



REVIEW ARTICLE

MEDIA ACTIVISM VS JUDICIAL ACTIVISM: A STUDY REGARDING IMPACT OF ELECTRONIC MEDIA ON JUDICIAL ACTIVISM IN INDIA

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ABSTRACT

The role of media in highlighting and raising the issues of social and political interests has increased by the advent of new Technologies. The contribution is not only limited to publication/broadcast of News only but also to create awareness regarding social and political issues as well. Judicial Activism is just a ruling or decision that is guided by the personal interest or personal point of view of the individual judge, which is not based on strict laws. As to its meaning, Judicial Activism is not a distinctly separate concept from usual judicial activities. Somehow, both the activisms are linked i.e when media creates an awareness or highlights a particular incident, Judiciary is directly or indirectly initiated to either take cognizance or take certain steps. The paper intends to throw light on the interlinking of Media and Judiciary and also to study some cases/incidents in which such activism has been reflected.

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INTRODUCTION

The word 'activism' means "being active", 'doing things with decision' and activist is the 'one' who favors intensified activities. With the advent of 21st century, Press and Media are becoming more and more empowered day by day. Earlier, the word media only referred to News published in Newspapers and in certain leading magazines. The use of informatics on daily basis not only increased the involvement of media in social and cultural issues but also in judicial and legal matters. In recent past also, it is observed that a new word "Media Trial" has been coined by the scholars. Involvement of media (print as well as electronic) in issues pertaining to society and law to such extent that it plays the role of positive feedback system is generally termed as Media Activism. As regards to Judicial Activism, it is not a legal term. It is not defined in the Constitution of India or in any legal statute. Although, it is often used by the Judges of the Supreme Courts and the Judges of the High Courts. It is just a ruling or decision that is guided by the personal interest or personal point of view of the individual judge, which is not based on strict laws. As to its meaning, Judicial Activism is not a distinctly separate concept from usual judicial activities. Justice Krishna Iyer observed 'every judge is an activist either on the forward gear or on the reverse'.

Origin of Media Activism

Media activism is a broad term of activism that comprises of media and communication technologies for socio-political movement and highlighting other issues pertaining to society. Methods of media activism include publishing news on websites, creating video and audio assignments, spreading information about latest issues, and organizing campaigns relating to media and communications policies. Media activism can be used for many different purposes. Research has begun to explore how activist groups can make use of electronic media on judicial activism in India. Electronic media provides the activists a unique platform for expressing the views and protest movements to 'self-mediate' and to distribute movement goals or frames more easily. Social movements and activists have always done this, but electronic media are said to greatly increase the capacity to visual discourses. It is often argued that electronic media potentially comparative new opportunities for citizens and subordinate groups in society to bypass state and market controls and the mainstream media to construct alternative collective identities. In addition, electronic media tools can potentially facilitate internal debate among activists.

Development of Judicial Activism

Judicial activism makes the law as the living law. Judicial activism is nothing more than judicial creativity which emphasizes upon evolving new juristic principles for the

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development of law remaining alive the reality. Judicial activism is an essential part of judicial function but in recent years. There has been criticism of judicial activism. The opponents of judicial activism are naturally the supporters of judicial self-restraint. Judicial Activism, which is certainly the best of democracy, has not to be unbridled. Judicial activism was not to lead to judiciary tyranny, as the judiciary is vulnerable in certain important respects.

Public Interest Litigation (PIL) as part of Judicial Activism

Judicial activism was made realizable in India because of Public Interest Litigation which is commonly known as PIL. Public Interest Litigation means "litigation in the interest of public". This type of litigation was innovated to provide equal access to the unprivileged section of the society. Development of PIL has provided significant assistance in making judicial activism meaningful. Because of this type of litigation the court has found opportunity to give directions in public interest and enforce the public duties. PIL has introduced a new dimension regarding the judiciary's involvement in public administration.

Judicial Activism in Indian scenario

Judicial activism has always been a source of heated debate, especially in the light of recent developments in this regard. Over the last few years with various controversial decisions, judges of the Supreme Court as well as various High Courts have once again triggered off the debate that has always generated a lot of heat. But still, what the term "judicial activism" actually connotes is still a mystery. From the inception of legal history till date, various critics have given various definitions of judicial activism, which are not only different but also contradictory.

Media Activism and Judicial Activism: Analysis of some important Cases

The Electronic Media, in recent past, has developed a means to create awareness in the society regarding contemporary issues. There have been many instances where media hike lead to creation of Judicial Activism. In some instances, the media was responsible for creation a social hero also. Anna Hazare at CNN IBN Indian of the year award said, "It is media which is responsible for making me a national icon." India is now becoming a global icon, old values are crumbling; new values are formed. This period is very uncomfortable and excruciating so here comes into play the crucial role of media as media deals with ideas besides media forms an integral part of the lives of all of us. So, by its very nature, media can play extremely crucial role in this transitional phase by shaping opinion of the hoi polloi (the masses). It was proclaimed that Anna is a media creation only. But there is more to it. To see the anti-corruption movement only as media creation is gross misjudgment/misreading of the mood of the nation as people got attracted to it because people saw this movement as antithesis to what happens in our society viz. corruption. Media contribution to current anti-corruption movement is obvious as there is no gainsay to the fact that round the clock media coverage has helped the campaign to reach out to the masses remarkably. It has also been a matter of concern that Media should capture the mass movement against graft but should not take sides as it will adversely affect the neutrality of the media and may directly or indirectly affect the sub-

judicial matters. As regards to the Judicial activism or judicial aspect, in recent past, with the development of Media and Communication, it has been observed that a parallel trial or Media Trial begins since the initial stage of any crime. Various debates, views of experts on T.V and Radio directly or indirectly influence the mindset of public during the course of regular trial in Court. This especially happens in High-Profile cases or of cases involving Political connections. In recent orders, the Supreme Court has directed the most complex engineering of interlinking rivers in India. The Court has passed orders banning the pasting of black film on automobile windows. On its own, the Court has taken notice of Baba Ramdev being forcibly evicted from the Ramlila grounds by the Delhi Administration and censured it. The Court has ordered the exclusion of tourists in the core area of tiger reserves. All these managerial exercises by the Court are hung on the dubious jurisdictional peg of enforcing fundamental rights under Article 32 of the Constitution. In reality, no fundamental rights of individuals or any legal issues are at all involved in such cases. The Court is only moved for better governance and administration, which does not involve the exercise of any proper judicial function.

Recently the country has seen instances of beneficial judicial activism to a great extent. High profile politician *ShibuSoren* has been convicted for a murder committed in 1994. Film world celebrity *Sanjay Dutt* has been convicted of offences under the Arms Act committed in 1993. *NavjyotSidhu*, an ex-cricketer with a gift of the gab has been convicted for a road rage killing committed 18 years ago. Finally and most reassuringly for the public, the Delhi High Court has reversed a perverse decision of a lower court in the notorious case of murder of *Jessica Lal* some seven years ago. Manu Sharma's acquittal was a patent miscarriage of justice and there was a shrill public outcry. On appeal, the High Court has convicted Sharma. The Court is made the monitor of the conduct of investigating and prosecution agencies who are perceived to have failed or neglected to investigate and prosecute ministers and officials of government. Cases of this type are the investigation and prosecution of ministers and officials believed to be involved in the Jain Hawala case, the fodder scam involving the former Chief Minister of Bihar, Lalu Prasad Yadav, the Taj Corridor case involving the former Chief Minister of Uttar Pradesh, Mayawati, and the recent prosecution of the Telecom Minister and officials in the 2G Telecom scam case by the Supreme Court. In its most activist and controversial interpretation of the Constitution, the Supreme Court took away the constitutionally conferred power of the President of India to appoint judges after consultation with the Chief Justice, and appropriated this power in the Chief Justice of India and a collegium of four judges. In no Constitution in the world is the power to select and appoint judges conferred on the judges themselves. In almost all of the above cases, media played a vital role in driving the attention of Judiciary towards important issues.

Critics

Whatever be the criticisms against media and judicial activism, it cannot be disputed that both type of activism have done a lot to improve the conditions of the masses in the country. The common people are very often denied the protection of law due to delayed functioning of the courts, also called judicial inertia or judicial tardiness. Media debates or trials definitely play an important role in initiating Judicial Activism which has started

the process to remove these occasional aberrations too. This can be furthered only by honest and forthright activism and not by running down the media and judiciary in the eyes of the public. The greatest asset and the strongest weapon in the armory of the media and judiciary is the confidence they command and the faith they inspire in the minds of the people in their capacity to do even-handed justice and keep the scales in balance in any dispute.

Conclusion

The India Judiciary, by and large, is based on the concept of providing fair and quality justice to everyone, irrespective of any prejudice or external biasness. The Judicial system, be it of Trial court or of any appellate court emphasizes on providing justice in all Civil as well as Criminal Cases. The pronouncement of verdict, especially in criminal cases, although may take time but has a strong foundation of relevant and applicable Laws as well as Precedence. Right from the stage of filing of charge sheet, framing of charges and passing through routine trial, till the final Judgment, the Facts and Findings play an important role. The involvement of Media in publicizing issues of public interest definitely plays a vital role in initiating Judicial Activism and imparting of quality justice.

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