

1. WHAT IS MEANT BY 'JUDICIAL ACTIVISM'? EVALUATE ITS ROLE IN THE CONTEXT OF THE FUNCTIONING OF INDIAN POLITY.

Ans: In the event, the executive behaves callous to need for socio-economic and political justice and equality and to the blatant infringement of fundamental rights of the citizens, and legislative organs fail to make the executive accountable for its omissions and commissions, judiciary steps out of its neutrality and restraint to give direction to legislature and government to perform their legitimate duties towards people and society. This is called judicial activism.

The citizens of the country look up to judiciary for protection of their fundamental rights and freedoms. The constitution of India has itself adopted certain provisions, which gives judiciary enough scope to legislate or to play an active role.

Civil rights activists, consumer rights activities, various pressure and interest groups have activated judicial activism in India. Emergence of PIL in India has activated judiciary to deliver faster and proactive judgement.

Under the power given to the apex judiciary in Article 142, the Supreme Court has made several orders for the welfare of the society. During the past decade, many instances of judicial activism have gained prominence. The areas in which judiciary has become active are health, child labour, political corruption, environment, education, etc.

Through various cases relating to Bhopal Gas Tragedy, Bandhua Mukti Morcha, Bihar Under trials, Punjab Police, Bombay Pavement Dwellers, Bihar Care Home cases, protection of the Taj Mahal, the judiciary has shown its firm commitment to participatory justice, just standards of procedures, immediate access to justice, and preventing arbitrary state action.

However, judicial activism is seen by some as judicial overreach or judicial adventurism. It is also claimed that judiciary must observe restraint and should not poke its nose unnecessarily in the affairs of the other two organs of the governance. In fine, judiciary should be active to the extent it does not affect the constitutional balance among the three organs of the government.