



International Journal of Research Publication and Reviews

Journal homepage: www.ijrpr.com ISSN 2582-7421

Independence of Judiciary and Demarcation of Discretionary Power of Judges

Farzan Ali Khan

Amity Law School, Noida

DOI: <https://doi.org/10.55248/gengpi.5.0424.1084>

1: INTRODUCTION

1.1 Introduction

The Judiciary of a country plays a very important role in the development of our society. And interpretation is not always concerned with the formation of the laws, Judiciary sometimes gives a new perspective to already existing laws and brings about the changes which are very much required in the society. Free Judiciary is the core of any parliamentary democratic country. A free Judiciary holds a very important and great responsibility in the democratic politics. All the judicial powers which are vested in one whole intricate system of Judiciary including the tribunals and the hierarchy of the courts which also constitutes SC in country level, the HCs in state and the DCs in local areas. The independence of the judiciary and all its organs can only be secured by the provisions of the constitution which are clear in nature and this position cannot be changed by bringing about changes in the forms of amendment in the constitution. No action coming from the executive or any law passed by the legislature is competent enough to change the already existing law. All the Legislature of the state is empowered under entry number 3 of the state list to control and dispense the administration of Justice, and the constitution of our country and Organization of all the local courts. But this particular power only has the jurisdiction up to the creation of the group, and also setting up the tribunals of justice and redefining our jurisdiction as well as the territorial matters. It is not having its reach to the tenure, appointment and condition of services of the judges presiding. Indian constitution does not guarantee the principle of segregation in its stringent form at the same time also vouches for the independent Judicial System at the same time. It is surprising to know that constitution also takes precautionary measures to safeguard the respective heads which are executive and the legislature along with their members with the enactment of laws and granting them immunities while keeping their dignity and Honor in safe position. It is the paradox of the constitution to aspire for economic political social justice to all of its citizens without guarding the judicial system. It is also mentioned in our constitution that there is no single instance of provision for the independence of judges. The framers of our constitution in one of the debates said - I do not understand that how five people sitting at the apex court while examining the loss based on their concerns decide which law is good or which law is bad in "AK Roy vs/sus U. O. I".

It's study and its significance

Judiciary and its independence are a very important part of a constitution. And it is very much important that the Judiciary free from the intrinsic and the extrinsic pressure by securing and making provisions of the constitution which clearly States the judicial independence and not only limited to the wordings where it mentions that it is free from the executive or the legislative pressure. It has way to many dimensions such as the non-intimidation from the powers of the centres, also the economic and political freedom, so as there is no pressure from the political groups. That should be no interference of the political groups in the appointment and in influencing the decision of the courts. There should be proper transparency with regard to the interaction of politics with the judiciary. The judicial system must submit annual reports of their transactions and their interactions with the major political parties of the country. It would give an insight into the closely intricate system of Indian democratic. Political parties must submit affidavits before initiating any proceeding in the courts and make sure that there is no malpractice. Independence of the Judiciary and its streak of dispensing justice must remain pure and untouched.

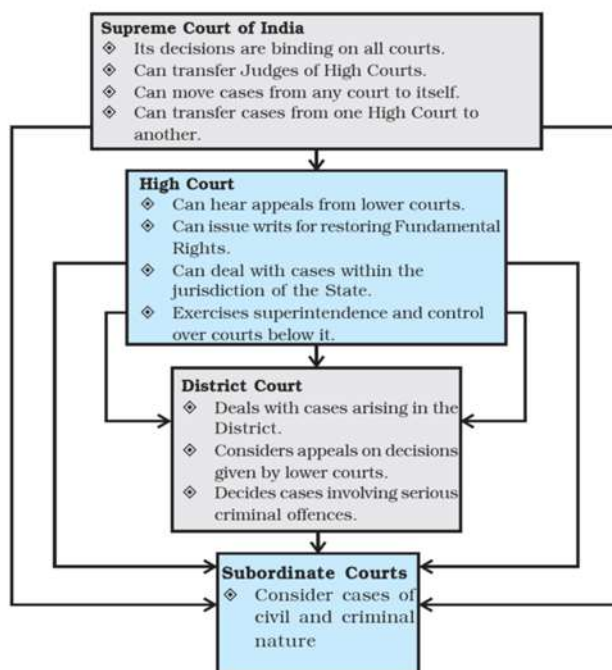
The factor of Problem

Out of the three organs of the judiciary is regarded as the most important. However there has been an enormous amount of criticism which has been going on in the past with regard to our Indian Judiciary. There are many reports with regard to the increasing amount of corruption that is existing in the organs of the government. One question which can be put forth is that why Indian Judicial system is the super important aspect of the government. The layman generally looks towards the Judiciary for his own relief and judiciary is sought for justice. The introduction of the public interest litigation is a very unique and noble concept of the judiciary. Via this technique of public interest litigation, we have developed a wide variety of Environmental, Human rights and Juvenile justice courts etc. This is only possible when the Judiciary is fully Independent and is totally segregated from the other organs of the country. The appointments in the judicial process should be completely transparent and only the capable and credible candidates should be selected

as judges. A large number of criticism and controversies with regard to the appointment of judicial officers as well as the corruption in the judicial system are there hence this subject holds a great importance in our country India and requires deep study and analysis.

Independent Judiciary

The Constitution provides for various plans that guarantee that the freedom of Judiciary is maintained to its original glory and keeping it intact. India has a closely-knit legislative design. The Judiciary has somewhat a structure which is akin to a pyramid with Apex court at the top. All the State's High court are under direct supervision and command of the Supreme Court, and under them, all the local courts. Courts at the district level works with the command of H C as has been mentioned in the Indian Constitution. An outline under gives a clear-cut hierarchy of judicial system in our Country.



In addition to the above diagram the two other dimensions of the Indian Legal Sytem are: -

1. Law of Crime - it deals with the heinous crimes which committed by any citizen or any person and it renders justice in the forms of giving punishment and the process is when an FIR is filed before the police, the investigation is started and chargesheet is prepared before the court and then the court decides whether the person is a convict or an acquit.
2. Civil Law - This law deals with the transgression of core rights of any it's citizen. The S C has three parts of jurisdictions which are namely appellate, original and the advisory. And the working area of the Supreme Court is cited in the Indian Article Numbers of 131 133 136 and 144.

1.2 Evolution of the Judiciary

The noble concept of Dharma or law in the ancient India do it inspiration from the Vedas which consisted of the rules of conduct and rights and were later compiled into more elaborative form which were known as Dharma sutras and work practiced in a number of branches of the Vedic schools. There major objective was to elaborate the duties of people at different stages of their life which included the rights and duties of the kings towards their subject and judicial matters. These were only the basis of Hindu law. One of the earliest documents which shed some light on the theory of prudence and also forms a part of the practical government is the Earth Shastra and the mentor of Chandragupta Maurya dating back to 300 BC. The third chapter of the Vedas deals with the Vyavhar or the behaviour or the transactions between the parties or Vivad which is also called the dispute. During the first 700 years of the Christian era there involved numerous instances of Dharma shastras which only dealt extensively with Manu, Yajnasvalkiya, Narad and Parashara Smritis etc. During the medieval India all the religious leader undertook the task of converting themselves into Islam but as the gatekeeper of justice the rulers made Sharia, a court which was subordinate to the sovereign power. You look at the theoretical part the ruler s to be obedient of the Shariya law and history also mentions about lot many cases where the king unhesitatingly submitted to the decision of the Kazi. The rulers used to sit in a court which was also known as the Mazalim . According to the famous Traveller Ibn Batuta, Tughlaq dynasty king Mohammad Bin Tughlaq used to hear complaints from Monday to Thursday. With the Inception of the 13th century a new officer was appointed also known as Aamir-i-DiD in the absence of the Sultan or the king. Of all the decisions of Kazi and for bringing their attention to the cases which resulted in the miscarriage of Justice. Muftis were the known experts on the law of Sariya and often issued fat was which were formal legal rulings on certain disputes which were referred to them by public or other Kazis 190 days in a year. The supreme judge of the Empire or sultanate was known as Kazi i Mamlik also known as Kazi ul Quzat. During the Mughal

Era the judge who was secular was known as Mir Adil. He presided as a judge on the behalf of Emperor. He was sometimes required to make personal enquiry into the life of people. He was also responsible for implementing the decisions of the Kazi. Emperor Akbar the Great also appointed to officers called tui beg, to administer whether there was the adherence of the law and also fixed a small amount as there fees for the work. The same system was followed until the British took over. The enactment of the R A of the year 1773 by the then emperor of UK cleared the way for the creation of an apex court or the Supreme court at the city of Calcutta. The letter of patent was issued on the date of 26th of March 1774 to establish such Court at the Calcutta and Record Court having powers and clear the challenges to deal with the questions with regard to any kind & dispense justice with regard to any suit or action towards of subjects of the majesty residing in adjacent areas of Bihar, Bengal and Odisha. The SCs in the vibrant cities of Madras and Bombay were later promulgated by by Emperor George the third dated of 26th December 1800s and 8th of Dec Year 1823 respectively. The Indian H C Act of the year 1861 came int force to create H Cs for different districts and cities and declared the Supreme courts repugnant which were present in the cities of Calct. Madrs. and Bomb. and also finished Sadar Adalats in all the counties. These high courts had a clear distinction of being the top quotes for all sorts of cases till the formation of a federal code of India under the banner of G O I Act year 1935. F C had a clear limitation to adjudicate any matter between the promise day is provinces and the townships as well as the federal states and here any appeal with regard to the judgements coming from the high courts. After the independence of India in the year 1947 the code of our country worked on the date of 26 of JAN 1950. Rules which is once announced by the S C becomes compulsory upon all the tribunals while staying within the periphery of India. It has one very distinctive function of Review by judiciary which is negating effect of legislation & the president's office which are sometimes opposite to the system and guidelines of the Code. In beginning years the apex court of the supreme court met from only 10 to 12 in the morning and then 224 in the four noon for only and me at 28 days in a year. But today surprisingly the number has reached to 190 days in a year.

1.3 Functioning and Working of Indian Judiciary

Some components of the Judiciary of India are as follows;

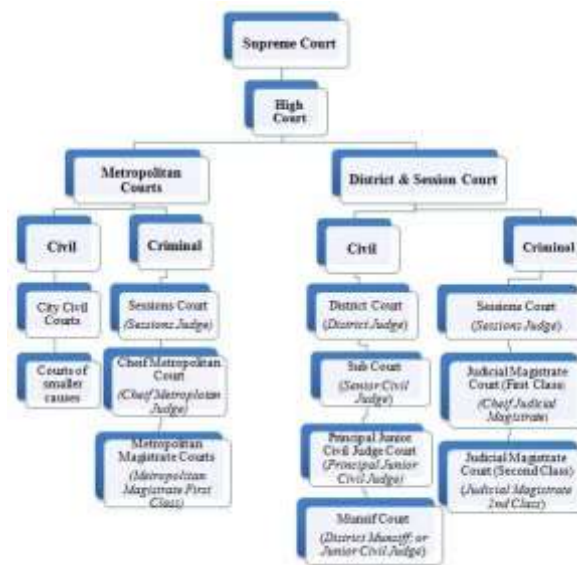
1. Justice Dispensation without malice: primary goal of the Indian judicial system is to use the legal framework on particular matters or during the settlement of disputes. If a problem is presented before the tribunals it is ascertained of its facts which is sufficed by the evidence presented by the parties before the court. The court then decides which law suits the particular situation the most. If someone is found guilty of transgressing the laws then a penalty would be imposed upon him.
2. Fomation of the case law: Taking everything into account, adjudicators can't find it hard to pick the fitting law to be applied. In convoluted matters, esteemed jurists adjudicate that what the correct logic would be according to framework. In doing this the jurists construct a factual body which is also called case law. as per the important principle of stare decisis the verdicts of the past jurists are bound to be followed.
3. The Champion - Indian Constitution: The quintessential Indian Court , the S. C., goes probably like watchman guarding Indian Constitution. battles between domain of C G & the S G and its bodies or maybe among them, between the legislature and the executive of the country which is adjudicated by the honorary court. Any law which transgresses the provision the Indian constitution is declared ultra vires and not fit or apt. This scenario is called "Review by the judiciary". It is having power of promising the core individual rights and making sure a proper equilibrium among Country and the States.
4. Champion of the Core Rights : The Indian Judicature promises that people's core values are not infringed by the State or an another association. The tribunals of higher hierarchy apply and bolster FRs by writing writs.
5. Courts and their functions as a watchdog : The H Cs sometimes do administering of the local courts.
6. Judiciary and their Advisory functions- S C of India performs function of advice it can give its opinions with regard to the advice on any constitutional question which has been put forward. This is also done where there are no problems and when the office of the president desires.
7. Judiciary and its administrator functions - functions of the tribunals are not related to judicature or of administration. The codes might give particular schemes, or may appoint someone for the administration of properties of dead people, they also nominate receivers. They also write down the event of marriages and at the same time appoint Guardians Of children who are minor and of unsound mind.
8. Special roles of the judiciary in our Country- in a famous country like India which is Federal in nature the Judiciaturealso does the job of settlement of problems among the states & the Centre, while functioning like an arbitrator between the states as well.
9. Undertaking Judicial Inquiries : Judges consistently are brought to take charge of commissions that investigate cases of ill judgements containing defaults on the part of public servants.

Civil Courts: - Civil courts oversee the cases related to civil. Civil Law is addressed in every other case which are not criminal in nature, Civil Law is suggested in essentially every case other than criminal cases. law of crime is applicable when an action involves theft, arson, dacoity, murder, etc.

- It is used in questions where an individual initiates a case against another person or entity. Instances of cases of civil nature constitutes matrimonial matters, annoyance, consumer related problems, etc.

- The jurists in above mentioned courts have differentiated functions, a criminal judge can punish the person with imprisonment whereas civil judge can impose hefty penalties.

•D J who are sitting in the District Courts & Magistrates (SC) and C J (J D) & C J (J D) lie on lower strata of the judicial system and its hierarchy in India.



1.4 Judicial System of India and its features

The prestigious Indian Judiciary is the spine and backbone of our country's democratic and legal system, which also ensures justice is rendered and the values of the rule of law are upheld. It is an intricate system of courts from cities and states including the Apex Courts that translates and interprets the laws and applies them to resolve any dispute which has been on going between the two parties. Judiciary of our country is free and independent and is also impartial which work without any restrictions from the legislature and executive organs of the government. It also includes the apex court which is the S C, H Cs and other subordinate tribunals, which are having precise duties and functions to perform. And with regard to the Judicial system of India which is a very important part of the country's political and legal system. It plays a super important role in giving credence to the doctrine of rule of law and also makes sure whether the proper justice is rendered to its citizens. Judiciary of our country is an important and impartial Institute. It transcribes the laws and calls for its application to resolve the disputes which are going between the parties. It gatekeeps the core fundamental rights and liberties of the individuals of the country. It functions on the lines of the guidelines and principles which has been enshrined in the constitution of India. India has been dealing with a message crisis that limits the very poor of its justice and an over burden judicial system with over 5 lakh criminal and civil cases. The Christ is an imaginative and show cases the shortage of the judges: It raises important questions with regard to the erosion of judicial Independence and encroachment of political interference. We need to explore the deep rotate issues which has led the contribution to the crisis of the India's judicial system. It is characterized by the systematic failures and the constraints which are put on its since times im memorial and the Nexus between the backlog and political interference. We should be shedding light on specific cases and analysing everything at a product context. The story of Vinod Paswan who saw the Carnage of 58 Dalits almost 26 years ago is still awaiting justice within the judiciary of India. Almost conflicting vertex and the witnesses were no longer there and multiple Court hearings the, cry for justice for Vinod Paswan has transform into a nightmare of lifetime. This is not only the single case but symbolic of a much larger issue, leaving more than 5 lakh cases over the past decades.

History of Indian Judiciary

The history can be trace back of the Indian judiciary since the Inception of the Ancient. The start of the Vedic era there were myriad village panchayat which educated minor and major disputes. In the era of Mauryan Empire the great king Chandragupta Maurya had carved a very systematic type of Judiciary under the guidance and supervision of Dharma Mahamatyas. During this Golden Mauryan Period the Ruler Chandragupta Maurya also established a system of judiciary with guides who acted as judges and also helped him in resolving all the disputes with regard to Dharma Shastras. As an addendum in the Gupta period, panchayat of the village continued to adjudicate their local disputes while the royal courts dealt with more heinous and serious crimes and also the Civil cases. In the Mughal era The Qazi also administered the laws of Islam for all the Muslims while the Hindu subjects were applied to Hindu laws via Pandits. The Mughal emperor acted as the appellate authority. During pre-independence era the British men started continuing the courts to deal with the trade and Commerce with Sadr Diwani Adalat as the topmost court in the empire. R A the Year 1773 established the apex court or the supreme court in Calcutta, and was further transferred to Delhi. The Charter Act of The Year 1833 give power to the G G of our country to bring about legislative and judicial reforms in our country. In 1862 high courts were also established in all the major provinces which were under the banner of the British Judicial System. After the Independence the constitution of our country also let the foundation for an independent and free judiciary with Supreme Court at the top. There was a three level hierarchy of lower, Higher courts and the Supreme court at the top which was suggested by the then

Shri Krishna Commission and was later adopted. The Judiciary since that year has experienced way too many judgements that have carved and shaped the economic, social and political feature of our country.

1.5 International Judicial System and its significance

The ICJ which is the highest court is quintessential organ belonging to United Nations. The Court's function and occupation is to: settle, and follow the trail of International Law, disputes by states and function as an advisory body on the legal questions put forth by United Nations and its esteemed organs. International Court (ICJ) The ICJ is one of the six head organs of the esteemed UN which was founded for world peace. Its seat is situated at the Peace Palace in The Hague city of (Netherlands). And surprisingly and notably it is the one of the principal organs of UN which is pioneered as an usherer of justice all over the world and not situated in New York unlike most other organs.

- The prime and supreme organ of judiciary belonging to UN is also known as World Court globally.
- It came into force with the charter of UN in 1945 and it began to function in 1946 when it came in place of Permanent court of IJ which had been functioning in the Peace Palace since the year 1922.
- All the esteemed 193 members of the United Nations are already parties to the Court. Those countries that are not individuals from the United Nations may later become parties to the world court that is ICJ with the procedure mentioned in article 93
- Primary function and duty of International Court of Justice is to mediate the disputes submitted in accordance to international law.
- International court of Justice also releases advisory on matters involving law and queries submitted by the organs.
- (UN) Security Council can enforce the judgements of ICJ as per the whims of the UN can execute ICJ decisions according to the UN Arrangement. Regardless, the members which are permanent can cast a negative vote against the ruling which is called Veto.
- French and English are the two languages of the international court of justice which are official.

Consists of ;

This courts consist fifteen judges. Each judge has a tenure of nine year.

- They are appointed directly through the General assembly and Security Council. The candidate must be attaining absolute majority to get elected.
- The nationality of 2 judges cannot be the same.
- One thirds of the seat elections are conducted every three years and judges might be re-elected.
- Individuals from the ICJ don't represent their country governments but are acting as independent magistrates.
- The adjudicators should have the capabilities to be appointed to the supreme judicial post, or to be esteemed recognized international law.

The appointed judges according to the regions:

Three are elected from Africa, two are elected who hail from South America and the Caribbean islands , three from Asia, five from West part of Europe and different adjacent countries, two are elected from the Eastern Europe and neighbouring areas.

- The Designation among the fifteen adjudicators, involves a President, a VP and an enlisted group of people.
- Every Country which is a party to the UN charter appoints a group that puts forth the name of the candidates suitable for the court.

ICJ & the Jurisdiction: -

The I C J has two types of jurisdictions:

1. Cases involving contentions

- a) I C J works according to and with the lines of International Law, and hence mediates and settles the disputes of any nature which are submitted before it by the countries.
- b) Before appearing in the International Court of Justice countries should apply and then only, they can appear. Any organization. of international nature or any private individual is not allowed to start the proceedings in the ICJ.
- c) The International Court of Justice can only deal with the issues of the countries where they have acknowledged their jurisdiction.
- d) The judgement is binding and penultimate upon the parties which are involved in the case and without any scope of appeal.

1. International Court of Justice also acts as an advisory body

- a) The advisory procedure is provided to the UN in 5 different organs and there are 15 specialized agency and one relative organization.
- b) Despite having non-binding nature, the opinion of the I C J however can carry great deal of weight and sense of authority and helps in modifying and helps in building the international laws.

2: Independence of Judiciary

2.1 Concept

A free Indian judiciary is the perfect example of sine qua non of an intricate democratic system. The impartiality of the judiciary which is very important can bolster the protection of the fundamental rights of any person in the country and dispose the matter with apt efficiency and without any influence and biasedness. The Indian Judiciary is the champion of the Constitution of India & in some rare-difficult situations, it might have to cancel administrative, legislative and acts of executive nature of the state and the centre. To ensure the rigidity of the rule of law the Judicial Independence is of prime importance and crucial. Independence of the Judiciary is routinely ensured through Indian Constitution yet it can be ensured and bolstered through legislations and conventions. Indian Constitution or the fundamental laws on Indian judiciary are in any case, simply the early phase of securing Independence of Judiciary. In the long run the Judicial Independence depends upon Indian Judiciary and opinion of the public. The long-sought freedom of Judicial Independence is bound for ready for the unexpected events & the ever developing and changing social, political, financial conditions;

Independence of judiciary in India and its significance along with the meaning - if put in plane words the Judicial Independence translates that the parts of the government which are Executive, Legislative, and the Judiciary should not transgress each other's functions and must not violate each other's duties and should work in a harmonious manner without overruling each other's decisions. The organs of the government must not trespass each other's decisions as well. Judges should be allowed to do their duties without any impediments or fear or favour. The Indian Constitution also provides for us a closely integrated judicial system with apex court or the S C at the topmost position and H Cs in the middle and D Cs in the local area level. Judiciary of India Act as the guardian and as well as the gatekeeper of the constitution and the core rights of the people. However, Judicial Independence does not translate that there would be an absence of accountability or there would be randomness or arbitrariness. Judiciary is an integral aspect of Indian System. Hence Judiciary is supposed to be accountable to the constitution and to the values of the democratic country. The free Judicial System is not a novel idea and its meaning is lying still obscure.

Basic Need of Judicial Independence

In Indian or any other of the given society there lies altercations and debates which are bound to happen between group of individuals and government of the state. All such disputes are supposed to be settled by a free and independent body according to the rule of law which has been mandated by our constitution. The cited principle of the rule of law recommends –“every individuals who residing in the country— whether rich & poor, men or women, belonging they are belonging to lower or upper class — are subjected to the same and pan India application of law”. Fundamental function of our Indian judiciary is to safeguard the R O L & keeping the supreme factor of the law intact. It provides safety to the fundamental rights of an individual, mediate the disputes and issues according to the law & not getting affected from any outside factor. For this very reason the prime need of Indian Judiciary is to be free which involves independence of each and every judge formulating the Indian Judiciary.

2.2.A Brief History

The first of his kind and a political researcher, who propounded the surmise and idea of a free and independent Judiciary, was Montesquieu, the well and widely known French rationalist. He was a proponent of the principle of segregation of powers of the 3 widely known aspects of the government. The makers & founders of the A C after civil war were widely motivated by his belief and in what he believed and they hence formed an independent judiciary in their own country that is United States of America. The American public have sheer trust in Judicial Independence. They are of the belief that any impediment which would be placed before judiciary the fundamental rights of the individuals and people might be jeopardize. In United Kingdom, the House of Commons is superior. There the concept of Judiciary is not segregated from the law-making body of the country. In UK the upper house works and functions at top in the chain and the Appellate Court. In U.K., although the judiciary has not been completely free or independent, yet its revered judges have been giving verdicts without any inhibitions. As its widely known the U.K. doesn't have an official written Constitution yet its citizens enjoy freedom which is almost on a par with Americans. In the U.K. no such huge clash has ever took place among law making body as well as judiciary. Before year 1701, all the working jurists were working in office with the condition of the crown & just like the servitude towards the crown one can be terminated by ruler at his whim. This Jurists were lower as compared to the Royalty. the judges which worked in this manner inclined towards the ordinance.

Very fine & classical instance of such behavior is found in case of the Hampden's where out of the 12 jurists - 7 were given the award in favor of the crown's pronouncement to collect tax that too without the approval of the Parliament. Out of all the judges one judge even propagated the view that rex is lex. In the year of sixteen sixteen Coke was also sacked from his working as the C J of Emperor.

The Judicial Independence was made sure by the A o S which was enacted in year 1701, which mentions that with the addressing of the two houses with regard to the matter it would be lawful to sack a judge. The safeguarding of the tenure of judges is now being gatekept via laws which are passed by the parliament. Unfortunately, in UK it is not competent of the Judiciary to declare the laws passed by the legislatures as unconstitutional. But on the contrary

in India and the United States of America the Judiciary has been vested with wide variety of powers in the form of Judicial Review. They can regard any law as unconstitutional and strike it down if it is not in alignment with the rules and guidelines and if it infringes the basic and core rights or jeopardize any aspect of the country it is deemed to be unconstitutional and Ultra vires. In our country India the Apex court can remove a law if it goes against core value of constitution

Judicial Independence is Supreme and of prime importance in a democratic country like India. In a democratic country like India the power of the state and its functions are shared among the 3 major aspects which are the president's office, judiciary and the law-making body of constitution granted the task to the Judiciary and is no lesser than that of other organs such as executive, the judiciary and the legislature. It is the prime goal of the Judiciary to carry out the beacon of the constitution and to perform its duties and be responsible to safeguard the functions of a democratic country according to the rules & laws of constitution and check whether there are instances of excesses. And Constitution does not directly talk about the famous doctrine of separation of powers but at the same time it provides for segregation of powers between the three different organs of the government so that they do not trespass each other's powers. The very concept of distribution or segregation of powers talks about a system of Judiciary which is free from the extrinsic and intrinsic pressures. Under the constitution of India, the Indian Judicial system has been given mammoth task at gate keeping core rights of the people and giving credence to the R O L. And additionally, the quintessential and essential duty of the Apex court is the power of Review.

Review by the Judiciary means that Supreme Court has the power to check validity and credibility of a legal provision that the courts of the country arrive at a certain decision and that decision is not in line with of the constitution. Then that law is tagged invalid & ultra vires to constitution. But it's very important to note the term Review by the Judiciary has nowhere been suggested in the supreme law of our country. But still India has a very lengthy and written constitution and S C can cancel any verdict that is not in line with rights and hence gives the S C the power of review. The powers of Writ when combined with checking power of the supreme court makes the Judicial system a powerful organ of government. In simple words that you were reviewing power of the Judiciary means that it can translate the constitution and check whether they are in consistence with the laws passed by the law making body. Most of the persons would assume a particular power of the Judiciary helps in the country to protect the basic values of our constitution. The practice of filing PIL has proved a beneficiary point for the Judiciary to living rights of citizens. Tribunals are vested with duties to protect laws and as well as maintain balance and hence they are often at cross roads while trying to apply the laws. And hence we require judicial independence, free & unbiased Judicial System which is laced with powerful people of undaunting capability, character, enthusiasm, will, unbiasedness and freedom and who would render justice without any intimidation, ill will or inclination which is the central requirement of the Constitution of a country and the prime goal of every jurist towards the blokes of this country. Judicial System cannot act as an outsider but it has to transform into an action taker in the whole working of Judiciary and be always ready to use the laws of the constitution to render justice which is social. And through an approach which is productive and driven by goal. It is impossible to attain until we have a judicial system which has the same Spirit and can protect the holy constitution and are also imbued with the values of the constitution.

2.3 Appointment of Judges

After analysing the appointments. The function of the Indian judicial system is supreme and utmost important. the role of the Indian judicial system is not merely for imposing the law but to safeguard the core rights of country in which we live in and it cannot be attained without efficient judiciary. The Indian judiciary significantly performs the two faceted functioning of acting as a balance for the distorted verdicts of the so-called law-making bodies as well as performs the important role in the proper functioning of our country. For this role of judicial system, the selections made should be liberated from the legislative clutches or should be tiny control of legislature. It is true that legislature stands strong but should not permeate into the functioning of the court.