



## Mains Practice Question

**Q.** “Judicial overreach can be antithetical to the idea of democracy”. Critically analyse the given statement. (250 words)

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### Approach

- Start with explaining the concept of Judicial Overreach.
- Mention supporting arguments for the given statement.
- Mention opposing arguments for the given statement.
- Conclude suitably.

### Introduction

Judicial overreach is a term commonly used when the judiciary seems to have overstepped its mandate. It is when the judiciary starts interfering with the proper functioning of the legislative or executive organs of the government, i.e., the judiciary crosses its own function and enter the executive and legislative functions. In simpler terms, it is when the judiciary starts interfering with the proper functioning of the legislative or executive organs of the government.

### Body

#### Arguments Supporting Judicial Overreach Undermines Democracy:

- **Erosion of Legislative Supremacy:**
  - The Indian Parliament is the primary law-making body. When courts strike down democratically passed laws, it weakens the legislature's authority and the will of the people they represent.
- **Concentration of Power:**
  - An overreaching judiciary concentrates power in the hands of judges, raising concerns about accountability. Unlike elected members of parliaments (MPs), judges are not directly answerable to the public.
    - **Example:** The judiciary's intervention in issues like banning liquor sales on highways or regulating religious practices can be seen as overreach, as these are matters that could be addressed through legislation and public discourse.
- **Lack of Expertise:**
  - Judges may not possess the expertise required to make complex policy decisions on economic or social issues. This can lead to poorly crafted regulations with unintended consequences.
    - **Example:** In the case of Mohit Minerals vs Union of India (2022) case, the SC ruled that the decisions of the GST council are not binding on the state governments.
      - The ruling, based on legal interpretations, could unintentionally disrupt businesses, complicate tax administration, and even undermine the intended benefits of the GST.

#### Arguments Against Judicial Overreach Undermines Democracy:

### ▪ **Protecting Fundamental Rights:**

- The judiciary acts as a guardian of fundamental rights enshrined in the Constitution. Its power to strike down laws that violate these rights is crucial for protecting individuals from arbitrary government action.
  - **Example:** Landmark judgments such as *Unnikrishnan JP vs State of Andhra Pradesh (1993)* expanded the scope of Art 21 and declared Right to Education as Fundamental Right.
    - Later, this judgment became the basis of passage of Right to Education Act in 2009.

### ▪ **Promoting Social Justice:**

- The judiciary can play a vital role in advancing social justice by interpreting laws in a way that promotes equality and protects disadvantaged groups.
  - **Example:** Judgments promoting reservation policies for historically marginalized communities highlight the judiciary's role in ensuring social justice.

### ▪ **Legislature's Inaction:**

- Sometimes, judicial overreach stems from the legislature's failure to act on critical issues. This can create a situation where the judiciary steps in to fill the void, blurring the lines of appropriate intervention.
  - **Example:** Before the SC ruling in the *Anoop Baranwal vs Union of India (2023)* case, the chief election commissioner and election commissioners were appointed by the President on the recommendation of the central government.
    - However, the constitution mandates the parliament to make a law on this regard as per Art 324(2).
    - After this judgment, the parliament passed a law related to the appointment of election commissioners.

## **Conclusion**

Judicial overreach can indeed threaten Indian democracy. However, a completely restrained judiciary weakens its role as a protector of rights and a check on power. Striking a balance between judicial activism and overreach, while respecting the separation of powers, is essential for a vibrant Indian democracy.