

# Independence of Judiciary in India – An Analysis

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**Abstract**—Judicial Independence constitutes a cornerstone of democratic governance and rule of law. In India, the constitutional structure establishes an independent judiciary which is designed to function as a safeguard against the arbitrary exercise of authority by both the executive and legislative branches. This research paper critically analyzes the concept and practice of judicial independence in India. This is to scrutinize pertinent constitutional stipulations, institutional mechanisms and landmark judgments that have influenced its development. The study also explores contemporary challenges including political interference, internal accountability and recent debates over judicial appointments. The paper highlights areas of concern and suggests reforms to strengthen the independence and integrity of the Indian judiciary.

**Index Terms**—Judicial Independence, Indian Judiciary, Separation of Powers, Rule of Law, Constitutional Law.

## I. INTRODUCTION

“There can be no difference of opinion in the House that our Judiciary must both be independent of the Executive and must also be competent in itself. And the question is how two objects could be secured.”

- Dr. B. R. Ambedkar

Judicial Independence is an essential element of the separation of powers. It is vital for the judicial process to work. The judiciary is meant to function independently which allows it to effectively maintain checks and balances over other branches of the government. The autonomy of judiciary constitutes a fundamental element of democratic governance which is essential for the maintenance of the rule of law, the protection of fundamental rights and the administration of justice. Within Indian context, the framers of the Constitution established an independent judiciary as a vital component against potential arbitrariness by the two branches of the

government. Judicial Independence not only improves public trust but also serves as a restraint on arbitrary exercise of power.

Throughout its history, the Indian Judiciary has been instrumental in upholding constitutional principles in order to safeguard civil liberties and preserve the equilibrium of power among the state's various institutions. The Indian Judiciary, notwithstanding its strong constitutional framework, confronts obstacles that jeopardize its autonomy including political influence, disputes concerning judicial appointments and issues of internal accountability. Recent disputes have once again prompted scrutiny of the effectiveness of existing safeguard mechanisms meant to secure judicial autonomy.

## II. CONSTITUTIONAL PROVISIONS FOR JUDICIAL INDEPENDENCE IN INDIA

The Indian Constitution provides multiple provisions to uphold the independence of judiciary. Article 50 of the Indian Constitution mandates the separation of judiciary from the executive branch. This results in strengthening institutional autonomy. Furthermore, Articles 124 (4) and 217 guarantee the security of tenure for Supreme Court and High Court judges. Their removal is contingent upon impeachment process in the Parliament. The appointment processes are laid down under Articles 124 and 217 which necessitates consultation with the Chief Justice of India with the aim to limit executive influence.

Articles 125 and 221 safeguard financial autonomy by prohibiting adverse changes to judges' salaries and allowances after their appointment. Furthermore, the Constitution empowers the judiciary's position through Articles 32, 136, 141 and 142, thereby granting the Supreme Court with extensive

jurisdiction to uphold rights and administer justice. Articles 129 and 215 give courts the power to punish for contempt, further protecting authority.

Consequently, these constitutional provisions collectively establish a strong foundation designed to maintain impartiality and effectiveness of Indian Judiciary.

### III. MECHANISMS ENSURING JUDICIAL INDEPENDENCE

There are a number of processes that are used to ensure that India's judiciary remains independent. A significant role in appointment is given to senior judges through the collegium system which reduces influence from outside sources. It is only through the process of impeachment that judges can be removed from their positions. Both their salary and conditions are guaranteed under the Constitution.

The courts have the authority to conduct judicial reviews in order to prevent activities that violate the Constitution. In addition, contempt powers contribute to the protection of the authority of courts and post-retirement limits help to prevent conflicts of interest. Collectively, these measures contribute to the protection of the independence of judicial system.

### IV. SEPARATION OF POWERS AND CHECKS AND BALANCES

The doctrine of separation of powers seeks to prevent centralization of power by allocating governmental functions across the legislative, executive and judicial branches. The term "separation of powers" is not expressly mentioned in the Indian Constitution but still its spirit is evident in various provisions that define and restrict the functions of each branch. This also creates a system of checks and balances on one branch over others which ensures responsibility as each state organ supervises the others so that there is no arbitrary actions done by the pillars of the government.

Indian Courts have consistently emphasized the need to maintain the balance. Landmark judgments such as Kesavananda Bharati v. State of Kerala and Indira Nehru Gandhi v. Raj Narain have affirmed that an

independent judiciary and an effective separation of powers constitute the Constitution's basic structure.

### V. CHALLENGES TO JUDICIAL INDEPENDENCE

Despite strong constitutional protections, the Indian judiciary's independence is consistently jeopardized by various obstacles. Political and executive interference regarding judicial appointments and transfers, occasionally compromise the courts' autonomy. The absence of transparency and accountability within the appointment as well as its procedures can reduce public confidence in the system.

Significant challenges also include extensive backlog of cases and the consequent delays that affect the delivery of justice and diminish judiciary's effectiveness. Internal challenges such as allegations of corruption and lack of diversity complicate the situation. Moreover, increasing media scrutiny and public opinion in high profile cases can indirectly affect judicial decision making. The practice of appointing retired judges to governmental positions or tribunals subsequently raises concerns regarding preserving impartiality. These elements highlight the ongoing need for reforms aimed at safeguarding the Indian judiciary's credibility and independence.

### VI. LANDMARK JUDGMENTS

The Court has evolved the principle of judicial independence through subsequent landmark judgments over the decades which are as follows:

His Holiness Kesavananda Bharati Sripadagalvaru and Others v. State of Kerala and Others

The Hon'ble Supreme Court established the "Basic Structure Doctrine". It declared that judicial independence is a part of the Constitution which cannot be altered. This case puts a limit on the Parliament's power to amend the Constitution.

Indira Nehru Gandhi v. Shri Raj Narain and Another  
The Supreme Court held that judicial review is a fundamental feature of the Constitution's basic structure as well as of democratic governance. This

case reinforced judiciary's crucial role to check the executive overreach during the times of Emergency.

*Union of India v. Sankalchand Himmatlal Sheth*

This case involved the issues of judicial independence and executive control over transfer of judges. For the first time, the provisions of Articles 124 and 217 were challenged. The Court interpreted the power of President to transfer High Court judges. This emphasized the need for consultation with the Chief Justice of India.

*Maneka Gandhi v. Union of India*

This verdict emphasized the need of judicial authority to protect Fundamental Rights. The judgment affirmed policy independence by holding that the judiciary could act as substantive checks against executive actions.

*S.P. Gupta v. Union of India*

This case is also known as "First Judges Case". The Court initially gave primacy to the executive in judicial appointments but the emphasis was made on transparency and accountability. It led to enhancement of judicial independence.

*K.Veerawami v. Union of India*

It was held that the criminal investigations against sitting judges require prior approval of the Chief Justice of India. This case aimed to protect judges from frivolous or motivated prosecution while maintaining accountability.

*Supreme Court Advocates-on-Record Association v. Union of India*

The nine judge bench in the "Second Judges Case" reexamined the ruling in First Judges Case in instances involving appointment and interchange of Justices and Chief Justices. The Court overruled the S.P. Gupta case and ruled that the Chief Justice of India has primacy in judicial appointments which results in collegium system. This prevented executive influence over judiciary.

*In Re: Special Reference No. 1*

The "Third Judges Case" made clarifications on the working of the collegium system and included a panel of senior judges in consultation for appointment process. It was held that the Chief

Justice's recommendation cannot be regarded as merely consultation. His decision is supreme but it must be used cautiously and based on knowledge of the collegium system.

*Supreme Court Advocates-on-Record Association v. Union of India*

The "Fourth Judges Case" struck down the National Judicial Appointments Commission Act, 2014 as the legislation compromised the independence of judiciary and also affected the notion of separation of powers. It also reaffirmed the primacy of collegium system. The Court held that judicial appointments must be free from executive control to preserve independence.

*Justice K.S. Puttaswamy (Retd.) and Another v. Union of India and Others*

The Court unanimously decided on the Right to Privacy. The Court upheld that judicial independence is a fundamental component of the framework of the Constitution. This ruling strengthened the rule of law and restored public faith in the independence of court.

## VII. COMPARATIVE ANALYSIS

Judicial Independence is safeguarded through diverse mechanisms worldwide. In India, the collegium system empowers judges to a significant extent in the appointment process. This is done to curtail interference of executive branch. On the other hand, the United States incorporates both executive and legislative branches in judicial appointments which introduce political factors. The United Kingdom employs an independent commission for judicial selection. Furthermore, Germany takes a balanced approach which disturbs appointment authority between legislative bodies.

Each and every system has unique advantages and disadvantages but they all face the challenge of maintaining judicial autonomy consequently ensuring transparency and accountability. Therefore, India's approach focuses on the intricate nature of achieving independence in judicial appointments as compared to other international models.

## VIII. REFORMS AND RECOMMENDATIONS

To further strengthen judicial independence in India, several reforms can be taken into consideration. Enhancing transparency in the judicial appointment process including public disclosure of collegium decisions and the criteria employed would build public trust and reduce the perceptions of bias. Additionally, a reevaluation of the concept of independent judicial appointments commission could provide a judicious balance, integrating judicial autonomy with wider accountability. Moreover, the establishment of clear mechanisms for addressing complaints against judges would enhance accountability while preserving independence.

## IX. CONCLUSION

The Independence of Judiciary is fundamental to the survival of democracy and the preservation of constitutional principles within India. Although the constitutional structure and significant judicial pronouncements have established a solid basis for protecting judicial independence but still difficulties like political influence, lack of transparency and internal accountability continue to affect the stability. More efforts are required to address the existing issues and adapt to emerging challenges.

Strengthening judicial independence requires a comprehensive strategy that harmonizes autonomy with accountability, promotes diversity and enhances institutional capabilities. Through the implementation of judicious reforms, the Indian judiciary can continue to function as a guardian of justice, rights and rule of law.

## REFERENCES

- [1] Constitution of India, 1950.
- [2] Dr.V. N. Shukla, "Constitution of India", 13<sup>th</sup> Edn., Eastern Book Company.
- [3] Dr. M. P. Jain, "Indian Constitutional Law", 8<sup>th</sup> Edn., LexisNexis.
- [4] His Holiness Kesavananda Bharati Sripadagalvaru and Others v. State of Kerala and Others, AIR 1951 SC 458.
- [5] Indira Nehru Gandhi v. Shri Raj Narain and Another, AIR 1975 SC 2299.

- [6] Union of India v. Sankalchand Himmatlal Sheth, AIR 1977 SC 2328.
- [7] Maneka Gandhi v. Union of India, 1978 SC 621.
- [8] S.P. Gupta v. Union of India, AIR 1982 SC 149.
- [9] K.Veerawami v. Union of India, 1991 SCC (3) 655.
- [10] Supreme Court Advocates-on-Record Association v. Union of India, AIR 1994 SC 268.
- [11] In Re: Special Reference No. 1, (1998) 7 SCC 739.
- [12] Supreme Court Advocates-on-Record Association v. Union of India, (2016) 5 SCC 1.
- [13] Justice K.S. Puttaswamy (Retd.) and Another v. Union of India and Others, AIR 2017 SC 4161.