



Critical Analysis of the Independence of the Judiciary

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ABSTRACT

An independent judiciary is vital for a free society and a constituent majority rule government. It guarantees law and order and acknowledgment of common freedoms and furthermore ensures prosperity and strength of the general public. The freedom of the judiciary is ordinarily guaranteed through the Constitution however it might also be guaranteed through conventions, legislations and other reasonable standards and practices. The constitutions or the essential regulations on legal executive are nonetheless, just the beginning stage during the time spent getting to secure legal independence. Eventually the freedom of the judiciary relies upon the entirety of an ideal climate made and upheld by all state organs. The freedom of judiciary likewise should be continually guarded for the surprising instances and the evolving social, political, monetary circumstances.

This research paper provides a critical analysis of the independence of the judiciary in India, a fundamental aspect of a democratic society. The paper examines the historical evolution of the judiciary in India and the constitutional provisions aimed at ensuring its autonomy. It also discusses the various challenges and threats faced by the Indian judiciary, including political interference, delays in delivering justice, and issues of accountability and transparency. Through a comprehensive review of scholarly articles, judicial decisions, and legislative provisions, the paper evaluates the extent to which the judiciary in India has been able to maintain its independence in practice. It delves into the role of the executive and legislative branches in influencing judicial appointments, administrative control, and budgetary allocations, and analyzes their impact on the autonomy of the judiciary.

Furthermore, the paper explores the role of public perception and media scrutiny in shaping the independence of the judiciary, particularly in high-profile cases and controversies. It examines the impact of public trust and confidence in the judiciary on its ability to remain impartial and free from external pressures. Finally, the paper proposes recommendations for reinforcing the independence of the judiciary in India, encompassing reforms in appointment procedures, better allocation of resources, and enhanced transparency and accountability measures

KEYWORDS: Judiciary, Separation of Power, Judicial Review, Independence, Basic Structure of constitution.

INTRODUCTION

Independence of the judiciary is the cornerstone of any democracy, it is at the heart of every thriving democratic country. Independence of the judiciary and the separation of power has been held a part of inviolable “basic structure” of the constitution. This research paper undertakes a critical examination of the independence of the higher judiciary in India, tracing the intricate tapestry of constitutional safeguards, and contemporary challenges. As the sentinel of the Indian Constitution and arbiter of justice, the judiciary's autonomy is not merely a theoretical ideal but a practical necessity for ensuring fair and impartial justice delivery. Independence means to the ability of the judges to discharge their duties in a free and fearless manner, in accordance with the provisions of the constitutions, it means non dependence, in appointment control, supervision, security of tenure, salary and pension, removal, suspension and dismissal.

Notwithstanding being revered as a central reason in the Constitution of India, the freedom of the judiciary has been dependent upon various strains. This paper tries to analyze the complex aspects that outfit the design of legal independence in India. It investigates the verifiable achievements that have molded the judiciary's development from colonial institutions to a sovereign adjudicatory body, assessing the vigor of established arrangements like security of term, fixed compensations, and a complex removal process that all in all support the structure of judicial freedom.

Compared against these sacred constitutional ideals are contemporary real factors — political interruption, extended adjudicatory postponements, and difficulties of accountability and straightforwardness — that tirelessly test the judiciary's resilience. The tenor and direction of this examination are not to sabotage the holiness of the establishment, but rather to usefully look at the tensions that burden it and the components set up to check such powers. The chief and authoritative domain over viewpoints like judicial appointment, administrative control, and financial expenses act as basic factors in grasping the mind complex equilibrium of power and independence.

This story reaches out past a simple institutional investigate, wandering into the interaction of general public opinion, media depictions, and the impact they apply on judicial freedom. Public trust and certainty support the judiciary's ethical power; in this manner, their importance in keeping up with judicial fair-mindedness couldn't possibly be more significant. Instances of high open interest, frequently under extraordinary examination, become central focuses to recognize the judiciary's purpose in safeguarding its judgment from populism and holding its institutional uprightness.

In its finishing portions, the paper campaigns noteworthy remedies pointed toward encouraging legal freedom in India. It complements the need for changes crossing from the method of appointment to the basic of enhancing transparency and accountability. The proposed reformative worldview requires an alliance of administration arms and common society to cure foundational frailties and establish the judiciary's job as the bedrock of democratic ethos.

LITERATURE REVIEW

Literature related to current issues and historical background, is reviewed from earlier studies, published articles, reports, periodic journal, and newspaper related to concept of the independence of the judiciary.

1. Rai & Arora ¹(2017) in this article noted that the founders of the Constitution considered the need for an independent judiciary free from the constraints of the legislative and executive branches. Dr. B.R. Ambedkar was correctly mentioned by them, stating that the nomination of judges to the higher judiciary by the Parliament in a transparent manner is the only method to achieve judiciary independence. This can be accomplished when the judiciary selects judges on its own, without stressing the approval of the President or the Indian Parliament's Council of Ministers. The authors also examined the seismic shift in the appointment process from the executive branch's dominance in 1981 to the judiciary's control in 1998. This change necessitated the development of a more practical, equitable, and palatable procedure for assigning judges to India's higher judiciary.
2. Parthasarathy ²(2018) made a subtle reference to the question of who should have the signing authority to name judges for India's higher courts. Ultimately, it concluded that the judiciary would have a better understanding of who ought to be chosen to the position of judge. As the new nominees to the Supreme Court are being endorsed, the collegium's judgement need to have precedence. Transparency and accountability is a must and judiciary itself can better understand its own people.
3. Jain (2018) ³has described the various constitutional provisions of Higher Judiciary provisions, such as Article 124 on the appointment of judges to the Supreme Court and Article 217 on the appointment of judges to High Courts. Chapter IV of Part V, "Union Judiciary," covers Articles 124 to 147, which deals with the establishment and constitution of the Supreme Court, the appointment of judges and their powers, rights, jurisdiction, and service conditions, among other things. Chapter V of Part VI, "The High Courts in the States," covers Articles 214 to 231 which deal with the constitution of the High Court, the jurisdiction, the appointment and conditions of a judge of a High Court, his powers, rights, service conditions, and transfer from one High Court to another, among other things. The President has the authority to designate judges to either the Supreme Court or a High Court.
4. Narayan ⁴(2015) in his paper noted that one of the fundamental elements of the Constitution is the judiciary's independence. This has evolved into a debate concerning the purpose of imprisonment amongst the many organs of the constitution. Because of this, the ongoing struggle between the legislative and the judiciary has resulted in prior restrictions on freedom, which raises serious concerns about the current collegium structure. The purpose of this essay was to determine whether a new approach for choosing justices for the Supreme Court and High Court is necessary. This article's research objective was to determine "whether the expulsion of the privilege solely vested in the collegium in assigning judges to India's higher judiciary disregard the Constitution's essential structure." The National Judicial Appointment Commission Act, 2014 (the 99th amendment) was the subject of this investigation.
5. Bhandari & Patel⁵ (2014) in their work, discussed a remarkable achievement of the Indian Judiciary in maintaining a delicate balance between the conflicting aspects of power and accountability. On one side of the range are the stalwarts of legal autonomy and on the other, the group supporting the rationale for expanded responsibility. The main objective of this paper is to examine the functioning of the legal executive and provide an unbiased assessment of whether increased responsibility is necessary through expanded legislation or if the current system adequately achieves a more effective outcome.

¹ Shivkrit Rai & Nipun Arora, "Judicial Appointments in India-A Critical Analysis", <https://blog.sconline.com/post/2017/05/23/judicial-appointments-in-india-a-critical-analysis/>

² Suhrith Parthasarathy, "Criteria for the Courts: on the Appointment of Judges", The Hindu, November 20, 2018, <https://www.thehindu.com/opinion/lead/criteria-for-the-courts/article25541336.ece>

³ M. P. Jain, "Indian Constitutional Law", 8th edition 2018, Lexis Nexis.

⁴ Prakash Narayan, "National Judicial Appointments Commission Act, 2014 Versus Collegium System: Issues & Challenges Ahead", International Journal of Legal Insight, Volume I, Issue 3, ISSN: 2456-3595, pp.160-165

⁵ Diyyanshu Bhandri, & Vaibhav Patel, "Judicial Accountability and the Independence of the Indian Judiciary", International Journal of Liberal Arts and Social Science, ISSN: 2307-924X, Volume. 2. No. 7. pp.144-160

6. Chandrachud⁶ (2010) in his paper, 'The Insulation of India's Constitutional Judiciary' discusses two types of insulation: democratic and political. He contends that these rules have separated and protected the Indian Judiciary from the system of checks and balances that promote accountability and efficiency among the branches of the government..
7. Imran⁷ (2019) in his paper covers various aspects related to judicial appointments, independence, and accountability. It includes discussions on the historical background of judicial independence, the importance of transparent judicial appointments, and the shift in the appointment process from executive to judiciary. Additionally, the review delves into the significance of legal autonomy, the need for interdisciplinary approaches in studying judicial independence, and the challenges in ensuring accountability within the judiciary. The document also highlights the role of public opinion and transparency in maintaining judicial accountability and the balance between judicial independence and responsibility.
8. Sahu⁸ (2013) discusses various aspects of the functioning of the judiciary in India, including the need for reforms in the judicial system to ensure better access to justice for all citizens. She wrote about judicial autonomy and financial planning, Advocacy Skills Training and judicial review. It includes discussion by the national Commission which considered financial autonomy for the judiciary, highlighting deficiencies in planning and financial support for establishing more courts and providing adequate infrastructure.
9. Singh⁹ (2019) shed light on the critical balance between judicial independence and accountability within India's legal system. The independence of the judiciary stands as a cornerstone of India's constitutional ethos, ensuring its autonomy from undue influence from other branches of government. Post-independence, this principle was meticulously enshrined in the Constitution, with provisions meticulously crafted to safeguard judges' tenure, salaries, and powers. However, while independence is vital, so too is accountability. In my analysis, I explore the nuanced complexities that impede effective mechanisms for ensuring judicial accountability in India. Despite the existence of theoretical frameworks, practical implementation faces formidable challenges. One such hurdle is the prevailing sentiment against judicial scrutiny, which often shields the judiciary from rigorous accountability measures. Moreover, the judiciary's self-imposed protective barriers and the inadequacies of impeachment procedures further exacerbate the issue. Additionally, the absence of the Prevention of Corruption Act's jurisdiction over judges raises concerns about unchecked power.
10. Sengupta¹⁰ (2014) in his paper has provided a nuanced understanding of judicial independence by breaking down the traditional view into distinct components, much like the approach taken in discussing judicial accountability in a previous chapter. It explored how judicial independence is not a singular concept but involves multiple facets, including the independence of individual judges and the judiciary as an institution. Interestingly, it found that there are overlaps between judicial independence and accountability, particularly in terms of the entities from which independence is sought and the behaviours for which accountability is required. Both independence and accountability are crucial for ensuring that judges are free from undue influence while also being responsible for their decisions. He also highlighted that both judicial independence and accountability share the common goal of maintaining an effective judiciary and ensuring the separation of powers. While they may operate similarly in terms of their subjects, objects, and subject matters, the methods used to secure them may vary depending on the desired level of independence and accountability. Ultimately, the chapter suggests that a conceptual reconciliation between judicial independence and accountability might be possible if they are understood as analogous or if one is seen as encompassing the other.

METHODOLOGY

The topic was chosen with considerable enthusiasm in order to clarify the idea of the judiciary's independence. In the research qualitative research methods have been adopted. Since the issue is essentially legal in nature, an experimental approach to its investigation is impractical. All pertinent information is gathered from secondary sources. Additionally, material and information are gathered from both vertical and horizontal sources, including books, journals, Supreme Court and High Court rulings, publications, reports, and pertinent articles in newspapers. Additionally, the researcher used the internet to get data from other reliable sources. The materials were examined using an acceptable model and put in the right position for an efficient examination.

OBJECTIVES OF THE STUDY

The following are the major objectives of the study:

1. To analyse the role of judiciary in India and to find out whether judiciary is independent in reality.
2. To evaluate the nature and functions of judiciary in the system of government under the constitution and its real independence.
3. To analyse the role of Supreme court in promoting the independence of the judiciary.

⁶Chandrachud, Abhinav, The Insulation of India's Constitutional Judiciary (March 27, 2010). Economic and Political Weekly, Vol 45, No. 13, p. 38, 2010, Available at SSRN: <https://ssrn.com/abstract=1743622>

⁷ Nagpal, R. K. (2019). Critical Analysis of Independence and Accountability of Higher Judiciary in India. <http://hdl.handle.net/10603/287059>

⁸ Sharma, G. S. (2013). An analysis of independence of judiciary and its accountability in India. <http://hdl.handle.net/10603/187786>

⁹ Singh, K. (2019). Judicial Independence And Accountability: A Critical Analysis. *Think India Journal*, 22(22), 63-70.

¹⁰ Sengupta, A(2014). Independence and Accountability of the Indian Higher Judiciary. St. Catherine's College, University of Oxford.

HYPOTHESIS

1. The Constitutional framework has taken care to secure the independence of judiciary at all the three levels of this institution.
2. The controversies that have arisen in India in regard to the appointment of judges, the transfers and conditions of service the inference that may be drawn is that the safeguard guaranteed to the judges are not sufficient enough to preserve the independence of the judiciary.
3. Political interference, executive autocracy affects the independence of judiciary.

NATURE AND CONCEPT OF INDEPENDENCE OF JUDICIARY

The concept of autonomy in the judiciary is a key aspect of a liberal democracy based state, ensuring a fair and independent legal system that allows a nation to make its own decisions without interference from the government. Judges should be autonomous and free from any constraints or pressures from the legislature or executive. This autonomy is not defined in the Constitution of India, but rather it refers to the freedom of the judiciary from external control or interference.

Substantive freedom of judges includes decisional freedom, individual freedom, aggregate freedom, and inside freedom. It means that judges are not reliant on the government for their decisions, and they are not subject to any external influences. The judiciary's autonomy under the Constitution is bound to the adjudicatory elements of courts or tribunals, and they are protected from officials' control for this benefit. The Supreme Court in *S.P. Gupta v. Union of India* held that the idea of freedom of the judiciary is an essential idea that forms the foundation of the democratic country. The judiciary is responsible for keeping each state organ within the law's boundaries, making the standard of law significant and powerful.

The Constitution established the judiciary as an autonomous, corresponding part of government for two reasons: 1) to create the judiciary independent of unacceptable outside impact and 2) to make the judiciary a third branch of the government free from the governing body and the executive, which would empower the judiciary to check at groupings of control in the political branches. The concept of autonomy in the judiciary is crucial for maintaining the standard of law, individual liberty, and fair legal authority over the legislative and executive activities of the legislature. The judiciary's autonomy is essential for the functioning of the democratic society and fostering open trust in the judiciary.

The freedom of judiciary is obviously not new idea however its meaning is as yet loose. The beginning and the major issue of this thought is clearly the principle of partition of forces. In this regard, it generally indicates the freedom of judiciary from parliament and executives. In any case, that adds up to only the freedom of judiciary as an autonomous organization from the other two establishments of the state without respects to the autonomy of the judges in exercising of their functions. In such a circumstance there isn't much that is accomplished. The Independence of judiciary does not mean only formation of a self-governing foundation free from influence and impact of the law making body and executive.

Regardless of whether such autonomy would be granted to the judge simply as individuals from an establishment or independence is one of the most imperative contemplations in determining and appreciating the value of autonomy of judiciary. Judges autonomy, in any event, isn't only a problem of proper outer and operational game plans; nevertheless it is furthermore an issue of autonomous and fair-minded basic leadership by each and every judge. The judge's obligation is to apply the law as the individual comprehends, it without dread or support and without attention to whether the option is well known or not. This is the cornerstone of the standard of law. Judges independently and all in all ought to secure, empower what's more safeguarding legal independence. In an exhaustive examination dependent on the commitment of driving legal scholars and global bodies on freedom of judiciary.

The Indian Constitution defends the residents from any partial judgment. This permits to the judiciary to decide on alternatives reliant on the guidelines of the legislation, if there should emerge an occurrence of any argument.

Because of such expert, the judiciary of the nation is an autonomous entity.

The courts of India are not restricted by the administration and do not speak to any political expert. Such flexibility enables the legal executive to guarantee that there is no misuse of authority by any part of the government.

The independence of judiciary requires for 'separation of powers'. This essentially indicates both the legislature and the executive wings of the administration, cannot meddle with the aptitude and choices of the judiciary.

Along these lines, so as to successfully execute their free authority, the judges of both high courts and the Supreme Court must be designated with no obstruction from different branches of the government. Additionally, it is extraordinarily hard to dismiss a judge from his office, once nominated by the judiciary.

NEED FOR JUDICIAL INDEPENDENCE

The significant and unique role that the judiciary was assigned in the Constitution was known to the Indian Constitution's drafters. It was intended to be the body responsible for protecting the rights granted to citizens by the Constitution. It was acknowledged that the judiciary should continue to be wholly independent and shielded from any external interference. Judges, particularly those of the predominate courts, who have been tasked with the intensity of legal audit of managerial and authoritative activities, should work without fear or support.

The judges of the major courts have been granted the authority and jurisdiction to examine official and authoritative state operations using the safeguards and significant statutory provisions as a benchmark. An independent judiciary is crucial for maintaining the rule of law and a sensible legal framework. Thus, the independent judiciary plays a crucial role in managing the organization's discretionary actions. In the unlikely event that the organization's discretionary display causes harm to any individual, it provides relief. The foundation of a democracy is the freedom of the judiciary. Only an impartial and independent judiciary can continue to serve as a safeguard for an individual's rights. The Judiciary may need to invalidate official, managerial, and administrative displays of the State and the Centre since it is the guardian of the Constitution's rights. Legal autonomy is essential for the Rule of Law to prevail.

In contrast to the US Constitution, the Indian Constitution clearly stated the scope of legal auditing by the State High Courts in Articles 226 and 227 and the Supreme Court of India in Article 32. Dr. Ambedkar declared in November 1948 before the Constituent Assembly that Article 32 is the "spirit" and "still, small voice" of the Constitution, implying that the rights accorded to Native Americans remain undefined in the absence of a legal remedy, which Article 32 provides. For the established administration by the State's organs and its instrumentalities, legal survey is a prerequisite.

The only judiciary that can continue to serve as a bully for the protection of citizens' rights and deliver fair equality without fear or support is one that is unbiased and independent. The court is the guardian of citizens' rights and an advocate for the Constitution. As a result, it might even declare unlawful any executive, administrative, or legislative acts. It is imperative that legal autonomy be granted to standards of law. The fundamental requirement for the autonomy of the judiciary rests

upon the accompanying focuses: -

- (i) To check the working of the Organs: The judiciary serves as a watchdog by ensuring that each branch of government operates within its designated boundaries and in accordance with the Constitution's provisions. The judiciary protects the Constitution and assists in confirming the principle of intensity partition.
- (ii) Deciphering the Provisions of the Constitution: The designers of the Constitution recognised that future ambiguity would arise from its arrangements, so they ensured that the judiciary would be independent and capable of interpreting the document to remove any ambiguity. However, this interpretation would need to be equitable, meaning it would need to be free from influence from any official bodies. If the executive branch is not free, other branches may exert pressure on the branch to interpret the Constitution in their favour. The task of translating the Constitution is assigned to the judiciary guarded norms.
- (iii) Disputes Referred to the Judiciary: The legal executive is trusted to communicate legal equity, not submitted or substandard equity. When we refer to submitted equity, we mean that a court emphasised a particular point of view while providing equity and disregarding all of the arguments made in relation to a particular case. A judiciary must also behave fairly.

Maintaining judicial independence is essential to upholding the rule of law and general liberty. International documents like the following have recognised judicial autonomy as a human right: According to Article 10 of the 1948 Universal Declaration of Human Rights, every individual is entitled, in complete equality, to a fair and independent tribunal's reasonable public hearing.

According to the Principles of Independence of the Judiciary (1995), which were signed by 34 Chief Justices of Asia and the Pacific, judicial autonomy mandates that:

- (i) the judiciary select cases based on its impartial assessment of the facts and its understanding of the law, avoiding hasty decisions that could have unfavourable effects from any source, whether immediate or aberrant; and
- (ii) The Judiciary has authority over all matters of a lawful character, either directly or by review.

The judiciary need to be independent of external influences, particularly those that are financial and political, including associations with businesses or governmental bodies. Judicial independence is unquestionably founded on an open trust, and in order to preserve it, judges must decide to uphold the most amazing standards of morality and accept responsibility for them. Article 10 of the Universal Declaration of Human Rights views legal autonomy as a human right. Legal autonomy ensures that powerful individuals have to abide by the law. The people are the ones who need legal independence, not judges or the legal branch in general.

Legal freedom must be protected by the State and upheld by the Constitution or other legal documents in order to prevent any unlawful actions by officials or assemblies. The criteria of impartiality and independence serve as indicators of the legal ability and reasoning process in each state. Judges are essential to the protection of freedom and the establishment of a stable government, both of which depend on the existence of legal freedom.

It is crucial that a judge acts independently and carries out his duties with the assurance that they won't lead to his own resignation. As a result, the Judiciary has a crucial role to play in securing the judiciary's freedom as the exclusive arbitrator and interpreter of the Constitution and laws. The crucial elements for the independence of the judiciary are the organisation of judges, their states of administration, exchanges, and expulsion.

SEPERATION OF POWER

In the context of Separation of Power, judicial review is crucial and important. The roles of the three branches of government—the judiciary, legislature, and executive—are spelt out in our constitution, though they are not always performed in that order. The State "shall make no law, which violates,

abridges or takes away rights conferred under Part III," according to Article 13 of the constitution. This suggests that, in accordance with the text, the Legislature and the Judiciary may both enact laws. However, the judiciary also has the authority to check and balance the laws passed by the legislature, according to the notion of checks and balances. Thus, judicial review was introduced. However, where is the court review's accountability? The topic of the legislature and executive branch does not come up because the judge is answerable to no one, not even to other judges. Although the constitution is supreme, a judge has the authority to determine how far it can be stretched. The question is whether any modification or regular law is exempt from judicial review. In fact, there have always been conflicts between the state's branches. All departments rationalise their conduct by citing the clauses found in the constitution. Finally, however, the nine-judge bench 3 reaffirmed that the judiciary has a strong foothold in interpreting the constitution.

The state must be composed of these three separate organs in order for the rule of law to exist. The independence of the judiciary, which gives the upkeep of the rule of law fangs, is one of the key components of the doctrine of separation of powers. In Federalist No. 78, Alexander Hamilton makes the following* observations regarding the necessity of the judiciary's independence in order to maintain the separation of powers: "The full independence of the courts of justice is particularly important in a limited Constitution. When I talk about a limited constitution, I mean one that has specific exceptions to the legislative power, like the prohibition on ex post facto laws and bills of attainder. Such limitations may only be upheld in practice by the courts of justice, whose job it is to deem void any actions that deviate from the manifest intent of the constitution. All the reservations of certain rights or privileges would be meaningless without it." The separation of powers is the fundamental structure of the Constitution, according to the Indian Supreme Court." Furthermore, the Supreme Court demonstrated the value of separation of powers in the Re-Special Reference No. 1 of 19647 (Legislative Privilege Case) even before the Basic Structure theory was established.

Conflict of three wings: Certain Instances: The four significant constitutional decisions that upset the pre-existing balance of power in the 1990s marked the beginning of the first wave of judicial interference in legislative matters. Numerous high courts interpreted Article 356 in a way that limited the governors' broad authority to dissolve state governments, extended the reach of Article 142's contempt of court penalties outside of courtrooms, and broadened the scope of the Supreme Court's "inherent powers." However, the most significant modification occurred in 1994 when judges were appointed under Articles 124 and 217. The Chief Justice of India and the four senior most judges comprise the Supreme Court's collegiums, which have diminished the Executive's exclusive right. The executive may stall the appointments of those it wants but cannot force its own candidates onto the benches. This comes after the late Prime Minister Indira Gandhi tried to cram her supporters onto the benches, which put unending strain on the court. The Executive was forced to give up on moving judges around. While this may have given the judiciary a sense of security and shielded it from political meddling, it also made politicians uneasy. Politicians have naturally objected to the administration's directives since they perceive them as an invasion of their territory.

RESULT AND DISCUSSION

India's Constitution indeed provides a robust framework aimed at safeguarding the independence of the judiciary. The Constitution establishes a hierarchical structure of courts with the Supreme Court at the apex, followed by High Courts in each state, and subordinate courts at the district level. This hierarchical setup ensures that the judiciary operates independently at various levels, with each tier responsible for interpreting and upholding the law.

The Constitution also ensures the separation of powers among the three branches of government—executive, legislature, and judiciary. This separation is vital for preventing any one branch from exerting undue influence over the others. Additionally, the Constitution guarantees several safeguards to ensure the independence of the judiciary, such as:

- Security of tenure: Judges are appointed until a specific retirement age and can only be removed through a rigorous impeachment process, which involves both houses of Parliament.
- Power of judicial review: The judiciary has the authority to review the actions of the executive and legislative branches to ensure they comply with the Constitution. This power acts as a crucial check on the other branches of government.
- Financial autonomy: The judiciary's budget is separated from the executive's control, ensuring that it has the necessary resources to function independently.

However, despite these constitutional safeguards, challenges remain in ensuring the complete independence of the judiciary. Issues such as delays in judicial appointments, vacancies in courts, and occasional instances of executive interference in judicial matters have raised concerns about the judiciary's autonomy.

The appointment of judges, transfers, and conditions of service have been contentious issues in India, often leading to debates about the judiciary's independence. The process of judicial appointments, particularly to the higher judiciary, has been a subject of scrutiny and criticism. The presence of opaque procedures, lack of transparency, and allegations of favouritism have raised questions about the integrity of the appointment process.

Additionally, concerns have been raised regarding the executive's influence over judicial transfers and conditions of service. The power to transfer judges and determine their working conditions rests largely with the executive, leading to fears of political interference and undue pressure on the judiciary. Instances of judges being transferred or overlooked for promotion allegedly due to their rulings or political affiliations have fuelled these concerns.

While the Constitution provides safeguards to protect the judiciary's independence, the effectiveness of these safeguards has been called into question in light of such controversies. There is a need for reforms to strengthen the appointment process, ensure transparency, and reduce the influence of external factors on judicial decisions.

Political interference and executive autocracy pose significant threats to the independence of the judiciary in India. In a democratic system, the judiciary serves as a check on the powers of the executive and legislative branches, ensuring the rule of law and protecting individual rights.

However, when political actors attempt to exert influence over the judiciary, it compromises the institution's ability to act independently and impartially. Political interference can manifest in various forms, including attempts to influence judicial appointments, pressure judges to deliver favourable verdicts, or retaliate against decisions perceived as unfavourable to the government's interests.

Executive autocracy, characterized by a concentration of power within the executive branch, further exacerbates the risk of political interference in the judiciary. When the executive branch holds excessive power and control over judicial appointments, budgetary allocations, or disciplinary actions against judges, it undermines the judiciary's independence and erodes public trust in the justice system.

To mitigate these risks, it is imperative to uphold the principles of judicial independence, strengthen institutional safeguards, and ensure accountability and transparency in the functioning of both the judiciary and the executive. This includes reforms to enhance the autonomy of the judiciary, streamline the process of judicial appointments, and safeguard judges from external pressures or influences. Additionally, fostering a culture of respect for the rule of law and judicial independence among all branches of government is essential for preserving the integrity of the judiciary and upholding the democratic principles enshrined in India's Constitution.

The quality of justice relies on the independence of the judiciary, which should be free from political pressures. The founding fathers of the Constitution added a provision in Part-IV of the Constitution to direct the State to keep the judiciary out of politics. This directive warns the government for the future, as the independence of the judiciary also means the independence of the judges.

The Constitution of India has several provisions to ensure the independence of the judiciary, including judicial appointments. The power to appoint a judge to the Supreme Court or High Court vests in the President, with the Chief Justice of India, the Governor of the State, and the Chief Justice of the High Court being constitutional functionaries having a consultative role. The Central Government is empowered to appoint Judges of the Supreme Court and High Courts, but only after consultation with the Chief Justice of India, the Governor of the State, and the Chief Justice of the High Court.

Judges of the Supreme Court and High Courts have the security of tenure, remaining in office until they reach the age of retirement, which is 65 years for Supreme Court judges and 62 years for High Court judges. Subordinate courts fall under the control of the High Court of the State under Article 235 of the Constitution, with the appointment of judges made by the Governor of the State in consultation with the High Court, exercising jurisdiction in relation to the State.

The Supreme Court has held several cases regarding the appointment of judges in India. In the first case, *S.P. Gupta v. Union of India* (1982), the court ruled that consultation is a suggestion and not binding on the President. In the second case, *Supreme Court Advocates on Record v. Union of India* (1993), the court reversed this ruling, stating that the Chief Justice's opinion should be binding on the President due to their competence.

The third case left uncertainty regarding the collective opinion of the Chief Justice and his senior colleagues. During eight months of Chief Justice Punchhi's tenure, several recommendations for appointments were found controversial. The Central Government decided in 1998 to make reference to the Supreme Court under Article 143 (1) seeking the opinion of the Supreme Court. The court opinion stated that the Chief Justice must make a recommendation to appoint the Judge of the Supreme Court in consultation with four senior most puisne Judges of the Supreme Court, and in case of the appointment to the High Court, the recommendation must be in consultation with senior most puisne Judges of the Supreme Court (collegium).

The National Judicial Appointments Commission Bill, 2014 was introduced in the Lok Sabha on August 11, 2014, in conjunction with the Constitutional (121st Amendment) BILL, 2014, which establishes the National Judicial Appointments Commission (NJAC). However, the amendment was declared unconstitutional by the Supreme Court as it violated the independence of judiciary as a basic structure in the *Supreme Advocates on Record Association & Anr. V Union of India*.

The Indian Constitution ensures the independence of the judiciary by ensuring that judges receive fixed salaries and allowances, which are not subject to a legislature's vote. These salaries are charged on the Consolidated Fund of India for Supreme Court Judges and the Consolidated Fund of State for High Court Judges. The budget must contain provisions for payment of salaries and allowances to Judges of the Supreme Court and High Court.

Judges are appointed by the President under Articles 124 and 217, enjoying a fixed tenure and can be removed by an impeachment motion passed by each house supported by a stipulated majority. The President can pass or order a judge from his office by an order of the President, which must be addressed to both Houses of Parliament in the same session. The Constitution prescribes procedures for investigating and proof of the misbehaviour incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President.

The Constitution also empowers the President to transfer judges from one High Court to another after consultation with the Chief Justice of India. This power is not absolute but takes into consideration public interest and effective consultation with the Chief Justice of India.

Contempt of court is a key aspect of the Indian Constitution, as courts must have the power to secure obedience to their judgments to administer justice. It can refer to both civil and criminal contempt. The Constitution debar Judges of the Supreme Court from pleading or appearing before any court or tribunal or judicial authority in India after retirement. High Court Judges can practice in the Supreme Court or a High Court in which they had not been a Judge according to Article 220.

The conditions of service for judges are also essential for their independence. The Supreme Court Judges (Conditions of Service) Act, 1958, and the High Court Judges (Conditions of Service) Act, 1954, lay down conditions of service for Supreme Court Judges and High Court Judges, respectively. These

provisions provide for the effective and full control of the Chief Justice over the administrative staff of the court, further aligning with the philosophy of the independence of the judiciary.

CONCLUSION

In the traditional concept of judiciary, the judge is depicted as having hands holding the balance and their eyes covered with a dark cloth. This clearly indicates that the judges are not allowed to have any personal ideas at all and are expected to have an extremely open mind on every matter. This also suggests that the judges would not permit themselves to be swayed by what was going on in the world. It has long been believed that judges ought to live in some form of seclusion in order to have an open mind that is impartial in all situations. Research indicates that the responsibility of any independent organization is crucial for the survival of a democracy. In a democracy, all organs of the State are accountable to the general population, and the judiciary is no exception. The High Courts and Supreme Court must set precedents and provide good examples to the public. Judges are human beings, and a ground-breaking legal executive without responsibility is not only harmful to the Constitution but also a threat to the vote-based system.

The issue of legal responsibility is essential for the functioning of a majority rule nation. Legal autonomy does not mean the absence of responsibility; responsibility guarantees transparency. Practical instruments for legal responsibility are essential for protecting legal freedom in India. The judiciary is responsible for the rights of the natives, shielding them from legislature or private infringement. Change in the judiciary to ensure straightforwardness must be a long-term process of progress in the administration of equity conveyance frameworks, the conduct of judges, and the relationship of the Judiciary with society.

The freedom of the judiciary is essential for the smooth functioning of the Constitution and an acknowledgement of a reputation-based society dependent on the principle of law. However, the First Judges' case gave primacy to the executive opinion, leading to the appointment of some Judges in contrast with the Chief Justice of India. The Second Judges' case was never intended by the framers of the Constitution, and the ratio decidendi of the Second Judges and Third Judges case is a significant step in this regard.

In countries like India, the judiciary plays a crucial role in addressing the challenges faced by the population. The importance of legal autonomy was recognized by the Constitution's creators and has been recognized by courts as an essential component. Legal freedom must be seen as adapting to the changing aspects of society, and it is essential to work together to achieve the true foundation of legal executive.

Judicial accountability is growing in popularity, with millions of people relying on the Supreme Court and High Courts to protect their basic rights. Legal independence and judicial accountability should work together to maintain the same attractive motion, ensuring that individuals feel secure and have access to justice.

The primary task of the judiciary is to administer justice quickly and provide assistance to the prosecutor, maintaining open trust. However, the legal executive has not fully fizzled, with Lok Adalats and Nyaya Panchayats providing equal and reasonable equity to the general population. A judge can be considered responsible if they adhere to the societal and moral standards of their culture. The best legal change would be one where the judiciary functions according to the Constitution's reasoning. A well-structured general position and campaign are needed to achieve more prominent responsibility. The freedom of the legal executive should be considered in the context of protected arrangement.

SUGGESTIONS

The Indian constitution has made detailed provisions for the establishment of an independent, authoritative, and impartial judiciary, India has a single hierarchical judicial system for the whole of the country. The Executive and the legislature, the other two wings of the Government, have developed their own attitudes, preferences, likings or dislikes of the system which has ultimately led to the process of re-judicialisation. All these facts point to the gravity of the situation. To repair this bad situation and to prevent the system from further erosion of its legitimacy, the following recommendations require serious consideration:

1. The Supreme Court and the High Courts are not ordinary institutions. The Constitution has accorded them a specific duty. It becomes of paramount importance that only persons of greatest qualities of scholarship, training and character are selected for appointment to these courts. All efforts should, therefore, be made to find out the best judicial talent as judges of these courts.
2. There is no mechanism to examine the merit of candidates who qualify for nomination to the Supreme Court and High Courts. The Chief Justices of India, the Bar Council of India and the Chief Justice of different High Courts should collectively discuss upon this subject and request the Government to establish an independent constitutional machinery to review the merit of people who qualify for appointment of these courts.
3. We need judges who are trained for the job, whose conduct can be publicly questioned and is subject to inquiry by a judicial performance committee, judges who welcome rather than shun recognition for their work.
4. The measures have to be established without damaging the general credibility of the judiciary as a body. An office dubbed, "Office of Judicial Ombudsman" may be opened. The bearer of this Office would be the recipient of all complaints against the judges. The idea of Judicial Ombudsman as a suggestion may be worked out to root out corruption amongst the judges

5. Incompetence, corruption, arbitrariness and laziness are serious obstacles to the independence of the court. The judges at their regular conference or meetings should publicly and loudly exchange opinions as to how vices within the judiciary should be eliminated and also advocate their eradication.
6. There is a wide gap between the retirement age of judges of the Supreme Court, High Courts and the subordinate Courts. No compelling explanations are presented for it. Hence, this should be done away with. The retirement age of High Court Judges should be on par with the Supreme Court Judges.
7. Transparency in governance should be the most cherished goal in which all the organs like legislative, judiciary and executive work interlinked with each other. It is not only transparency is needed for executive and legislature but transparency is essential for the judiciary also so that greater transparency will automatically strive to better accountability.
8. The nomination of outside judges as Chief Justices of High Courts has failed hence this practice must cease since by following it two infirmities spring up. One, that the new Chief Justices mostly hold office for a brief term in the new High Courts and are not able to make any impact on their colleagues or functioning of the court or among the members of the Bar. This technique also leads to heartburn because some are appointed Chief Justices of the bigger state Courts and some are appointed as Chief Justice of the smaller State Courts on no explainable term but as a rule of thumb, arbitrarily, hardly befitting judicial objectivity. Two, the policy of non-consensual transfer of judges from one High Court to another, would damage the bastion of our constitution namely the independence of judiciary, hence if necessary, the transfer case should be selective rather through a general policy.

The judicial system in India is a vital institution that plays a crucial role in addressing the nation's rapid social change caused by scientific and technological revolution. The judiciary must adapt to these changes by addressing fundamental issues and ensuring its efficiency. Scholars, both legal and non-legal, are encouraged to conduct in-depth studies on these issues and devise ways to rectify the shortcomings of the judicial system, ensuring its continued relevance and effectiveness in the face of rapid social changes

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