

India's Judiciary: Pillar of Democracy and Guardian of the Constitution

Dr. Malati C Hiremath

Associate Professor, Department of Political Science, Government First Grade College,
Kalagatagi, Dist: Dharwad, Karnataka

ABSTRACT

The democratic setup in India comprises of three branches: the legislature, the executive branch, and the judiciary branch. The Judiciary acts as a vital check, maintenance the Rule of Law and protecting against power abuses ensure a impartial democratic system. The judiciary protects the fundamental rights of citizens and takes action when these rights are violated. This paper enhances role of judiciary, interpret laws, resolve disputes, and ensure individual rights are protected. The Judiciary's functions include interpreting laws and resolving disputes. It is also known as the democracy's watchdog. This paper also focuses as a guardian of the Constitution and plays a critical role in maintaining the rule of law.

Keywords: judiciary, fundamental, constitution, functions , interpret laws, resolve and disputes

Introduction: India's judiciary strengthens democracy by safeguarding the Constitution, citizens' rights, and fair governance. The Indian Constitution empowers the Judiciary to act as the Guardian of the Law. A number of provisions deal with the Judiciary's role, power, function, and officer appointments. The major provisions are: Part V - Chapter IV - Union Judiciary i.e., Supreme Court - appointment and removal, role and function. Protector of Fundamental Rights: People's rights not being trampled upon are ensured by the judiciary. By issuance of writs, the superior courts enforce fundamental rights. Advisory functions: The Supreme Court of India performs advisory functions and gives advice on opinions on constitutional questions.

The Indian Constitution, the fundamental law of the land, has been carefully drafted with the four-fold objective of securing justice, liberty, equality and fraternity to all its citizens. The constitution has allocated distinct powers and functions to the three organs of the state, viz. legislature, executive and judiciary. These organs play an important role in the achievement of the said objective. Traditionally, the legislature makes the law, the executive implements them, and the judiciary adjudicates and interprets the law. Even though there is no strict application of the theory of checks and balances in India,

the constitution has drawn certain limits and boundaries in respect of the legislative, executive and the judicial powers.

The judiciary in India, specially the higher judiciary has been assigned a vital role in various areas like upholding the federal principle, interpretation of the laws made by respective legislatures, testing the validity of such laws, and more importantly, in protecting the fundamental rights of the citizens. The Supreme Court stands at the top of the hierarchy of the courts constituted under the constitution. It is the final arbiter as to the upholding to the federal principle, the validity of a law or executive action, and the enforcement of fundamental rights of the citizens.

The Constitution of India contains a number of provisions that deal with the structure, functions and powers of the judiciary. It introduced a unified system in all the States and Union Territories. It virtually introduced a three tier judicial system, viz. the Supreme Court of India - the highest court of the land, the high courts, and a subordinate judiciary in every state and Union territory. The constitution contains specific provisions relating only to the Supreme Court and High Courts, and it leaves the subordinate judiciary to the States. The judiciary performs several crucial functions to ensure justice, uphold the Constitution, and maintain the rule of law in a democratic system.

In India, the judiciary has come to exercise vast powers of judicial review in respect of the legislative and executive functions of the state and of the judicial actions of the judiciary. The Supreme Court and the High Court not only act as the arbiters to determine disputes that may arise between the Centre and States, but also protects and enforces the fundamental rights of the citizens against the arbitrary action of the States. They also interpret the laws made by the legislature and they have the final say in the validity of any legislative or executive action of the state if it contravenes or abridges the fundamental rights of citizens. It is a unique feature identified only with the higher Indian judiciary that it has the power to determine the validity of constitutional amendments which perhaps is seen nowhere under any other constitution, written or unwritten. The judiciary also vests this power of judicial

review by implication, even in certain quasi-judicial bodies like administrative tribunals.

Thus, the judiciary performs these (prominent) functions in constitutional democracies:

- (i) Interpreting the constitution with deference to the wishes of the framers of the constitution
- (ii) Upholding the federal principle of maintaining the balance between the various organs of government and also the Centre and the States by whichever name they are called; (particularly in a federal constitution)
- (iii) Guarding and protecting the fundamental rights of the citizens
- (iv) Testing the validity of legislative, quasi-legislative, executive or quasi-judicial action of the state on the touch stone of the constitution and
- (v) Applying and interpreting the laws of the legislature.

Article 32 and 226 confer on the Supreme Court and the High Court respectively, the power to issue directions, orders or writs for achieving the objectives of those articles. The courts have issued directions for appointing committees or for asking the government to carry out a scheme. They may constitute specific orders for the parties to do or not to do something. For example, directions in the *Azad Rickshaw Puller Case Vs State of Punjab* asked the Punjab National Bank to advance loans to the rickshaw pullers and contained a whole scheme for the repayment to such loans. Directions in *Common Cause V. Union of India* provided how blood should be collected, stored and given for transfusion and how blood transfusion could be made free from hazards. Directions were given to the government to disseminate knowledge about environment through sliders in cinema theatres or special lessons in school or college. The Supreme Court laid down directions as to how children of prostitutes should be educated. Some of these directions have legislative backing. Former Chief Justice J.S. Verma said: "The primary responsibility for ensuring the safety and dignity of the citizens through suitable legislation, and the creation of a mechanism for its enforcement is of the legislature and the executive. When, however, instances of violation of fundamental right of the citizens take place, then some guidelines should be laid down for the protection of this right to fill the legislative vacuum." (Chauhan, D. C. 2013: 32) The judiciary in Indian democracy serves as a pillar that upholds the Constitution and ensures justice, equality, and liberty for all citizens.

Says Owen Fiss: "The task of the judges is to give meaning to constitutional values and he does that by working with the constitutional text, history and social ideals. The function of a judge is Role of Judiciary in Indian Democracy to give concrete meaning and application to our constitutional values. The task of judges

should be seen as giving meaning to our public values and adjudication as the process through which that meaning is revealed or elaborated. I doubt whether dispute resolution is an adequate description of the social function of courts. To my mind, courts exist to give meaning to our public values, not to resolve disputes. Constitution adjudication is the most vivid manifestation of the function." (Austin, Granville 1999: 122). The Indian judiciary, with its power of judicial review, has played a critical role in shaping the country's democratic fabric.

In recent years, the Indian judiciary has shown itself up as the only real functioning arm of the Constitution. The judges have helped magnify the majesty of law and have been instrumental in the process of the law adapting itself commensurate to the needs of the changing times. Many landmark decisions on matters of public interest, like those relating to environmental issues, greater transparency and accountability of administration, have made an enduring impact on the society. From corruption to crime, corporate disputes to human rights, and activating the law enforcing agencies to disciplining the public, the courts have played a pivotal role in all fields for achieving the goal of social cleansing. The courts are now seen as the last resort for the oppressed and the bewildered.

One should also recall the prophetic warning sounded by the greater thinker Robert Ingersoll, "A government founded upon anything except liberty and justice cannot stand. All the wrecks on either side of the stream of time, all the wrecks of the great cities, all the nations that have passed away -all are a warning that no nation founded upon injustice can stand. From the sand shrouded Egypt, from the marble wilderness of Athens and from every fallen, crumbling stone of the once mighty Rome, comes a wall as it were, the cry that no nation founded upon injustice can permanently stand." (Austin, Granville 1999: 127)

The courts have been more attentive to correcting executive actions for their unreasonableness, particularly in administrative matters. The law has been used as an instrument of justice. The court is augmenting its support base and moral authority at a time when other institutions of government are facing a legitimacy crisis.

The function of judges is to deliver justice according to law. It is this basic test that has to be kept in mind while judging the judges. The relationship between law and justice has been beautifully described by Justice Krishna Iyer, thus "Law is a means to an end and justice is that end. But in actuality, law and justice are distant neighbours; sometimes even strange hostiles. If law shoots down justice, the people shoot down law and lawlessness paralyses development, disrupts order and retards progress. This is the current scene." (Seth, Leila 2014: 59)

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Daniel Webster said a century and a half ago: "Justice, Sir, is the greatest interest of man on earth. It is the ligament, which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duty honoured there is a foundation for social security, general happiness and the improvement and progress of our race. And whoever labours on the edifice with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures or contributes to raise its august dome still higher in the skies, connects himself in name and fame and character with that which is and must be as durable as the frame of human society." (Chakrabarty, Bidyut 2008: 96)

When there is a collapse of responsible government, the courts were duty bound to come forward and fail not the people of this country. The judges have been anxious to ensure that social change in consonance with the philosophy of the constitution takes place without impediments from other branches of the government.

The founding fathers of our constitution made the legislature trustees of the powers reposed in them and guardians of the peoples' liberties. The judiciary was to be an auxiliary check on the powers of the state organisations when in legislative bodies, the legislative business is not seriously transacted and there is bureaucratic apathy to the problems of the people, the void is sought to be filled in by resort to courts. The enlightened, independent judiciary is vital for a throbbing and growing democracy.

The independence of the judiciary is rightly regarded as the key principle of the constitution in this connection. Lord Denning has aptly described the role of judges: "It is the role of the Judges in developing the law. Many of the Judges have said that they do not make law. They only interpret it. This is an illusion, which they have fostered. But it is a notion which is now being discarded everywhere. Every new decision - on every new situation - is a development of the law. Law does not stand still. It moves continually. Once this is recognized then the task of the Judge is put on a higher plane. He must not be a mere mechanic, a mere working mason, laying a brick on brick without thought to the overall design. He must be an architect - thinking of the structure as a whole - building

for society a system of law which is strong, durable and just and it is on his work that civilized society itself depends." (Shekhawat, Vibhuti Singh 1994: 45)

The distinct nature of the duties that a judge is called upon to discharge, society's expectations of the conduct of the judge, the occupational hazards to which he is exposed, and the need to keep judges above their essential wants, has been illustrated well by David Pannick in his book *Judges*. This is not only true in the context of English judges but equally, if not more, to our judges.

The following observations have been quoted with approval by the Apex Court in *All India Judges Association case*: "The reasons which judges must give to justify their decisions can be gnawed over at their leisure by the teams of lawyers trained (and generously paid) to extract for the purpose of an appeal, every morsel of error. The judge has the burden of resolving, day after day and week after week, a long succession of issues, each one of which occupies professor-critic for months and even years of specialized study." (Shekhawat, Vibhuti Singh (1994: 103)

"The judge has burdensome responsibilities to discharge. He has power over the lives and livelihood of all those who enter his court....His decisions may well affect the interest of individuals and groups who are not present or represented in court. If he is not careful, the judge may precipitate a civil war.... Or he may accelerate a revolution He may accidentally cause a peaceful but fundamental change in the political complexion of the country." (Chakrabarty, Bidyut 2008: 422). The judiciary's practical stance has unquestionably strengthened Indian democracy by protecting constitutional values and expanding rights.

Earl Warren, the great Chief Justice of the United States stressed the importance of the judicial function by observing: "Our judges are not monks or scientists, but participants in the living stream of our national life, steering the law between the dangers of rigidity on the one hand and of formlessness on the other. Our system faces no theoretical dilemma but a single continuous problem; how to apply to ever changing conditions the never changing principles of freedom." (Jois, Justice M. Rama 2004: 67), The judiciary plays a critical role in safeguarding Indian citizens' constitutional rights and democratic freedoms.

CONCLUSION

As an organ of government, the judiciary plays a crucial role in the functioning of India's democracy. The principal role of the judiciary is to protect rule of law and ensure supremacy of law. It safeguards rights of the individual, settles disputes in accordance with the law and ensures that democracy does not give way to individual or group

dictatorship. 1) The dispenser of Justice. (2) Protector of the rights of the people. (3) Guardian protector of the Constitution of the State. (4) Arbiter of center-state disputes. Under the scheme of the constitution, the court is the final interpreter of law. As a result, judicial independence is essential to democracy because it is the judiciary that aids in the implementation of the Rule of Law and the safeguarding of human rights. The role of judiciary is crucial as it a faithful keeper of the constitutional assurances.

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