

1. JUDICIAL ACTIVISM IN INDIA HAS NOW GONE BEYOND THE PROTECTION OF THE SOCIALLY AND ECONOMICALLY DOWNTRODDEN INTO THE REALM OF ADMINISTRATION.” COMMENT.

Ans. However, judicial activism in India has now taken on an interesting face. The courts in India pursue a form of review which can be described at best as ‘dialogic’-a term used famously by Peter Hogg and Allison Bushell in the context of the Canadian Supreme Court’s decisions. The Indian Supreme Court’s gaze has now gone beyond the protection of the socially and economically downtrodden and into the realm of public administration. However, its opinions often resemble aspirations rather than binding pronouncements e.g. the Supreme Court issued guidelines in 2006 to reform the police administration- which is a State subject on which only the State Assemblies can legislate. Similar guidelines have been issued increasingly in legislative spheres.

By issuing a notice in the Australian racial attacks case, the Supreme Court has in effect opened a channel of communication and dialogue with the Union Government, exposing the issue to national debate. Following the Mumbai terror attacks of November, 2008, a former Attorney General of India filed a petition before the Supreme Court seeking to better equip the Indian police. The public interest petition in the context of the attacks on Indian students in Australia tells a similar tale. However, a court which issues unenforceable opinions, toys with the dangerous possibility of delegitimizing its own existence. It also begs the question of institutional efficiency: of whether such functions can be better performed by another institution which does not have the Supreme Court’s case load but one which matches its visibility if such an institution were ever capable of being devised.



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