

Role of Judiciary

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Abstract

The judiciary is the third branch of the government. It has the responsibility to apply the laws to special cases and settle all disputes. The 'real meaning of law' is what the judges decide throughout the course of giving their judgments in various cases. From the citizen's point of outlook, judiciary is the most significant organ of the government because it acts as their guard against the possible excesses of legislative and executive organs. Role of judiciary as the guard of the constitution and the fundamental rights of the people. The judiciary is the branch of government which administers justice regarding to law. Our legal system is a key aspect of our democratic way of life. It upholds peace, arrange and good government. Citizens look to the judiciary to sustain their rights and government look to the courts to interpret laws. The judiciary must act without dread and without favoring individual parties. A court's ability to deliver justice depends on its power to implement its ruling. Only a court of petition can overturn the ruling of a lower court.

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Introduction

An independent judiciary is always considered to be the most important part of every democratic government. A government without independent judiciary is always held to be a strict government. The rule of law governs the country of India. The judiciary is an important part of our government and plays an important role in the way our democracy works. The Supreme Court of India is the highest authority of the judiciary. Courts in India are responsible for handling and passing decisions on many issues. The Indian Constitution protects the people from any incomplete judgment. And, this gives the power to the judiciary to build decisions based on the rules of the law, in case of any disagreement. Due to such authority, the judiciary of the country is an autonomous body. The courts of India are not forbidden by the government and do not represent any political party. Such autonomy allows the judiciary to make sure that there is no misuse of power by any section of the government. The independence of judiciary calls for 'separation of powers'. This essentially means that both the legislature and the executive branches of the government cannot obstruct with the functions and decisions of the judiciary.

Structure of judiciary

As per the judiciary structure there are three levels of courts in India

- * District Court - this is where most people go to for any quarrel in their city or region. Each state comprises lots of districts and has its own district or subordinate courts. And, the entire district is presided over by the district judge.¹
- * High court - Each state has its own High Court, which is most surely the highest judicial authority of the state.
- * Supreme Court - This is at the peak of all state and district courts, presided by the chief justice of India. Because it is the utmost authority of justice for the country, the decisions completed by the Supreme Court stand above all other courts. The Supreme Court of India is located in Mandi House, New Delhi.²

Due to the included judicial system of the country, we can find a strong relationship between all the courts. This means that the decisions of higher courts are compulsory on the lower courts. The 'appellate system' establishes such relationship. Due to the appellate system, if any person is not satisfied by the judgment of a lower court they can petition to the higher court for a fair decision.³

Function of Judiciary and its importance

1. Interpretation and application of laws-One of the main function of the judiciary is to interpret and apply laws to particular cases. In the course of deciding the argument that come before it, the judges interpret and apply laws. Every law requires a proper analysis for getting applied to every particular case. This function is performed by the judges. The law means what the judge understands it to mean.
2. Role in law making-The judiciary also plays an important role in law making. The decisions given by the courts really decide the meaning, nature, and scope of the laws approved by the legislature. The explanation of laws by the judiciary amounts to law-making as it is the interpretations which really define the laws. Moreover, the judgments delivered by the higher courts, which are the courts of records, are compulsory upon lower courts. The latter can decide the cases before them on the foundation of decisions made by the higher courts. Judicial decisions constitute a resource of law.⁴
3. To give justice to the people-The first and important function of the judiciary is to provide justice to the people, whenever they may approach it. It awards sentence to those who after trial are found guilty of violating the laws of the state or the rights of the people. The annoyed citizens can go to the courts for looking for redress and compensation. They can do so either when they fear any damage to their rights. The judiciary fixes the quantity and quality of penalty to be given to the criminals. It decides all cases concerning grants of compensations to the people.
4. Protection of Rights-The judiciary has the supreme responsibility to protect the rights of the people. A citizen has the right to seek the safety of the judiciary in case his rights are desecrated or threatened to be violated or in danger to be violated by the government or by private organizations of fellow people. In all such cases, it becomes the responsibility of the judiciary to care for his rights of the people.
5. Guardian of the Constitution-The judiciary acts as the guardian of the constitution. The constitution is the supreme act of the land and it is the duty of the judiciary to take and protect it. For this reason the judiciary can conduct judicial review over any law for formative as to whether or not it is in accordance with the letter and spirit of the constitution. In case any law is found specially void.

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7. Power to get its Decisions and Judgments forced- The judiciary has the power not only to bring judgments and decide dispute, but also to get these enforced. It can direct the executive to take out its decisions. It can summon any person and directly know the truth from him
8. In case any person is held-Guilty of not following any decision of the court, or of performing against the direction of the court, or confusing the court, or of not appearing before the court in a case being heard by it, the court has the power to penalize the person for the contempt of court.
9. Special Role in a Federation- In a federal system, the judiciary has to perform an as well important role as the guardian of the constitution and the judge of disputes between the center and state. It acts as an independent and neutral arbiter between the central government and state governments with among the states. All legal center-state disputes are established by the judiciary. In case of any dispute about the partition powers, the High Courts and the Supreme Court create a decision.
10. Advisory Function-Very often the courts are provide the responsibility to give advisory opinions to the rulers on any legal issue. For example, the President of India the power to pass on to the Supreme Court any question of law or reality which is of public importance.
11. To Conduct Judicial Inquiries-Judges are very often call upon to head enquiry commissions constitute to enquire into some somber incidents resulting from the supposed errors or omissions on the part of government or some public servants. Commission of enquiry headed by a single judge are also every so often constituted for investigate important and complicated matter and problems.
12. Miscellaneous Functions-Besides the above main functions the judiciary also performs some other functions. Some such functions are the engagement of certain local official of the court, choosing of clerical and other employees

cases connecting to grant of licenses, patents, and copyrights, the meeting of guardians and trustees, the admission of wills, to hire trustees to look after the property of the minors to settle the issues of successions of goods and rights, issue of administering the estates of departed persons, the meeting of receivers, naturalization of aliens, marriage and divorce cases, election petitions and the like.

Importance of Independent Judiciary

In the life of the people of state, Judiciary is a resource of confidence and fearlessness. The ordinary man depends upon judiciary for receiving justice. Without a safety of rights and freedom guaranteed by the judiciary, they cannot actually hope to carry out their jobs and enjoy their income. They are more reliant upon judiciary than the legislature and the executive. Without judicial security, their lives can become unhappy. From citizens' points of view judiciary is the most important limb of the government.⁸

Judiciary has big importance in the eyes of the people because it acts as:

- Ø The distributor of justice
- Ø Protector of the rights of the citizens.
- Ø Guardian protection of the constitution of the state.
- Ø Arbitrator of center-state disputes.
- Ø Protect against legislative and executive excesses.
- Ø Check against arbitrary apply of powers by the power holders.
- Ø protector of rule of law and justice.⁹

Judiciary must be based on the following features:

- I. Selection of only highly qualified and experienced judges.
- II. The capability of the judiciary to continue and independently run the judicial administration.
- III. The judiciary must be through the guardian protection of the constitution.
- IV. The judiciary must make sure full, fair and less-expensive opportunities to the citizens for protecting their rights and receiving justice.
- V. The method of selection of judges must be fair, systematic, effectual and transparent.
- VI. The judiciary must have prohibited the executive and legislature from committing excesses.
- VII. Judges must be paid high salary, necessary allowances, good service conditions and suitable retirement benefits.

VIII. Method of take away of judges should be hard and no single should have the power to take away the judges.10

By incorporate all these features in the judicial system,a well-organized and independent judiciary can be safe.

Conclusion

The judiciary is the limb of government which administers justice according to law.Our judicial system is a key feature of our democratic system of life.Judiciary is a foundation of every democratic government and upon it is build the structure of civil liberty. Judiciary plays a function in the evolution of constitution through the do exercises of its right to interpret and protect it against all legislative and executive excess.A government without independent judiciary is always detained to be an authoritarian government. The main quality which helps the judiciary to authentically administer justice and to perform its functions competently is judicial independence it is only when the judiciary workings independently without any intrusion of the other two organs of the government that it can take out its high responsibilities.Without being well plannedand independent it can never serve its purpose. Therefore, judiciary must be planned in such a way as can allow the judges to give their judgment without any fear or favor.

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