

## CHANGING ROLE OF THE INDIAN JUDICIARY - : A SOCIAL VISION FOR A WELFARE STATE

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### Abstract

*During the 64 years of its existence, the Indian Judiciary has made significant contribution to the system of governance that has impacted the life of the people and the nation. The Supreme Court has observed that the Constitution must be construed in wide and liberal manner so that constitutional provisions does not get fossilized but remain flexible enough to meet newly emerging problems and challenges. Supreme Court has brought about democratization of remedies for implementing the citizens rights. The performance of India's Supreme court is commendable. It has acted as a promoter of peace, cordiality and balance and coordination between different organs of the government. At one time it was thought that the role of judiciary is only to interpret the laws and the regulations and provide judgments exclusively from the legal point of view. This perspective has undergone a sea change in the recent times.*

### Introduction

The Indian Judiciary, especially at the level of Supreme Court and High Courts, has for long been concerned with the concept and practice of justice. The higher Judiciary has cope with the problem that in principle 'no one is above law ' and that 'all persons are entitled to the equal protection of the Law'. After Independence the Judiciary was not much successful with the problem of striking a balance between the much-needed programmes of economic and social reform on the one hand and establishing the credibility of the Constitution on the other hand. During the first couple of decades the Supreme Court focused on promoting the values of Constitution, Separation of powers and check and balances over and in each organ of the state. In the decades thereafter, The Supreme Court turned its attention towards the frequency with which the Parliament was amending the Constitution.

The court elaborated upon the distinction between the constituent and legislative power. With the advancement of time the Supreme Court firmly established the primacy of the constitution through developing the new basic structure doctrine, for safeguarding those features that are inherent in the Constitution from being altered through the mere exercise of legislative power. By adopting a new role, the Supreme court turned its attention towards the challenge of securing 'justice for all ',i.e., for the rich and poor, over-privileged and under privileged, disadvantaged and vulnerable, exploited and excluded alike. It did so by creating a unique principle of Public Interest Litigation, which was given the name of 'Social action litigation' (SAL) by noted jurists, Prof. Upendra Baxi. In this new judicial philosophy by the name of PIL, the Supreme Court has started interpreting law according to the current ethos, and welfare of the community to make socio economic political justice as enriched in the preamble of the Constitution, a reality<sup>1</sup>.

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<sup>1</sup> P. N. Bhagwati J., The Judiciary in India: A Hunger and Thrust for Justice, available at [clpr.org.in](http://clpr.org.in) last visited on 23 April 2014

## Changing Role of the Judiciary in India

An impartial judiciary is a condition for the smooth functioning of a political system. It is the third organ of the government and is responsible to deliver justice to the aggrieved party. The judicial system, the world over, performs a variety of functions starting from the interpretation and application of the existing laws, to the shaping of policies and laws that are likely to emerge in the future. Judiciary in India also performs various functions. In India Judiciary is the protector of the rights of the citizens, guardian of the Constitution, administrator of justice, Policy maker, and above that all a hope for aggrieved people. A drastic change in the role of the Judiciary can be noticed with the advancement of time. In the first two decades from 1950 to 1973, the Supreme Court's primary concern was property and economic reform and the government think that the Supreme Court was unsympathetic and hostile at time. After 1973 the judiciary changed its direction as its concern now were more for the citizens and community right. Today judiciary is playing a vital role in the daily life of this country by protecting the rights of the citizens. That is why Indian judiciary enjoy highest amount of respect.<sup>2</sup>

On its Golden jubilee in January in 2000, President Mr. KR. Narayanan said, "*It is not an exaggeration to say that the degree of respect and public confidence enjoyed by the Supreme Court is not matched by many other institutions of this country*".<sup>3</sup>

## Indian Judiciary in the First Two Decades

Since independence the supreme court has given both a technical and expansive interpretation of the fundamental rights, and has issued various directions and guidelines to uphold human dignity and human rights of the people of India and more so of the weaker sections such as women, children, bonded labor, Scheduled Castes/ Tribes/ other socially and educationally backward Classes (OBCs). There is a common belief that rule of law and the liberty and equality of the people is in place because of the engaging and independent judiciary, which has acted as the ardent defender, preserver and protector of the

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<sup>2</sup>T.R.Andhyarujina, Judicial Accountability: India's Methods and Experience in Cyrus Das Gupta's JUDGES AND JUDICIAL ACCOUNTABILITY, Universal Law Publ.2003, p.101.

<sup>3</sup>Harshwardhan, student of Hidayatullah National Law University, Judicial Accountability and Judges Inquiry Bill, AIR 2008 Jour. Sec Vol. VI P.49

constitution and the law. But the judiciary was much criticized for its judgment during the first two

decades after independence. The philosophy contained in the preamble and Directive Principles of State Policy were said to have been ignored by it. At the same time the court took a narrow view of the term law mentioned in Art. 13 (2) to mean only an ordinary law. It kept constitutional law outside the meaning of the term law as used in Art. 13 (2). This situation prevailed till 1967 almost uninterrupted when the judiciary changed its stand and interpreted Art. 13(2) in a famous Golak Nath<sup>4</sup> case to say that parliament had right to amend the constitution except the fundamental rights. Thus Art. 13(2) were taken to include the constitutional law also. Thus judiciary engaged itself in limiting the legislative role of the parliament. This decision was criticized. Several judicial scholars, legal practitioners, the media and the members of the public termed these judgments as unnecessary and unwarranted interference in the political field. The question of unbridled constituent power of parliament was again examined by the judiciary in Keshavanand Bharti v. state of Kerala in 1973 5/when 24<sup>th</sup> constitution amendment Act was challenged in the court. This amendment added Art. 31(C) in the constitution and also put amendment outside the purview of the definition of law contained in Art. 13. The judiciary was precluded from undertaking judicial review of any amendment on the ground that it was violative of fundamental rights. The Supreme Court, partially revising its verdict of Golak Nath case, held that parliament could amend any part of the constitution including fundamental rights, but it could not amend the basic structure of the constitution. Parliament enacted 42nd amendment in the constitution and inserted clause 4 and 5 which provided inter alia as follows: Clause 4 "No amendment of this constitution, including the provisions of part III, made or purporting to have been made under this Article whether before or after the commencement of Article 55 of the constitution (Forty-second amendment) Act, 1976 shall be called in question in any court on any ground". And Clause<sup>5</sup> states, "For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this

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<sup>4</sup> Nath v. State of Punjab, AIR 1967 SC 1643,1658 ,1707:(1967)2 SCR 762

<sup>5</sup> Keshvananda Bharti v. State of Kerla, (1973) 4 SCC 225.

constitution under this Article".<sup>6</sup> The judiciary declared these two clauses as invalid in *Minerva Mills Ltd. V. Union of India*<sup>7</sup> because they excluded power of judicial review, which is a basic feature. Similar view was taken by the judiciary in other cases like *Indira Gandhi v. Raj Narain*<sup>8</sup>, *Sampath v. Union of India*<sup>9</sup> and *Waman Rao v. Union of India*<sup>10</sup> also. Elsewhere, judiciary took a flexible, pragmatic and problem solving approach to the issues brought before it. For example, on questions of liberty and freedom, it had upheld almost fully the power of the state to regulate, to make arrests under preventive detention, or making arrests under Art. 21. In the same way, the courts had opted for a balancing approach while deciding controversial issues like Kerala Education Bill (1958), the Cow Slaughter Case (1958-61), NCERT case relating History books controversy or views on Hindutva or cases relating to controversies over religious endowments (1954-64) denoting its eagerness to find Indian answers to Indian situations. The role of the judiciary in the first 30 years was confined mainly to work for a limited government, to defend the fundamental rights and more of the right to property, respect the principle of checks and balances provided in the Indian constitution explicitly or implicitly, generally refraining from political or policy making activity and upholding this as a right of the legislature or the executive.<sup>11</sup> A clear shift in judicial thinking is visible in the post-emergency period. This is also a period when issues like poverty, health, education, hunger, gender empowerment and the rights of the child and the labour are no longer local in nature. They are inviting global focus and response. The government of India has initiated a number of legal and policy

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<sup>6</sup> Dr. Rajvir Sharma, Judiciary As Change Agent: Some Insights Into the Changing Role of Judiciary in India, available at [www.lawyersindia.com](http://www.lawyersindia.com) last visited on 23April 2014.

<sup>7</sup> Dr. Rajvir Sharma, Judiciary As Change Agent: Some Insights Into the Changing Role of Judiciary in India, available at [www.lawyersindia.com](http://www.lawyersindia.com) last visited on 23April 2014.

<sup>8</sup> *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SSS 1: AIR 1975 SC 2299.

<sup>9</sup> *S.P. Sampath Kumar. Union of India*, (1987) 1 SCC 124: AIR 1987 SC 386.

<sup>10</sup> *Waman Rao v. Union of India*, (1981) 2 SCC 362: AIR 1981 SC 271.

<sup>11</sup> Dr. Rajvir Sharma, Judiciary As Change Agent: Some Insights Into the Changing Role of Judiciary in India, available at [www.lawyersindia.com](http://www.lawyersindia.com) last visited on 23April 2014

measures to meet the global challenges in the new economic order. Structural adjustment programs, disinvestments policy in the public sector, corporatization of the public sector, and liberalization can be cited as some of them. Many of these measures have been challenged in the court of law.

## Indian Judiciary in the Post Emergency Period

Rightly or wrongly, Indian judiciary has now come to play a very vital role in influencing the various aspects of the administration and governance of the country. At one time, it was thought that the role of judiciary is only to interpret the laws and regulations and provide judgments exclusively from the legal point of view. This perspective regarding the judiciary has undergone sea change in recent times. Unlike in the past, judiciary is now entertaining a number of subjects which do not merely involve legal issues but also the issues relating to administration, governance and personal life style of individuals. The courts have been sensitive to the changing socio-cultural and political -economic milieu of the country. The growing public support to the activist role of the judiciary has further strengthened the position of pre-eminence that the judiciary has come to occupy among the three organs of the government. It has, unlike the past, been entertaining a number of petitions, which involve, apart from legal, issues that relate to the administration, governance and policy.

## Public Interest Litigation- A New Approach of the Judiciary

In the post 1978 era there is distinctively a new judicial outlook, new orientation and new social philosophy by the name of PIL whereby the Supreme court started interpreting law according to the current ethos, needs and welfare of the community to make socio -economic political justice as enriched in the preamble of the Constitution, a reality. Public Interest Litigation has been hailed as a new juristic horizon, as an important step in widening the area of an administration of justice. The Indian Judges, especially, Justice P. N. Bhagwati and Justice V. R. Krishna Iyer rejected the Anglo-Saxon jurisprudence with caution and interpreted law the rule of standing in its Contextual and social setting. In the words of Justice P. N. Bhagwati<sup>12</sup>

*"Today a vast revolution is taking place in the judicial process. The theatre of law is fast changing and the problems of the poor are coming to the*

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<sup>12</sup> *S.P. Gupta v. Union of India*, AIR 1982 SC 149 at P. 192.

*forefront. The court has to innovate new methods and devices and new strategies for the purpose of providing access to justice to large masses of people who are denied their basic human rights..... the only way in which this can be done is by entertaining writ petitions and even letters by public- spirited- individuals seeking judicial redress for the benefit of those disadvantage persons who have suffered injustices”*

Public Interest litigation thus entered the Indian landscape and was greeted with applause. Some termed it as a ‘silent revolution’ the other ‘social action litigation’ and ‘new juristic horizon’. The observation of Lord Denning proved right “A Judge must consciously seek to mould the law so as to serve the need of the time. He must not be mechanic, a mere working mason, laying brick on brick without thought to the overall design. He must be an architect thinking of the structure as a whole building for society a system of law which is strong , durable and just. It is on his work that civilized society itself depends”.<sup>13</sup>

Public Interest Litigation is primarily judge led. It is the product of judicial activism on the part of our great judges. Judges have expended their empire by giving way to simpler and broader rules. In S P Gupta v. Union of India, 1981(Supp) SCC 87, the court explained the concept as follows : “ Any act causing a legal wrong/ injury to a person/ persons by reason of violation of any constitutional/legal right or any burden is imposed in contravention of any constitutional/legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or group of persons by reasons of poverty, helplessness, or disability or socially or economically disadvantaged position unable to approach the court for relief, then any member of the public can maintain an application for an appropriate direction order or writ in the high court under Art. 226 or to the Supreme Court under Art. 32 if there is a violation of fundamental rights of such persons/ class of persons”.<sup>14</sup>

### **New and Wide Approach: Liberalization of Locus Standi**

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<sup>13</sup> Dr. Mamta Rao, PUBLIC INTEREST LITIGATION, Eastern Book Co. First Ed.2002 P. V.

<sup>14</sup> Dr. Mamta Rao, PUBLIC INTEREST LITIGATION, Eastern Book Co. First Ed.2002 , p.104.

The origin of Public Interest Litigation lies in the liberalization of locus standi by the Supreme court. Locus standi means the legal capacity to invoke the jurisdiction of the court. The traditional rule of standing which confines access to the judicial process only to those to whom legal injury is caused or legal wrong is done has now been liberalized by the court. The principle which was the result of inheritance of Anglo sax on system of jurisprudence has been broken and a new dimension has been given to the doctrine of locus standi which has revolutionized the whole concept of access to justice in a way not known before to system of jurisprudence. It was therefore necessary to evolve a new strategy by relaxing the traditional rule of standing in order to provide justice to the poor and oppressed people. This new and wide approach helped the weaker section of society to approach the temple justice In the landmark case of S.P. Gupta v. Union of India,<sup>15</sup> Peoples Union for Democratic rights v. Union of India<sup>16</sup> , Bandhua Mukti Morcha v. Union of India<sup>17</sup> , the Supreme Court evolved a new rule that any member of public acting bonafide and having sufficient interest can maintain an action for redressal of public wrong or public injury. Such action can be brought by individuals, groups voluntary agencies etc.

Thus Public Interest Litigation are for those persons who are not able approach the court due to poverty and others reasons. Any persons should be allowed to move the court except a busy body, interloper, persons having own interest, public speaker etc. Justice Krishna Iyer in Mumbai Kamgar Sabha v. Abdulbhai<sup>18</sup> observed “test litigations, representative actions *pro bono publico* and like forms of legal proceedings are keeping with the current accent on justice to the common man.....”

### **Dynamics and Trends in PIL**

The ultimate justification for the creation of new rights and renewed emphasis on the implementation of statutory rights is that they have to be made

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<sup>15</sup> S.P. Gupta v. Union of India, 1981 SCC87 AIR 1982 SC 149.

<sup>16</sup> P.U.D.R. v. Union of India ( 1982) 3 SCC 235: AIR 1982 SC 1473.

<sup>17</sup> Mukti v. Union of India AIR 1984 SC 802 ( 1984) SCC 161.

<sup>18</sup> Mumbai Kamgar Sabha v. A bdul Bhai 1976 3 SCC 832: AIR 1976 SC 1465.

justifiable, simply because their primacy in living a life with dignity and the matching recognition thereof with the values that our constitution inheres. Following this philosophy the supreme-court has developed new methods and new remedies. The same is to be considered to be a part of wider civilization.<sup>19</sup> In Indian situation the Judges are playing the role of creator, planner, architect, and social visionary actively engaged in the building of a new society out of old one through PIL.

Justice P.N Bhagwati remarked “What is necessary is to have judges who are prepared to fashion new tools, forge new method, innovate jurisprudence, who are judicial statesmen with a social vision and a creative faculty or who have, above all a deep sense of commitment to the constitution with an activist approach and obligation for accountability , not to any party in power nor to the opposition nor to the classes which are vociferous but to half hungry millions of Indian who are continually denied their basic rights.” The Supreme Court has observed that the constitution must be construed in wide and liberal manner so that Constitutional provisions does not get fossilized but remains flexible enough to meet newly emerging problems and challenges.<sup>20</sup> Supreme Court has brought democratization of remedies for implementing human rights.

### Expanding the Scope of Art.21

The enforceability of measures relating to social equality though incorporated in inspirational terms was never envisaged as being dependent only on the availability of state resources. In some instances, the Courts have privileged fundamental rights over directive principles while in others they have creatively drawn a harmonious relationship between the two. An example of this is the expansion of the conception of ‘personal liberty’ under Article 21 of the Constitution which was traditionally invoked in the civil political context to check governmental abuses. The judicially expanded understanding of the same now includes several socio-economic entitlements for citizens which place positive obligations on the state. What is interesting is that the reading in of these socio-economic entitlements by judges has often directly referred to the language of provisions contained in the part dealing with directive

<sup>19</sup>S.B. Sinha J. in *State of U.P v. Jeet Bisht* 2007 6SCC 586, P. 74

<sup>20</sup> M. Nagraj and others v. Union of India and others AIR 2007 vol. 1 p 71 ( A).

principles. In this sense, judicial creativity has transformed the substantive character of the protection of life and liberty. Article 21 of the Constitution of India reads as follows: “No person shall be deprived of his life or personal liberty except according to procedure established by law.” The interpretation of this article in the early years of the Supreme Court was that ‘personal liberty’ could be curtailed as long as there was a legal prescription for the same. In *A.K. Gopalan’s* case,<sup>21</sup> the Supreme Court had ruled that ‘preventive detention’ by state agencies was permissible as long as it was provided for under a governmental measure (e.g. legislation or an ordinance) and the Court could not inquire into the fairness of such a measure. It was held that the words ‘procedure established by law’ were different from the ‘substantive due process’ guarantee provided under the 14th amendment to the US Constitution. It was also reasoned that the framers of the Indian Constitution consciously preferred the former expression over the latter. This narrow construction of Article 21 prevailed for several years until it was changed in *Maneka Gandhi’s* case.<sup>22</sup> In that decision, it was held that governmental restraints on ‘personal liberty’ should be collectively tested against the guarantees of fairness, non-arbitrariness and reasonableness that were prescribed under Articles 14, 19 and 21 of the Constitution. The Court developed a theory of ‘inter-relationship of rights’ to hold that governmental action which curtailed either of these rights should meet the designated threshold for restraints on all of them. In this manner, the Courts incorporated the guarantee of ‘substantive due process’ into the language of Article 21.<sup>23</sup> This was followed by a series of decisions, where the conceptions of ‘life’ and ‘personal liberty’ were interpreted liberally to include rights which had not been expressly enumerated in Part III. In the words of Justice Bhagwati: “we think that the right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms.” Notably, over the decades, the Supreme Court has affirmed that

<sup>21</sup> *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

<sup>22</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>23</sup> T.R. Andhyarujina, ‘The Evolution of Due Process of Law by the Supreme Court’ in B.N. Kirpal et. al. (eds.), *Supreme But Not Infallible – Essays in Honour of the Supreme Court of India* (OUP, 2000) at p. 193-213.

both the Fundamental Rights and Directive Principles must be interpreted harmoniously. It was observed in the Kesavananda Bharati case,<sup>24</sup> that the directive principles and the fundamental rights supplement each other and aim at the same goal of bringing about a social revolution and the establishment of a welfare State, the objectives which are also enumerated in the Preamble to the Constitution. Furthermore, in Unni Krishnan, J.P. v. State of Andhra Pradesh,<sup>25</sup> Justice Jeevan Reddy declared: “The provisions of Parts III and IV are supplementary and complementary to each other and not exclusionary of each other and that the fundamental rights are but a means to achieve the goal indicated in Part IV”.

In the recent few decades, Indian judiciary has been also conscious to the issues of good governance if it means a simple, fast, responsive, accountable and empathetic governance. The judicial approach, as evidence from several judgments, signifies its growing concerns for an efficient and effective governance resulting in the improvement of the living conditions of the members of the society by creating and expanding opportunities and access to growth and development of all, provide an equal and equitable environment. The keen interest of judiciary in the promotion of the principles of good governance is also exhibited in the pronouncements focusing on Rule of Law, human rights, fundamental rights and gender justice and from the directions and guidelines issued from time to time on matters ranging from police and prison reforms, electoral reforms, uniform civil code, rights of the child and the women, affirmative action in favor of the Dalits and the deprived like the S/Cs, S/Ts and the OBCs to environmental jurisprudence that has given a new meaning to the right to life as well as reconciliation between development and protection of the ecology and environment. Many of the judicial judgments are known for the clear interest of the judiciary in the processes and practices of pursuing the goals of sustainable human development and creating an enabling environment. In this endeavor, the judiciary has not confined itself to interpreting the law and the constitution only. If it found laxity on the part of the Executive to implement the judgment, judiciary has also not hesitated to direct and monitor the Executive to not only submit the action plan but also submit the progress report of the action taken and the outcomes of that action. For instance, judiciary has directed the

governments at the central, state and local levels to implement the laws made by the legislature for the welfare and development of the people like assuring a clean environment free from pollution, accident free modern public transport system, protection of public health and ensuring efficient and effective solid waste management, planned development of the cities for prevention of urban chaos. The most abiding contribution of the Supreme Court has been the emergence of new human right in changing social phenomenon as right against Bonded labor in *Bandhua Mukti Morcha V. Union of India*<sup>26</sup>, right to life in *Francis Coralie Mullin V. Union Territory of Delhi*<sup>27</sup>, right to live with human dignity in *Board of Trustees, Port of Bombay V. Dilip Kumar*, right against handcuffing in *Sunil Batra V. Delhi Administration*<sup>28</sup>, right to speedy trial and free legal aid in *Hussainarara Khatoon V. Home Secy Bihar*, right against custodial violence in *Sheela Barse V. State of Maharashtra*<sup>30</sup>, right against the delayed execution of death sentence held in *Vatheeswaran V. State of Tamilnadu*<sup>31</sup>, right to shelter held in *Pavement Dwellers case*<sup>32</sup>, right to education held in *Unni Krishnan*<sup>33</sup> and *Mohini Jain*<sup>34</sup> case, right to food held in *People’s Union for Civil Liberties V. Union of India*<sup>35</sup>, and many more. Further, in recent times, one also comes across a number of observations of the judges, particularly during the

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<sup>26</sup>*Bandhua Mukti v. Union of India* AIR 1984 SC 802 ( 1984) SCC 161.

<sup>27</sup>*Francis Coralie Mullin v. Union Territory of Delhi* AIR 1981 SC 746

<sup>28</sup>*Sunil Batra v. Delhi Administration*, AIR 1980 SC 1579

<sup>29</sup> *Hussainarara Khatoon v. Home Secy. Bihar* ( 1980 ) 1 SCC108.

<sup>30</sup> *Sheela Barse v. State of Maharashtra*, (1983) 2 SCC 96.

<sup>31</sup> *Vatheeswaran v. State of Tamilnadu* AIR 1983 SC 361.

<sup>32</sup> *Olga Tellis v. Bombay Municipal Corp.* (1985) 3SCC 545.

<sup>33</sup> *Unni Krishna v. State of A.P.*( 1993)1SCC 645.

<sup>34</sup> *.Mohini Jain v. State of Karnataka* ( 1992) 3SCC 666 AIR 1958 SC 1992.

<sup>35</sup> *P.U.C.L. V. Union of India* AIR 1997 SC 1203, ( 1997) 3 SCC 433

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<sup>24</sup> (1973) 4 SCC 225

<sup>25</sup> (1993) 1 SCC 645

hearing stages, which are not judgments but severe indictments of one party or the other by way of opinions and views. Pronouncements have also been made by the judges during the hearing stage which are not based on the arguments made during the hearings but based on the information available to the judges from press and media or other sources. Many wonder as to whether observations can be made by judges during the hearing which may amount to 'pre judging' the case.

However, most of such observations and even some of the 'suspect judgments' have not been strongly criticized in the media and the public forums, since many people appear to recognize judiciary, as the only forum available to checkmate the bureaucracy and the politicians in power.

The widespread disapproval of the many acts of politicians and bureaucrats has created a scenario where the judiciary is readily accepted as the system that could fill the vacuum.

## **Conclusion**

The judgment rendered by the Supreme Court from 1980s till now make it abundantly clear that the Supreme Court has contributed immensely to make socio- economic political justice as enshrined in the preamble of the Constitution a reality . In other words, judiciary is now going through a phase of revolution in the country and judges are having a larger than life image. The responsibility vested with the judiciary has also gone up by leaps and bounds, as judiciary appears to have the ultimate say in all matters.

In the area of social and economic ordering of Indian society the supreme court has made a significant contribution in the making of the Indian jurisprudence. The Court has remarkably evolved a workable and balanced compromise between varying social and individual interests in consonance with the spirit of the times and themes and thrust of the Constitution. Justice Cardzo also puts, "nor is the concept of the general welfare static. Needs that were narrow and parochial a century ago may be interwoven in our day, with the well-being of the nation. What are critical or urgent changes with the time".