensure that unverified news capable of causing panic is not disseminated;
3. Union of India directed to start issuing daily bulletin through all media avenues including social media and forums to clear the doubts of people.

CHALLENGES IN THE ENFORCEMENT OF HUMAN RIGHTS:

For a peaceful existence, the protection of human rights is necessary for a diverse country with its multicultural, multiethnic, and multi-religious population like India. For the enforcement of Fundamental Rights and Legal Rights, the Constitution of India empowers the High Courts and Supreme Court to issue writs like *Prohibition*, *Mandamus*, *Certiorari*, *Habeas Corpus*, and *Quo Warranto* which keeps the status of human rights fairly high. Although these provisions create a positive implication it is unreachable to every corner of the country. Section 30 of the Act, enables the state government to specify for each district a court of sessions to be a human rights court after consultation with the Chief Justices of the High Courts. The motive behind the provision is the speedy disposal of the cases arising out of human rights violations. However, the Act doesn't define or explain the meaning of "Offences arising out of violation of Human Rights." The Act is silent on what type of offenses are to be tried by the human rights court. No rules of practice for these courts have been formulated that deal with procedures for taking complaints from individuals, and penal provisions for the guilty.

A similar problem had arisen in the functioning of the Scheduled Castes and Scheduled Tribes, Prevention of Atrocities Act, 1989 in the beginning. Later on, the Act was amended giving the special court the power to take cognizance of the offence. Similar is the problem with the protection of the Human Rights Act. In *Dilip K. Basu vs. State of West Bengal*³⁴ The court pointed out the laxity of state government in not establishing a human rights court, commenting that a small state such as Sikkim was able to comply with the law while larger and better-resourced states had failed to comply with the law. The court also clarified that the

³⁴ *Dilip K Basu v State of West Bengal* 2015 SC 2887.

word 'May' in Section 30 ought to be interpreted as 'shall' and 'must'. As per the annual report, 2,367 cases of death in judicial custody have been registered with the NHRC out of which the commission disposed on 1,248 cases only. On the other hand out of 175 cases of death in police custody, the commission disposed of only 65 cases in 2021-22. Out of 1, 11,082 number of cases of human rights violation 1, 02,608 cases in 2021-22³⁵. These show the inefficiency on the part of the commission in handling the cases and it also describes the importance of establishing judicial units at the grassroots level.

As the UN Human Rights Committee issues findings on India 2024, concerns have been raised about discrimination and violence against minority groups including religious minorities such as Muslims, Christians and Sikhs, Scheduled Caste and Scheduled Tribes, and LGBTI people. The committee also found some provisions of India's Armed Forces (Special Power) Act and Counter-Terrorism Law are not in compliance with ICCPR. It has also been found that the application of counter-terrorism law in disturbed areas such as districts in Manipur, Jammu and Kashmir, and Assam led to widespread and grave human rights violations including excessive use of force leading to arbitrary detention sexual violence, and unlawful killings.³⁶

CONCLUSION

The constitution guarantees the right to life to the citizens of India and judicial agencies of the country during the last two decades by interpreting the right to life that it means right to quality life, have expanded the scope of the right which today includes the right not only to survive like an animal but to survive with human dignity. With the awareness about the quality of human beings, India has adopted several legislations, primary among them may be said of the recent years the Air and Water Pollution Control Act, 1986. Now fresh air and water may be regarded and treated in Indian tradition as equal to life. Secondly, the constitution should be amended the right to work be inserted in the fundamental rights chapter. Since the concept of the state has been changed from a police state to a welfare state it has become the basic duty of the state to provide opportunity in the citizens for their livelihood. This is the primary responsibility of a state like ours to protect, preserve, and

³⁵ National Human Rights Commission, *Annual Report 2021-2022 (NHRC, 2022)* https://nhrc.nic.in/sites/default/files/AR_2021-2022_EN.pdf accessed 5th March.

³⁶ United Nations Human Rights Committee, 'UN Human Rights Committee Issues Findings on India' (India UN, 3 March 2025) <https://india.un.org/en/275172-un-human-rights-committee-issues-findings-india> accessed 6th March.

defend the citizens with utmost care and caution. If a person has no means to preserve his life, what would be required other things and what is the use and utility of hundreds of other facilities to them? Thus it is clear that the basic which a person requires first is the employment according to his qualifications and competency.

Furthermore, civil society is based upon the concept of human rights which are essential not merely to fulfill the biological needs of mankind but also for the dignity of the individual. Without recognizing the concept of human rights no polity can be a democratic one. Every democratic constitution tries to recognize the concept of human rights in one way or the other. The Indian constitution recognizes the concept of human rights through its preamble. So human rights are implied as civil liberties (FRs) and democratic rights. Although there can be only the definition of human rights and fundamental freedoms nevertheless given the economic and social realities in life in India, the term conveys different expectations and different order of priorities for those living below the poverty line as compared to those enjoying the highest standards of life. In almost all underdeveloped countries where per capita income is very low income inequalities have resulted in several levels of which poverty is certainly the most serious one secondly acute unemployment problems it is a basic principle of socialism that everyone should contribute according to her ability and capability and receive according to his/her work. All citizens of these socialist countries are invited to adequate material and oral recognition by the community. Everyone receives his fair share of the jointly created wealth mainly in the form of wages and bonuses because the horizon of human rights is expanding.

In the present time, human rights are a birthright. The executive inter alia the Prime Minister the chief minister their cabinet innumerable civil servants are also considered as executive to help the senior democratic executive they also fulfill their duties and shine in the constitution, particularly the human rights. In summing up judiciary is the only consequence of the Indian constitution which is performing the duties by the basic structure of the constitution unfortunately both the politicians and the executives are interfering with the judicious verdict of the judiciary to conclude the courts and the judges have workable and fruitful legislation is enacted by the parliament and the state legislature but the real interpretation is made by the judiciary the course as well as the judges interpret the law viewing public need for which the law is made. In interpreting and the pronouncement of the judgment, two options have come to light. Some believe that the judges can do whatever they like unaffected and unrestricted

while others believe that what the legislature transmits is a concretized rule. Given the present researcher, the truth lies mid-way between these two extremes the judges certainly have no unrestricted and inherited power to decide what they like but equally, they do not mechanically reflect what the legislation has said the task and the function of the judges is not just in mechanically follow the rules and laid down by the legislature but to reconcile them in the wider objectives of justice.

SUGGESTIONS

Time has come to public opinion on the issue of human rights to ensure the concept of human rights prevails and existing constitutional and legal safeguards are sincerely enforced here following suggestions are hereby made.

1. Human rights courts should be set up throughout the country
2. Advisory committees at the national level, state as well and local levels the constituted to make rules and regulations regarding the practice of this court
3. Through the media of education people particularly illiterate and ignorant masses living in the villages could be made aware of the protection of human rights
4. Journalists have to be scrupulously honest and fair and act in a manner that true democratic demands
5. To protect human rights the state commissions should have units in all districts of the respective state.