

ADVOCACY



TMV's Lokmanya Tilak Law College's

QUARTERLY eMAGAZINE

Volume VI

Issue 21 (May-Aug 2026)

Legal Insights

EDITOR & FACULTY IN-CHARGE

FACULTY CO-ORDINATOR

Asst. Prof. Vaishnavi Nirmal

Asst. Prof. Vidhya Shetty

*Articles invited for the next issue, interested candidates
can mail your articles on advocacytmv@gmail.com*

DISCLAIMER

Facts and opinions in articles published in the online e-Magazine “Advocacy” are solely the personal statements of respective authors. Authors are responsible for all contents in their article(s) including accuracy of the facts, statements, citing resources, and so on. Online e-Magazine “Advocacy” and editors disclaim any liability of violations of other parties’ rights, or any damage incurred as a consequence to use or apply any of the contents of eMagazine “Advocacy”. Material submitted to e-Magazine “Advocacy” must be original and not published or submitted for publication elsewhere. Author is responsible to get permission from previous publisher or copyright holder if an author is re-using any part of paper (i.e. figure or figures) published elsewhere, or that is copyrighted. The editors consider all material in good faith and that the e-Magazine “Advocacy” has full permission to publish every part of the submitted material including illustrations.

TABLE OF CONTENTS

SR. NO.	ARTICLES
1	Criminal Law and Genetic Evidence: Ethical Concerns
2	Corporate Governance and Environmental Sustainability: A Legal Study
3	Judicial Activism vs. Judicial Restraint a Comparative Analysis of Supreme Court Judgement

CRIMINAL LAW AND GENETIC EVIDENCE: ETHICAL CONCERNS

By- Chhaya Chandrakant Kunjir

(LLM 1st year)

Abstract

Scientific advancements have always played a significant role in the evolution of criminal justice systems. Among the most influential developments is the use of DNA evidence, which has revolutionized the manner in which crimes are investigated and prosecuted. DNA profiling enables investigators to establish biological links between suspects, victims, and crime scenes with remarkable precision. As a result, forensic science has become a powerful instrument in uncovering the truth and ensuring that justice is delivered accurately.

The establishment of DNA databases has further enhanced the effectiveness of criminal investigations. Law enforcement agencies can compare genetic profiles collected from crime scenes with stored records, enabling the identification of offenders even years after a crime has occurred. Numerous cold cases involving murder, sexual assault, and missing persons have been solved through DNA analysis.

Despite its undeniable advantages, the use of genetic evidence raises significant legal and ethical questions. DNA contains highly sensitive personal information extending beyond identity. Unlike fingerprints, genetic material may reveal details regarding ancestry, health conditions, and familial relationships. Consequently, the collection, storage, and use of DNA data involve complex issues relating to privacy, consent, and state authority. The increasing reliance on forensic genetics has therefore created a need to balance the demands of criminal justice with the protection of fundamental rights.

The Growing Importance of DNA Databases

DNA databases have become central to modern criminal investigations. Their effectiveness lies in the ability to match biological evidence collected from crime scenes with previously recorded

genetic profiles. Such matches often provide investigators with critical leads and strengthen evidentiary findings in criminal proceedings.

Several countries have established national DNA databases to facilitate criminal investigations. These systems assist law enforcement agencies in identifying repeat offenders, linking crimes committed across different jurisdictions, and exonerating individuals who have been wrongfully accused. One of the most significant contributions of DNA evidence has been its role in correcting miscarriages of justice. In numerous cases across the world, individuals who spent years in prison were later proven innocent through advanced DNA testing. Such developments demonstrate the immense value of genetic evidence in protecting the integrity of criminal justice systems. However, the expansion of DNA databases also raises concerns regarding the scope of government power and the possibility of excessive surveillance. Critics argue that the indefinite retention of genetic information may create databases that extend beyond criminal investigations and intrude into the private lives of citizens.

Privacy Concerns and Genetic Surveillance

Privacy remains one of the most contentious issues in discussions concerning DNA databases. Unlike ordinary personal data, genetic information contains deeply intimate details about an individual. The storage of such information by government agencies raises concerns regarding unauthorized access, misuse, and data breaches.

A major concern is the indefinite retention of DNA profiles. In some jurisdictions, genetic information may remain stored even when an individual is acquitted of charges or when investigations are discontinued. Such practices create uncertainty regarding the limits of state authority and the extent to which individuals retain control over their biological information. The emergence of familial DNA searching has further complicated the privacy debate. This investigative technique enables authorities to identify potential suspects through partial genetic matches with relatives whose DNA profiles are stored in databases. While this method has assisted in solving serious crimes, it also places innocent family members under scrutiny without their explicit consent.

The increasing use of commercial genetic testing services has introduced additional challenges. Millions of individuals voluntarily submit their DNA to private companies for ancestry tracing and health assessments. In certain cases, law enforcement agencies have gained access to these databases during criminal investigations, raising important questions concerning consumer consent and the limits of governmental access to privately held genetic information.

Ethical Challenges in the Use of DNA Evidence

The perception of DNA evidence as infallible can sometimes create problems within the criminal justice process. Although genetic analysis is highly reliable, it remains vulnerable to errors arising from contamination, improper collection procedures, laboratory mistakes, and human misinterpretation. Wrongful convictions resulting from forensic errors highlight the importance of maintaining rigorous scientific standards. DNA evidence should not be treated as conclusive in isolation but must be evaluated alongside other forms of evidence. Overreliance on genetic findings may lead investigators and courts to overlook alternative explanations or contradictory evidence.

Another ethical concern relates to the disproportionate representation of minority communities within forensic databases. Due to existing inequalities in criminal justice systems, certain racial, ethnic, or socio-economic groups may be subjected to greater surveillance and scrutiny. Consequently, DNA databases may unintentionally reinforce existing patterns of discrimination.

Advancements in forensic DNA phenotyping have generated further ethical debates. This technology attempts to predict physical characteristics such as eye colour, hair colour, skin pigmentation, and ancestral background based on genetic material. While potentially useful for investigations, such practices may contribute to racial profiling and discriminatory law enforcement practices if not carefully regulated.

Artificial Intelligence and the Future of Forensic Genetics

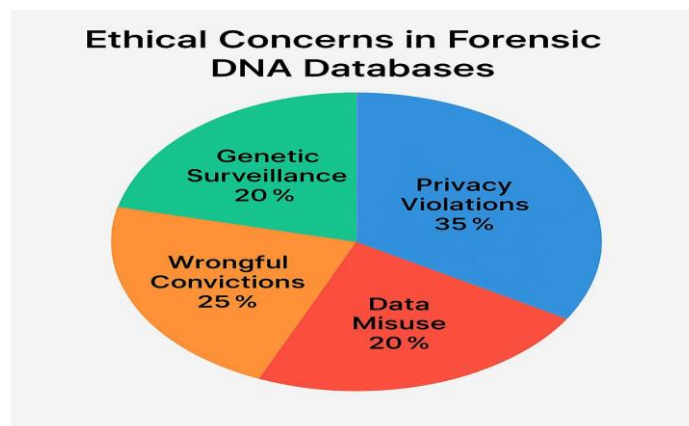
The integration of artificial intelligence into forensic science represents a new frontier in criminal investigations. AI-driven systems are increasingly being used to analyse large volumes of genetic data, identify patterns, and assist in suspect identification. While these technologies

offer significant benefits, they also present substantial risks. Algorithms may reflect biases present in the datasets used to train them. If such biases are not identified and corrected, AI systems could reinforce discriminatory practices and produce unfair outcomes. Transparency and accountability therefore become essential when implementing AI-based forensic tools. Independent oversight mechanisms, regular audits, and clear legal standards are necessary to ensure that technological innovations serve justice rather than undermine it.

The Need for Legal Safeguards

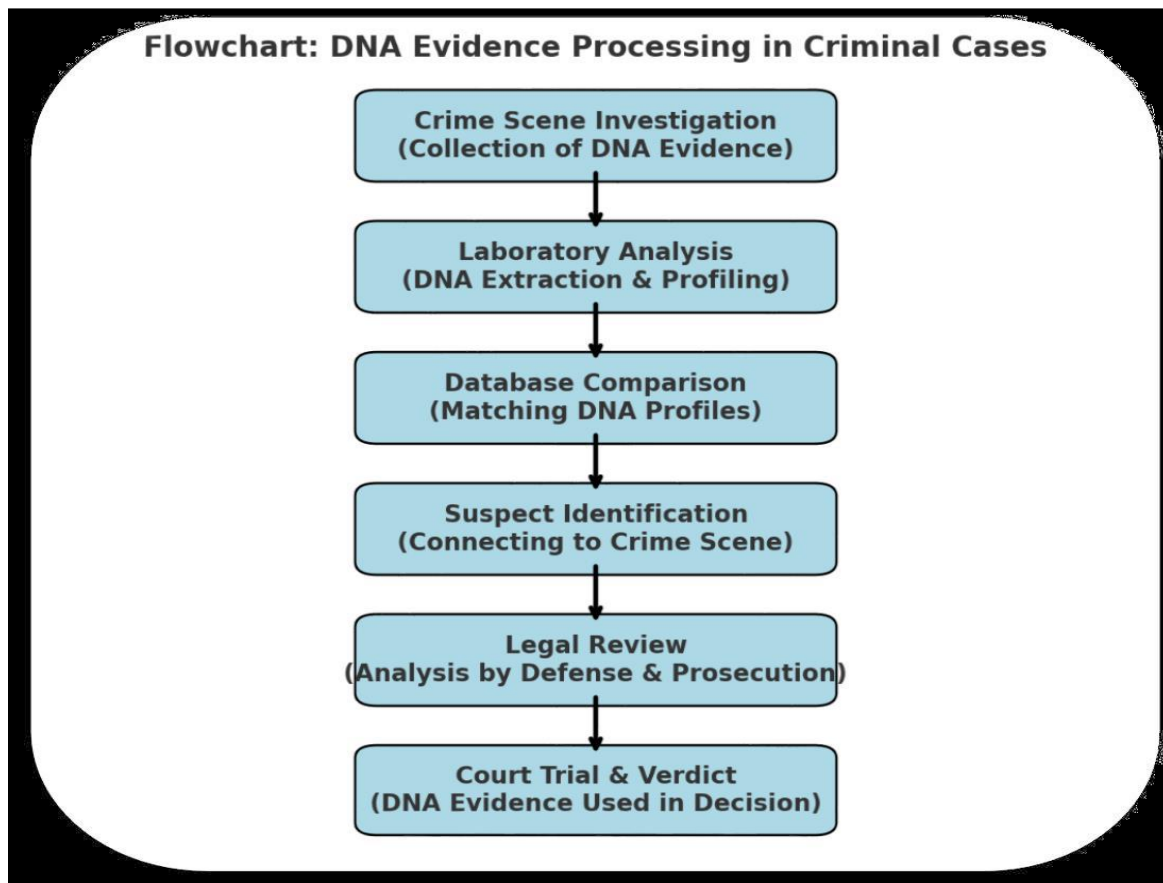
The rapid growth of forensic genetics requires comprehensive legal regulation. Strong safeguards are necessary to prevent misuse while preserving the investigative value of DNA evidence. Legal frameworks should clearly define the circumstances under which DNA may be collected, stored, shared, and destroyed. Individuals whose DNA has been collected should be informed about their rights, and mechanisms should exist for removing profiles where continued retention is unjustified.

Independent forensic review bodies can help ensure scientific integrity and accountability. Regular audits of forensic laboratories, strict accreditation requirements, and transparent reporting procedures can reduce the risk of errors and enhance public confidence. Furthermore, international cooperation is essential in developing common standards for genetic evidence. As crimes increasingly transcend national borders, harmonized legal frameworks can promote consistency while safeguarding human rights.



The pie chart represents the different ethical concerns related to forensic DNA databases. It highlights four major issues:

1. **Privacy Violations (35%)** – Storing and using DNA without proper consent can invade personal privacy.
2. **Wrongful Convictions (25%)** – Errors in DNA analysis can lead to innocent people being punished.
3. **Genetic Surveillance (20%)** – Governments or organizations might misuse DNA for tracking people.
4. **Data Misuse (20%)** – DNA data could be accessed or shared without permission, leading to security risks.



The **flowchart** represents the step-by-step process of how DNA evidence is handled in criminal cases. Here's a brief explanation:

1. **Crime Scene Investigation** – DNA samples (such as blood, hair, or saliva) are collected from the crime scene.
 2. **Laboratory Analysis** – Experts extract and analyze DNA to create a unique genetic profile.
 3. **Database Comparison** – The DNA profile is checked against forensic databases to find possible matches.
 4. **Suspect Identification** – If a match is found, it helps identify or link a suspect to the crime.
 5. **Legal Review** – The prosecution and defense analyze the forensic evidence before presenting it in court.
 6. **Court Trial & Verdict** – The DNA evidence is used to support arguments in court, influencing the judge's or jury's decision.
-

BIBLIOGRAPHY

Butler, John M. *Fundamentals of Forensic DNA Typing*. Academic Press, 2010.

Murphy, Erin E. *Inside the Cell: The Dark Side of Forensic DNA*. Nation Books, 2015.

Saferstein, Richard. *Criminalistics: An Introduction to Forensic Science*. 12th ed., Pearson Education, 2018.

Murphy, Erin. "Relative Doubt: Familial Searches of DNA Databases." *Michigan Law Review*, Vol. 109, No. 3, 2010.

Rothstein, Mark A. "Genetic Privacy and Confidentiality: Why They Are So Hard to Protect." *Journal of Law, Medicine & Ethics*, Vol. 34, No. 2, 2006.

Law Commission of India, *Report No. 271: Human DNA Profiling—A Draft Bill for the Use and Regulation of DNA-Based Technology*, 2017.

United Nations Office on Drugs and Crime (UNODC), *Handbook on DNA Evidence*, Vienna.

National Institute of Justice, U.S. Department of Justice, *Using DNA to Solve Cold Cases*.

Federal Bureau of Investigation (FBI), *National DNA Index System (NDIS) Annual Report*.

National Human Genome Research Institute, *Genetics and Criminal Justice Research Reports*.

CORPORATE GOVERNANCE AND ENVIRONMENTAL SUSTAINABILITY: A LEGAL STUDY

By- Vishnu Shankar Pilane

INTRODUCTION

The twenty-first century has witnessed a profound transformation in the way businesses are evaluated. Financial performance alone is no longer considered sufficient to measure corporate success. Investors, regulators, consumers, and communities increasingly expect corporations to demonstrate environmental responsibility and social accountability.

Corporate governance refers to the framework of rules, policies, and institutional practices through which companies are directed and controlled. Traditionally focused on protecting shareholder interests and ensuring financial accountability, corporate governance has evolved to encompass broader concerns, including environmental sustainability. Sustainability, in turn, emphasizes meeting present needs without compromising the ability of future generations to meet their own requirements.

The growing integration of Environmental, Social, and Governance (ESG) principles reflects the recognition that sustainable business practices are not merely ethical obligations but strategic necessities. Companies that successfully align governance mechanisms with sustainability objectives are better positioned to manage risks, enhance stakeholder trust, and achieve long-term resilience.

THE EVOLUTION OF CORPORATE GOVERNANCE

Corporate governance has undergone significant changes over the past several decades. Early governance models primarily focused on maximizing shareholder value and ensuring financial accountability. However, major corporate scandals and environmental disasters exposed the limitations of governance systems that prioritized short-term profits over ethical conduct and stakeholder interests.

As public awareness of environmental issues increased, governance frameworks gradually expanded to include sustainability considerations. Modern governance approaches recognize that environmental risks, climate change, and resource management directly affect business performance and long-term viability.

The emergence of ESG standards has accelerated this transformation. Boards of directors are now expected to oversee not only financial performance but also environmental impact, social responsibility, and ethical conduct.

GLOBAL GOVERNANCE FRAMEWORKS AND SUSTAINABILITY

Different jurisdictions have adopted various approaches to integrating sustainability into corporate governance.

United Kingdom

The United Kingdom's corporate governance framework emphasizes board accountability, transparency, and long-term value creation. Companies are encouraged to consider environmental and social factors as part of strategic decision-making and risk management. Sustainability reporting has become increasingly important in demonstrating corporate responsibility.

United States

Corporate governance in the United States traditionally focused on financial disclosure and shareholder protection. However, growing investor interest in ESG performance has encouraged companies to incorporate sustainability considerations into governance practices. Regulatory agencies have also increased attention to climate-related disclosures and environmental risks.

European Union

The European Union has emerged as a global leader in sustainability governance. Through initiatives such as non-financial reporting requirements and sustainable finance regulations, the EU has encouraged businesses to disclose environmental impacts and integrate sustainability into

corporate strategies. These measures aim to promote transparency and accountability while supporting broader climate objectives.

GOVERNANCE PRACTICES THAT PROMOTE SUSTAINABILITY

Effective governance structures can significantly enhance environmental sustainability.

Board Leadership and Expertise

Boards that possess expertise in environmental management are better equipped to identify sustainability risks and opportunities. Dedicated sustainability committees can provide focused oversight and ensure environmental considerations are incorporated into strategic planning.

Stakeholder Engagement

Engagement with investors, consumers, communities, and environmental organizations enables corporations to understand stakeholder expectations and respond proactively to environmental concerns. Meaningful stakeholder participation strengthens accountability and improves decision-making.

Transparency and Disclosure

Comprehensive sustainability reporting allows stakeholders to assess a company's environmental performance. Transparent disclosure of carbon emissions, resource consumption, and sustainability initiatives builds trust and encourages continuous improvement.

Long-Term Strategic Planning

Sustainable governance requires a shift from short-term profit maximization toward long-term value creation. Companies that integrate environmental objectives into their core strategies are often more resilient and better prepared to address future challenges.

LESSONS FROM CORPORATE CASE STUDIES

Volkswagen Emissions Scandal

The Volkswagen emissions scandal demonstrated how governance failures can lead to serious environmental and reputational consequences. The company's manipulation of emissions testing systems reflected inadequate oversight and an excessive focus on short-term performance. The scandal resulted in substantial financial penalties and lasting damage to corporate credibility.

BP Deepwater Horizon Disaster

The Deepwater Horizon oil spill highlighted the importance of effective risk management and environmental oversight. Weak governance structures and insufficient safety measures contributed to one of the largest environmental disasters in modern history. The incident underscored the need for boards to prioritize environmental risk assessment and operational accountability.

Nestlé and Water Sustainability

Nestlé's efforts to improve water stewardship demonstrate both the opportunities and challenges associated with corporate sustainability. While the company has implemented various water conservation initiatives, concerns regarding water extraction in vulnerable communities have generated criticism. The case illustrates the importance of balancing business objectives with local environmental and social interests.

CHALLENGES TO SUSTAINABLE CORPORATE GOVERNANCE

Despite significant progress, several obstacles continue to hinder effective sustainability governance.

Short-Term Financial Pressure- Many corporations remain focused on quarterly earnings and immediate financial returns. This short-term orientation can discourage investments in sustainability initiatives that generate benefits over longer periods.

Limited Sustainability Expertise

Boards often lack members with specialized knowledge of environmental issues, reducing their ability to oversee sustainability strategies effectively.

Weak Regulatory Enforcement

Even where sustainability regulations exist, inconsistent enforcement can undermine their effectiveness. Companies may face limited consequences for non-compliance, reducing incentives for meaningful environmental action.

Regional and Cultural Differences

The implementation of sustainability governance varies across jurisdictions. Differences in legal systems, regulatory capacity, and cultural attitudes toward environmental responsibility create challenges in establishing consistent global standards.

THE FUTURE OF CORPORATE GOVERNANCE AND SUSTAINABILITY

As environmental challenges intensify, sustainability will become increasingly central to corporate governance. Investors are demanding greater ESG accountability, consumers are favoring environmentally responsible brands, and regulators are introducing stricter disclosure requirements.

Future governance models are likely to emphasize climate risk management, sustainable finance, stakeholder engagement, and transparent reporting. Technological innovations, including artificial intelligence and advanced environmental monitoring systems, may further enhance corporate sustainability efforts.

Success will depend on the willingness of corporations to move beyond compliance and embrace sustainability as a core business objective rather than a peripheral responsibility.

CONCLUSION

Corporate governance and environmental sustainability are no longer separate concepts. Effective governance structures play a crucial role in guiding organizations toward environmentally responsible and socially accountable practices. Strong board leadership, stakeholder engagement, transparency, and long-term planning can significantly improve sustainability performance.

While challenges such as short-term profit pressures, limited expertise, and regulatory weaknesses remain, the growing importance of ESG principles demonstrates that sustainability is becoming an essential component of modern corporate governance. Organizations that successfully integrate environmental responsibility into their governance frameworks will be better positioned to create lasting value for shareholders, stakeholders, and society as a whole.

REFERENCES

1. Mallin, Christine A. *Corporate Governance*. 6th ed., Oxford University Press, 2019.
2. Habegger, Beat. *Corporate Social Responsibility and the Environment: A Legal Perspective*. Springer, 2018.
3. Tricker, Bob. *Corporate Governance: Principles, Policies and Practices*. 4th ed., Oxford University Press, 2019.
4. Crane, Andrew, Dirk Matten, Sarah Glozer, and Laura Spence. *Business Ethics: Managing Corporate Citizenship and Sustainability in the Age of Globalization*. Oxford University Press, 2021.
5. Eccles, Robert G., Ioannis Ioannou, and George Serafeim. "The Impact of Corporate Sustainability on Organizational Processes and Performance." *Management Science*, Vol. 60, No. 11, 2014.
6. Friede, Gunnar, Timo Busch, and Alexander Bassen. "ESG and Financial Performance: Aggregated Evidence from More Than 2000 Empirical Studies." *Journal of Sustainable Finance & Investment*, Vol. 5, No. 4, 2015.
7. Adams, Carol A. "The International Integrated Reporting Council: A Call to Action." *Critical Perspectives on Accounting*, Vol. 27, 2015.
8. Velte, Patrick. "The Link Between ESG Performance and Corporate Financial Performance." *Management Research Review*, Vol. 40, No. 4, 2017.
9. Khan, Mozaffar, George Serafeim, and Aaron Yoon. "Corporate Sustainability: First Evidence on Materiality." *The Accounting Review*, Vol. 91, No. 6, 2016.
10. *Volkswagen AG Emissions Litigation* (Dieselgate Cases).
11. *Deepwater Horizon Oil Spill Litigation* (BP PLC).
12. Environmental Protection Agency (EPA) v. Volkswagen AG.
13. In re Oil Spill by the Oil Rig "Deepwater Horizon", Gulf of Mexico, 2010.

JUDICIAL ACTIVISM VS JUDICIAL RESTRAINT A COMPARATIVE ANALYSIS OF SUPREME COURT JUDGEMENT

By- Darekar Tanmay Rajendra

INTRODUCTION

The judiciary is often regarded as the guardian of the Constitution and the protector of individual liberties. In performing this role, courts are frequently confronted with difficult questions regarding the extent of their powers. Should judges actively intervene to correct legislative and executive failures, or should they exercise restraint and defer to democratic institutions?

This debate has given rise to two influential judicial philosophies: judicial activism and judicial restraint. Judicial activism empowers courts to interpret constitutional provisions broadly to promote justice and protect rights, while judicial restraint advocates minimal judicial interference and respect for the decisions of elected branches of government.

The history of constitutional adjudication demonstrates that both approaches have shaped legal systems across the world. In India, the Supreme Court has alternated between activism and restraint depending upon the constitutional and social context of a particular case. Understanding these philosophies is therefore essential to appreciating the evolving role of the judiciary in a democratic society.

UNDERSTANDING JUDICIAL ACTIVISM

Judicial activism refers to the willingness of courts to adopt an expansive interpretation of constitutional provisions to address social injustice, protect fundamental rights, and fill legislative or executive gaps. It is based on the belief that the Constitution is a living document whose interpretation must evolve with changing social realities.

In India, judicial activism gained prominence after the Emergency period (1975–1977), when the judiciary sought to restore public confidence and reaffirm constitutional values. Through innovative interpretations and the development of Public Interest Litigation (PIL), courts expanded access to justice and strengthened the protection of rights.

KEY CHARACTERISTICS OF JUDICIAL ACTIVISM

- Broad interpretation of constitutional rights.
- Recognition of the Constitution as a dynamic and evolving document.
- Judicial intervention in matters affecting public welfare and social justice.
- Use of PILs to promote access to justice for marginalized groups.
- Filling legislative vacuums where necessary to protect constitutional values.

LANDMARK DECISIONS REFLECTING JUDICIAL ACTIVISM

Kesavananda Bharati v. State of Kerala (1973)

One of the most significant constitutional decisions in Indian history, this case established the Basic Structure Doctrine. The Supreme Court held that although Parliament possesses wide powers to amend the Constitution, it cannot alter its basic structure. The judgement represented a bold assertion of judicial authority to preserve constitutional identity.

Maneka Gandhi v. Union of India (1978)

The Court transformed the interpretation of Article 21 by holding that the right to life and personal liberty includes fairness, reasonableness, and due process. This decision laid the foundation for the expansion of numerous fundamental rights.

Vishaka v. State of Rajasthan (1997)

Recognizing the absence of legislation addressing workplace sexual harassment, the Supreme Court framed the Vishaka Guidelines to protect women's rights and dignity. The judgement demonstrated the judiciary's willingness to create legal standards where legislative action was lacking.

Shayara Bano v. Union of India (2017)

The Court invalidated the practice of instant triple talaq, holding it unconstitutional and inconsistent with principles of gender justice and equality.

National Legal Services Authority (NALSA) v. Union of India (2014)

This landmark judgement recognized transgender persons as a distinct gender and affirmed their constitutional rights, significantly advancing human dignity and equality.

K.S. Puttaswamy v. Union of India (2017)

The Supreme Court unanimously recognized the right to privacy as a fundamental right under Article 21, addressing modern challenges relating to personal autonomy and data protection.

UNDERSTANDING JUDICIAL RESTRAINT

Judicial restraint represents the philosophy that courts should exercise caution while interpreting laws and avoid unnecessary interference in legislative or executive functions. It emphasizes respect for democratic processes and the doctrine of separation of powers.

Supporters of judicial restraint argue that elected representatives possess greater democratic legitimacy than judges and are therefore better positioned to make policy decisions. Courts should intervene only when there is a clear constitutional violation.

KEY CHARACTERISTICS OF JUDICIAL RESTRAINT

- Strict adherence to constitutional and statutory text.
- Respect for legislative intent.
- Limited judicial intervention in policy matters.
- Reliance on precedent and institutional stability.
- Preservation of the separation of powers.

LANDMARK DECISIONS REFLECTING JUDICIAL RESTRAINT***ADM Jabalpur v. Shivkant Shukla (1976)***

During the Emergency, the Supreme Court held that citizens could not seek judicial remedies for violations of fundamental rights while emergency provisions were in force. The judgement is widely criticized today as an example of excessive judicial restraint.

Suresh Kumar Koushal v. Naz Foundation (2013)

The Court upheld the constitutional validity of Section 377 of the Indian Penal Code, observing that any change should come from Parliament. This decision reflected judicial deference to legislative authority, though it was later overturned.

State of Rajasthan v. Union of India (1977)

The Court declined to interfere extensively in political questions concerning the exercise of constitutional powers, emphasizing judicial limitations in matters involving political decision-making.

Rameshwar Prasad v. Union of India (2006)

Although the Court found the dissolution of the Bihar Legislative Assembly unconstitutional, it refrained from restoring the Assembly, demonstrating judicial restraint in dealing with political realities.

COMPARATIVE ANALYSIS OF JUDICIAL ACTIVISM AND JUDICIAL RESTRAINT

Judicial activism and judicial restraint are not mutually exclusive. In many cases, courts have adopted elements of both approaches. The decision in *Kesavananda Bharati* illustrates this balance. While the Court actively created the Basic Structure Doctrine, it simultaneously recognized Parliament's broad amending powers. Similarly, judicial intervention in *Maneka Gandhi* and *Vishaka* expanded constitutional protections, whereas decisions such as *State of Rajasthan* and *Rameshwar Prasad* reflected caution and respect for institutional boundaries. The challenge for courts lies in determining when intervention is necessary and when deference is appropriate. Excessive activism may blur constitutional boundaries, while excessive restraint may permit violations of rights to continue unchecked.

IMPACT ON GOVERNANCE AND DEMOCRACY**Positive Contributions of Judicial Activism**

Judicial activism has contributed significantly to Indian democracy by:

- Expanding the scope of fundamental rights.
- Protecting vulnerable and marginalized communities.
- Enhancing government accountability.
- Promoting environmental protection.
- Strengthening access to justice through PILs.

CONTRIBUTIONS OF JUDICIAL RESTRAINT

Judicial restraint has played an equally important role by:

- Preserving the separation of powers.
- Preventing judicial overreach.
- Respecting democratic decision-making.
- Maintaining legal certainty and institutional stability.
- Avoiding unnecessary conflicts with elected branches of government.

CONTEMPORARY JUDICIAL TRENDS

Modern constitutional jurisprudence reflects a more balanced judicial approach. Courts increasingly recognize that neither unchecked activism nor rigid restraint can effectively address contemporary challenges. For example, the Supreme Court's decision in *Navtej Singh Johar v. Union of India* (2018), which decriminalized consensual same-sex relations, exemplified judicial activism in protecting individual dignity and equality. Conversely, the Court's approach in *M. Siddiq v. Mahant Suresh Das* (2019) reflected restraint by grounding its reasoning in legal evidence rather than political considerations. These developments indicate a judiciary that seeks to balance constitutional protection with institutional discipline.

CRITICISMS AND CHALLENGES

Judicial activism is often criticized for enabling judges to enter the domain of policy-making, thereby undermining democratic accountability. Critics argue that courts may sometimes exceed their constitutional role and substitute judicial preferences for legislative choices. Judicial restraint, on the other hand, may lead courts to overlook constitutional violations in the name of

institutional caution. The experience of ADM Jabalpur demonstrates how excessive restraint can result in the failure to protect fundamental rights during times of crisis. The challenge lies in maintaining a balance that protects constitutional values while respecting democratic governance.

CONCLUSION

Judicial activism and judicial restraint represent two essential dimensions of constitutional adjudication. Activism enables courts to protect rights, promote justice, and respond to social change, while restraint preserves democratic legitimacy and respects institutional boundaries. The evolution of constitutional jurisprudence demonstrates that neither philosophy is sufficient on its own.

A mature constitutional democracy requires a judiciary that is both courageous and disciplined—willing to intervene when rights are threatened, yet mindful of the limits imposed by the Constitution. Ultimately, the true strength of the judiciary lies not in choosing one philosophy over the other, but in striking an appropriate balance between judicial intervention and judicial restraint.

BIBLIOGRAPHY

1. Granville Austin, *The Indian Constitution: Cornerstone of a Nation*.
 2. Upendra Baxi, *The Supreme Court and Politics*.
 3. P. Ishwara Bhat, *Law and Social Transformation in India*.
 4. Case law references from Supreme Court judgements.
 5. Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461.
 6. S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press, 2002).
 7. Benjamin Cardozo, *The Nature of the Judicial Process* (Yale University Press, 1921).
-