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BEYOND THE ACTIVISM-RESTRAINT DIVIDE: JUDICIAL BEHAVIOUR IN THE CONSTITUTIONAL JURISPRUDENCE OF INDIAN COURTS

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ABSTRACT

The role of courts in democracies is often described in terms of competing ideas of judicial activism and judicial restraint. While these concepts are widely invoked in discussions of constitutional adjudication, they do not always capture the variation in judicial approaches across case types. This paper examines the jurisprudence of the Supreme Court of India through a doctrinal analysis of select judgments. It considers rights-expansive rulings such as Justice K.S. Puttaswamy v. Union of India, Navtej Singh Johar v. Union of India, alongside decisions that defer from interfering in legislative or executive matters, including Anuradha Bhasin v. Union of India and BALCO Employees' Union v. Union of India. The paper analyses differences in the level of scrutiny applied, the interpretive methods adopted, and the scope of the relief granted. It argues that the Court's recent constitutional decisions do not follow a single model of either activism or restraint. Instead, the jurisprudence reveals a more varied pattern in which the Court adopts different approaches depending on the nature of the constitutional issue before it. Through this analysis, the paper seeks to provide an account of how the Supreme Court approaches its institutional role in contemporary constitutional adjudication.

INTRODUCTION

Courts have one of the most crucial roles in democratic systems as Interpreters of the Constitution and Guardians of Fundamental rights. In performing this function, courts often

face a tension between two contrasting orientations described as Judicial activism and Judicial restraint. Judicial activism is an approach in which courts adopt an expansive interpretive role. They often end up intervening in areas traditionally associated with legislative or executive authority in order to uphold constitutional principles (Kmiec, 2004). Judicial restraint, by contrast, emphasises caution in exercising judicial power, thus encouraging courts to defer to the decisions of elected branches unless there exists a clear constitutional violation (Bickel, 1962).

Judicial review in India has been a point of debate for a long time, with special regard to the appropriate limits of judicial power within a democratic system.¹ Scholars have viewed this issue in terms of the “counter-majoritarian difficulty,” which highlights the tension between judicial review and democratic decision-making (Bickel, 1962). While constitutional courts are responsible for safeguarding fundamental rights and ensuring the primacy of the constitution, extensive Judicial intervention raises concerns regarding democratic legitimacy. Alternatively, excessive judicial restraint may lead courts to avoid addressing any constitutional violations or inequalities embedded within political structures (Dworkin, 1977).

The Supreme Court exercises a crucial role in constitutional adjudication. Through its scrutiny of legislative and executive actions, the Court has significantly shaped the development of constitutional jurisprudence in the country². Scholars view this trajectory as reflecting phases of judicial activism, especially in areas involving rights protection and public interest litigation, expanding access to justice and greater constitutional guarantees (Bhagwati, 1985; Sathe, 2002).

However, the discourse around judicial activism in India has been framed in normative terms, questioning whether the judiciary has exceeded its institutional functions or encroached upon the domain of other branches of government³. Such discussions are centred on specific judgments rather than examining the various patterns in judicial reasoning and institutional behaviour. As a result, there remains scope for systematic analysis of how courts themselves justify intervention or restraint through their doctrinal reasoning.

¹ Alexander M. Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics* (New Haven: Yale University Press, 1962)

² Sathe, S. P. *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. 2nd ed. New Delhi: Oxford University Press, 2002.

³ Pratap Bhanu Mehta, “The Rise of Judicial Sovereignty,” *Journal of Democracy* 18, no. 2 (2007): 70-83.

This paper approaches the debate from an analytical and doctrinal perspective. It examines how the Supreme Court articulates and justifies its constitutional decisions in selected cases. By analysing the reasoning adopted in these judgments and the nature of the Court's engagement with legislative and executive authority, the study seeks to identify patterns in judicial behaviour that reflect varying degrees of intervention and restraint.

LITERATURE REVIEW

Judicial activism and judicial restraint have been the centre of crucial discussions in constitutional theory and judicial behaviour. Existing literature can be divided into three broad types: debates on the legitimacy of judicial review, scholarship examining judicial activism in practice, and institutional approaches that analyse courts as actors within systems of governance.

The first one focuses on the normative foundations of judicial review and the role of courts in democratic systems. Alexander Bickel described judicial review as creating a "counter-majoritarian difficulty," arguing that the power of unelected judges to scrutinise laws enacted by elected representatives raises questions about democratic legitimacy.⁴ From this perspective, judicial restraint is often considered a guiding principle that ensures courts do not intrude on the work of democratic decision-making. Courts are therefore expected to exercise caution and intervene primarily when constitutional violations are clear.

Other scholars tend to justify a more expansive role of the judiciary. Ronald Dworkin argues that courts must interpret constitutional provisions as expressions of moral principles that protect individual rights against majoritarian encroachment.⁵ Under this framework, judicial intervention is not necessarily incompatible with democratic governance. Instead, courts play an essential role in ensuring that commitments to equality and liberty are meaningfully enforced.

The second type of scholarship focuses on the practice of judicial activism in constitutional adjudication. The concept itself remains contested; scholars claim that the term has been used to describe wide-ranging judicial behaviours. Kmiec (2004) identifies several meanings

⁴ Alexander M. Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics* (New Haven: Yale University Press, 1962).

⁵ Dworkin, R. (1977) *Taking Rights Seriously*. Harvard University Press, Cambridge, MA.

associated with judicial activism, including the invalidation of legislation, departure from precedent, and judicial involvement in matters traditionally under other branches of the government. Because of these varying meanings, judicial activism has been used both as a descriptive and an evaluative concept of constitutional scholarship⁶.

In the Indian context, discussions of judicial activism have been centred on the role of the Supreme Court in governance and rights protection. It is noted that the Court developed an increasingly interventionist approach, particularly since the rise of Public Interest Litigation (PIL). PIL broadened access to justice and enabled courts to address issues relating to governance and social welfare.⁷ Sathe (2002) argues that this phase of judicial activism allowed the Court to address institutional failures within the political system while simultaneously expanding the scope of fundamental rights.

On the other hand, some scholars have raised concerns regarding the implications of sustained judicial intervention. Shankar and Mehta (2008) suggest that while judicial activism has contributed to rights protection in certain contexts, it may also blur the boundaries between courts and elected branches of government⁸. From this perspective, the challenge lies in striking a balance between judicial oversight and democratic accountability.

More recent scholarship has sought to move beyond normative evaluations of judicial activism to examine courts as institutional actors operating within broader political systems. Institutional approaches to judicial behaviour explain how courts interact with other branches of government and how judicial decisions reflect strategic considerations (Epstein, Knight, & Shvetsova, 2001). This perspective focuses on identifying patterns in judicial reasoning and aims to understand how courts position themselves within institutional structures.

Despite the richness of this scholarship, much of the existing literature evaluates judicial activism primarily in normative terms. Fewer works examine how courts themselves articulate their role through doctrinal reasoning across different judgments. This paper seeks to contribute

⁶ Kmiec, K. D. (2004). The Origin and Current Meanings of Judicial Activism. *California Law Review*.

⁷ Upendra Baxi, "The Supreme Court under Trial: Undertrials and the Supreme Court," *Economic and Political Weekly* 15, no. 35 (1980): 1141-1154.

⁸ Shankar S, Mehta PB. Courts and Socioeconomic Rights in India. In: Gauri V, Brinks DM, eds. *Courting Social Justice: Judicial Enforcement of Social and Economic Rights in the Developing World*. Cambridge University Press; 2008:146-182.

to this line of inquiry by analysing the reasoning adopted in selected judgments of the Supreme Court.

ANALYTICAL FRAMEWORK

In order to examine the tension between judicial activism and restraint, this paper adopts a dual analytical framework combining doctrinal analysis and institutional behaviour analysis. This approach allows for an analysis of both the doctrinal reasoning employed by courts and the broader implications of judicial decisions.

Doctrinal analysis focuses on the manner in which courts interpret provisions and construct legal reasoning within judgments. It examines how judges engage with constitutional text, precedent, and legal principles in order to justify particular judgments. Doctrinal analysis is particularly useful because it reveals how courts articulate the scope of constitutional rights and help restrain state authority through reasoning. As scholars of constitutional adjudication have noted, judicial decisions often reflect not only the application of existing provisions but also interpretive choices about the meaning of constitutional principles (Dworkin, 1977).

Within this framework, judicial activism may be reflected in decisions where courts adopt expansive interpretations of fundamental rights, develop new legal doctrines, or invalidate legislative decisions on constitutional grounds. Judicial restraint, in contrast, may be reflected in decisions where courts show deference to legislative actions and adhere closely to precedent. Rather than treating these categories as rigid classifications, the doctrinal approach allows for a more relaxed outlook towards judicial activism and restraint.

The paper also employs an institutional perspective that aims to examine the behaviour of courts within the broader structure of constitutional governance. Courts do not operate in isolation; their decisions shape and are shaped by interactions with other branches of government. This approach focuses on how courts position themselves within a system of separate powers and how certain judicial decisions influence the balance between judicial supremacy and democratic institutions⁹.

⁹ Epstein, L., Knight, J., & Shvetsova, O. (2001). The Role of Constitutional Courts in the Establishment and Maintenance of Democratic Systems of Government. *Law & Society Review*, 35(1), 117-164
<https://doi.org/10.2307/3185388>

Thus, judicial activism can be understood as instances where courts assume a more assertive role in shaping governance outcomes. This is done by directing policy changes (the identification of the Creamy layer), establishing guidelines in areas where legislative frameworks are absent (Vishaka guidelines), or expanding the scope of constitutional protections (Extension of the scope of right to life). Judicial restraint, by contrast, reflects situations in which courts accept institutional limits and allow elected branches greater discretion in policymaking. Examining judicial decisions through this institutional lens helps identify patterns in how courts negotiate their role within the designed constitutional framework.

By combining doctrinal analysis with an institutional perspective, this study seeks to move beyond normative debates and instead focus on exploring how the Supreme Court justifies its constitutional authority through legal reasoning. This framework provides a basis for the analysis of selected judgments and identifies patterns in judicial behaviour.

METHODOLOGY AND CASE SELECTION

This study adopts a qualitative case-based approach to understand how the Supreme Court of India navigates the tension between judicial activism and judicial restraint in constitutional adjudication. The paper uses a doctrinal analysis of selected constitutional judgments to examine their reasoning and the nature of their engagement with legislative and executive authority. It seeks to explore how the Court interprets constitutional provisions, applies precedent, and situates its institutional role within the broader framework of governance. In doing so, the paper aims to provide a clearer understanding of how the tension between judicial activism and judicial restraint is negotiated in practice within India's constitutional jurisprudence.

The paper begins with a review of existing works on judicial activism and restraint in constitutional theory and Indian constitutional law. The subsequent sections analyse selected judgments of the Supreme Court to identify patterns of intervention and deference, before concluding with broader observations on the evolving role of the Court within India's constitutional system.

A case study approach is necessary for analysing judicial behaviour because constitutional adjudication is primarily articulated through these judgments. These judgments contain the

doctrinal reasoning through which courts interpret constitutional provisions. Examining individual cases, therefore, provides insight into how courts justify intervention or restraint.

The cases we have selected involve decisions in which the Supreme Court engaged in significant interpretations relating to fundamental rights and state authority. Such cases provide crucial sites for examining the Court's interpretive choices and the institutional posture it adopts. The analysis focuses on four prominent constitutional judgements of the Court: *Justice K.S. Puttaswamy v. Union of India*; *Navtej Singh Johar v. Union of India*; *BALCO Employees' Union v. Union of India*, and *Anuradha Bhasin v. Union of India*.

These cases were selected for three reasons. First, each judgment involves the interpretation and expansion of fundamental rights under the Constitution, thereby requiring the Court to define the scope of constitutional protections. Second, the cases display distinct forms of judicial engagement with legislative or executive action, including the formulation of judicial guidelines and the recognition of new constitutional rights. Third, the decisions collectively allow for an understanding of how the Court balances its role as an interpreter of the Constitution with the institutional boundaries between the judiciary and other branches of government.

By analysing these decisions through a combined doctrinal and institutional lens, the paper seeks to map how the Supreme Court articulates the boundaries of its constitutional authority. The selected cases, therefore, serve not merely as isolated examples but as crucial sites for understanding broader patterns in judicial intervention and restraint within India's constitutional jurisprudence.

CONTOURS OF JUDICIAL INTERVENTION IN CONSTITUTIONAL ADJUDICATION

I. WHEN DOES THE COURT EXPAND CONSTITUTIONAL RIGHTS?

The judgments in *Justice K.S. Puttaswamy v. Union of India* and *Navtej Singh Johar v. Union of India* represent important moments where the Supreme Court of India adopted an interventionist approach in interpreting fundamental rights. These judgments are a mark of how the Court has, in certain contexts, taken an active role in expanding constitutional protections and correcting earlier interpretations that were once considered restrictive. Such decisions are

frequently cited in discussions of judicial activism, which generally refers to situations where courts play a proactive role in shaping constitutional norms and protecting individual rights¹⁰ (Sathe, 2002; Baxi, 1980).

In *Justice K.S. Puttaswamy v. Union of India*, a nine-judge bench of the Supreme Court unanimously recognised the right to privacy as a fundamental right protected under the Constitution. The case emerged from challenges to the Aadhaar identification programme, but the central constitutional question before the Court was whether privacy comes under the ambit of the fundamental rights guaranteed under Part III of the Constitution. The Court held that privacy is an essential component of the right to life and personal liberty under Article 21 and is closely linked to human dignity, autonomy, and individual choice.¹¹

The most significant aspect of the judgment was the Court's reconsideration of earlier precedents that had rejected or narrowly interpreted the right to privacy. The Court explicitly overruled *M.P. Sharma v. Satish Chandra* (1954) and significantly limited the reasoning in *Kharak Singh v. State of Uttar Pradesh* (1962), both of which had previously cast doubt on whether privacy was constitutionally protected. By revisiting and overturning these precedents, the Court demonstrated its willingness to reinterpret constitutional doctrine in light of evolving meanings of personal liberty and dignity (Sathe, 2002).

The judgment also adopted a broad understanding of privacy that extended beyond protection against state surveillance. The Court described privacy as encompassed by multiple aspects of personal life, including bodily integrity and informational privacy. This approach expanded the scope of constitutional protections by recognising that individual liberty includes the freedom to make intimate and personal decisions without undue interference from the state (Baxi, 1980).

The reasoning developed in *Puttaswamy* later played a crucial role in the Supreme Court's decision in *Navtej Singh Johar v. Union of India*. In *Navtej*, the Court examined the constitutional validity of Section 377 of the Indian Penal Code, a colonial-era provision that criminalised all sorts of same-sex relations between adults, including consensual ones as well.

¹⁰ S. P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits*, 2nd ed. (New Delhi: Oxford University Press, 2002); Upendra Baxi, "The Supreme Court under Trial: Undertrials and the Supreme Court," *Economic and Political Weekly* 15, no. 35 (1980): 1141-1154

¹¹ *Justice K. S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

The petitioners argued that the provision violated fundamental rights, including the right to equality, freedom of expression, and personal liberty.

In its judgment, the Supreme Court held that Section 377, insofar as it criminalised consensual sexual relations between adults, was unconstitutional because it violated Articles 14, 15, 19, and 21 of the Constitution (*Navtej Singh Johar v. Union of India*, 2018). The Court emphasised that sexual orientation forms an intrinsic part of personal identity and that criminalising such relationships undermines the constitutional values of dignity, equality, and individual autonomy.

A key feature of the judgment was its reliance on the principles articulated in the *Puttaswamy Case*. The Court observed that the recognition of privacy includes the protection of personal choices relating to identity, relationships, and sexuality. By connecting sexual orientation with dignity and autonomy, the Court expanded the constitutional understanding of personal liberty¹². It reaffirmed that fundamental rights must protect minority groups even when they face societal prejudice.

The Court also invoked the idea of constitutional morality, arguing that constitutional values must guide judicial interpretation even when social attitudes may not fully reflect those values. According to the Court, the protection of minority rights cannot depend on the approval of the majority. This reasoning highlights the judiciary's role as a guardian of fundamental rights in a constitutional democracy.¹³

Another important element of the judgment was the Court's decision to overturn its earlier ruling in *Suresh Kumar Koushal v. Naz Foundation* (2013), which had previously upheld Section 377. The Court acknowledged that the earlier decision had taken a narrow view of fundamental rights and had failed to recognise the constitutional protections available to sexual minorities adequately. By revisiting and overturning this precedent, the Court demonstrated a willingness to correct earlier interpretations that were inconsistent with constitutional principles.

¹² *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

¹³ Upendra Baxi, "Taking suffering seriously: Social action litigation in the Supreme Court of India." *Third World Legal Stud.* (1985): 107. <https://scholar.valpo.edu/cgi/viewcontent.cgi?article=1125&context=twls>

Taken together, the cases mark a phase where the Supreme Court adopted a proactive approach to constitutional interpretation. Through the recognition of greater rights and the extension of constitutional protections even to the “minuscule fraction”, the Court played a critical role in shaping fundamental rights jurisprudence in India. For this reason, these judgments are widely regarded as important examples of judicial activism within the Indian constitutional framework (Sathe, 2002).

II. WHEN DOES THE COURT DISPLAY DEFERENCE?

While the above judgments of the Supreme Court help expand constitutional rights, other decisions reflect an approach where the Court deliberately limits intervention. Judicial restraint generally refers to situations where courts acknowledge constitutional concerns but choose not to replace governmental decision-making with their own judgment (Sathe, 2002; Baxi, 1980). The decisions in *BALCO Employees' Union v. Union of India* and *Anuradha Bhasin v. Union of India* illustrate how the Court has, in different contexts, adopted a restrained approach to adjudication.

In *BALCO Employees' Union v. Union of India*, the dispute arose from the Government of India's decision to privatise Bharat Aluminium Company Limited (BALCO) by selling a majority stake to a private entity as part of a broader programme of economic liberalisation and disinvestment. The employees' union challenged the policy decision, arguing that the disinvestment process lacked transparency and that the interests of workers had not been considered adequately. The petitioners sought judicial intervention to halt the disinvestment process.

The Supreme Court refused to interfere with the government's decision, observing that economic and administrative decisions involve complex assessments. The court justified its position by stating that the Executive branch possesses better institutional capacity and a democratic mandate to make such decisions. It therefore held that courts should refrain from interfering in policy decisions unless they clearly violate any constitutional provisions (*BALCO Employees' Union v. Union of India*, 2002).

The judgment strongly reaffirms the principle of separation of powers, noting that the judiciary should not act as an appellate authority over government policy. According to the Court, disinvestment was a matter of economic policy and governance rather than a question of

constitutional legality¹⁴. In the absence of evidence demonstrating arbitrariness or illegality, judicial intervention was considered inappropriate and unwarranted. This reasoning reflects a classic form of judicial restraint in which the Court consciously limits its involvement in areas where the executive possesses primary authority (Sathe, 2002).

A more recent example of a restrained judicial approach is the case *Anuradha Bhasin v. Union of India*. The case was filed following the restrictions imposed in Jammu and Kashmir in August 2019 after the constitutional reorganisation of the region. These restrictions included the suspension of internet services and limitations on communication and movement. The petitioners, including journalist Anuradha Bhasin, argued that the prolonged shutdown of internet services violated fundamental rights, particularly freedom of speech and expression under Article 19(1)(a) and the freedom to practise a profession under Article 19(1)(g).

In its judgment, the Supreme Court recognised the importance of internet access in the exercise of fundamental rights in contemporary society. The Court observed that the internet has become an important medium for communication, information exchange, and professional activity. As a result, restrictions on internet access could significantly affect the exercise of constitutional freedoms (*Anuradha Bhasin v. Union of India*, 2020).

The Court also laid down several important procedural safeguards. It held that orders suspending internet services must be made public and must satisfy the principles of proportionality, which are commonly applied when evaluating restrictions on fundamental rights.¹⁵ The Court also directed that such restrictions should be temporary and subject to periodic review by a designated review committee.

However, despite recognising these constitutional principles, the Court did not order the immediate restoration of internet services. Instead, it directed the government to review the existing restrictions and ensure that future orders comply with constitutional standards. By leaving the ultimate decision regarding the continuation of restrictions to the executive authorities, the Court adopted a cautious institutional position.

¹⁴ Apoorv Kurup. Privatisation and the Indian Judiciary in the *Journal of the Indian Law Institute* 48, no. 3 (2006): 425–34. <https://www.jstor.org/stable/43952050>

¹⁵ Barak, A. (2012). *Proportionality: Constitutional Rights and Their Limitations* (p. 356). Cambridge University Press. <https://doi.org/10.1017/CBO9781139035293>

This reflects that the Court acknowledges potential rights violations but avoids directly overriding executive decisions, especially in matters involving national security and public order. Rather than substituting its judgment for that of the government, the Court focused on establishing procedural safeguards that could structure future decision-making.

Taken together, the *BALCO Employees' Union* and *Anuradha Bhasin* illustrate different forms of judicial restraint within Indian constitutional jurisprudence. In *BALCO*, the Court emphasised the limits of judicial review in matters of economic policy and deferred to the executive's authority to implement economic reforms. In *Anuradha Bhasin*, while the Court recognised the significance of internet access, it ultimately refrained from directly invalidating the government's actions.

Both cases, therefore, demonstrate a judicial approach that prioritises institutional balance and respects the separation of powers. By choosing not to intervene aggressively in these contexts, the Court signalled that judicial review should not extend into domains where policy considerations, administrative expertise, or security concerns are central to decision-making.

BEHAVIORAL MAPPING OF THE COURT

Looking at the four cases together shows that the Supreme Court does not consistently behave either as an activist court or as a restrained one. Instead, its approach appears to change depending on the kind of issue involved. By examining the decisions in *Justice K.S. Puttaswamy v. Union of India*, *Navtej Singh Johar v. Union of India*, *BALCO Employees' Union v. Union of India*, and *Anuradha Bhasin v. Union of India*, it becomes clear that the Court tends to shift between activism and restraint depending on the nature of the dispute before it.

One noticeable pattern is that the Court is more willing to take an active role when cases involve fundamental rights and personal freedoms. In both *Puttaswamy* and *Navtej Singh Johar*, the Court interpreted the Constitution in a broader way to strengthen the protection of individual rights. In *Puttaswamy*, the Court recognised privacy as a fundamental right linked to dignity and personal liberty (*Justice K.S. Puttaswamy v. Union of India*, 2017). This decision expanded the meaning of Article 21 and asserted that privacy is an essential part of individual freedom in a modern constitutional democracy.

A similar approach can be seen in *Navtej Singh Johar*. In this case, the Court struck down the application of Section 377 of the Indian Penal Code to consensual same-sex relationships between adults. The judgment emphasised that constitutional rights such as equality, dignity, and liberty must apply to all individuals, including those belonging to sexual minorities (*Navtej Singh Johar v. Union of India*, 2018). The Court also corrected its earlier decision in *Suresh Kumar Koushal v. Naz Foundation* (2013), which had upheld the law. By revisiting and overturning its earlier ruling, the Court showed a willingness to reconsider past decisions when they were found to be inconsistent with constitutional values.

These two cases suggest that the Court is willing to step in more actively when the protection of fundamental rights is at stake. In such situations, the judiciary appears to view itself as an important safeguard against the violation of individual liberties (Sathe, 2002).

A different pattern emerges in cases involving economic policy or administrative decisions of the government. In *BALCO Employees' Union v. Union of India*, the Court refused to interfere with the government's decision to privatise Bharat Aluminium Company as part of its economic reforms. The Court made it clear that there should be no interference unless the decision clearly violates constitutional or legal provisions (*BALCO Employees' Union v. Union of India*, 2002). According to the Court, judges are not well equipped to evaluate complex economic policies, and therefore judicial intervention should remain limited in such matters.

A more recent example of a cautious judicial approach appears in *Anuradha Bhasin v. Union of India*. The Court recognised that access to the internet is closely connected to the exercise of freedom of speech and expression, which is protected under Article 19 of the Constitution (*Anuradha Bhasin v. Union of India*, 2020). At the same time, however, the Court did not directly order the government to restore internet services immediately. Instead, it provided certain statutory guidelines for the government to follow, which included publishing the relevant orders and reviewing the restrictions periodically. Rather than directly overruling the government's actions in a sensitive security context, the Court focused on setting guidelines to ensure greater transparency and accountability.

Taken together, these cases suggest that the Supreme Court's behaviour is shaped by the type of issue before it. When cases involve personal liberty, identity, or fundamental rights, the Court appears more willing to take an active role and expand constitutional protections. On the other hand, when disputes relate to economic policy, administrative governance, or security

concerns, the Court tends to act more cautiously¹⁶ and shows greater respect for the decisions of the executive branch (Khosla, 2009).

This pattern indicates that the debate between judicial activism and judicial restraint cannot be understood as a simple choice between two diverging approaches. Instead, the Court appears to move between these positions depending on the circumstances of each case. The behavioural mapping of these four decisions, therefore, suggests that the Supreme Court's role in constitutional governance is flexible and context-dependent. Its intervention tends to be stronger in areas involving the protection of rights, while it remains more limited in matters that fall within the policy-making authority of the government.

CONCLUSION

The debate between judicial activism and judicial restraint often presents the two as opposing approaches to constitutional adjudication. However, the analysis in this paper suggests that the behaviour of the Supreme Court of India cannot be understood through such a rigid distinction. Instead, the Court appears to shift between activism and restraint depending on the nature of the issue before it.

The decisions in *Justice K.S. Puttaswamy v. Union of India* and *Navtej Singh Johar v. Union of India* display a more interventionist role, in which the Court expanded constitutional protections of privacy, dignity, and individual autonomy. In contrast, the judgments in *BALCO Employees' Union v. Union of India* and *Anuradha Bhasin v. Union of India* reflect a more cautious approach, with the Court showing greater deference to executive decision-making in matters of economic policy and governance.

Taken together, these cases suggest that the Court's institutional behaviour is context-based. Rather than representing a fixed judicial philosophy, activism and restraint therefore operate as situational approaches within Indian constitutional adjudication. This flexibility allows the Supreme Court to balance two important functions: safeguarding constitutional rights while maintaining the institutional equilibrium between the judiciary and the political branches of the government.

¹⁶ Madhav Khosla, *Addressing Judicial Activism in the Indian Supreme Court: Towards an Evolved Debate*, 32 HASTINGS INT'L & COMPAR. L. REV. 55 (2009).
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