
INDIAN JUDICIARY: AN OVERVIEW

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Introduction

The judiciary is one of the most significant pillars of a democratic nation. In India, the judiciary plays a very significant role in safeguarding the constitutional provisions including fundamental rights, maintaining the rule of law and ensuring justice to all its citizen. The Indian Judiciary is one of the three organ of the Indian governing system and functions independently from the Legislative and the Executive branch of the government, thereby strengthening the branch of the democratic framework of the country. It acts as the guardian of the constitution and serves as the ultimate interpreter of the constitutional provisions.

Indian Judiciary is one of the highest, largest and most complex judiciary in the world which derives its powers from the constitution itself. It is designed in such a way that it deliver justice impartially and effectively to all its citizen without any discrimination or biasness.

Over so many years since India got its independence, the Indian Judiciary went through prolonged amendments, revisions, and legislative reforms. Despite facing multiple issues like: numerous number of pending cases across the country, infrastructural deficiencies and delayed justice system, the Judiciary still remains the strongest and most trusted body in the country.

This article provides an overview of the Indian judiciary, its structure, powers, functions, independence, landmark contributions, challenges, and the reforms required for strengthening the justice delivery mechanism.

History and background of Indian Judiciary

¹The Indian judicial system has evolved through centuries, drawing influence from ancient customs, religious doctrines, colonial administration, and constitutional governance. In ancient India, justice was administered according to local customs, traditions, and religious scriptures such as the Dharmashastras, with village councils and rulers playing a significant role in dispute

¹ Ministry of Law & Justice, Government of India, Chapter 7

resolution. During the Mughal period, Islamic jurisprudence and principles of Sharia influenced judicial administration across large parts of the subcontinent. However, the foundations of the modern Indian judicial system were laid during British colonial rule, when the British introduced codified laws, structured courts, and formal legal procedures. The establishment of Supreme Courts in the Presidency towns of Calcutta, Bombay, and Madras marked the beginning of a centralized and institutionalized judicial framework. Subsequently, the Indian High Courts Act, 1861 reorganized the judicial structure by creating High Courts that replaced the earlier Supreme Courts and Sadar Adalats, thereby introducing greater uniformity and efficiency into judicial administration.

Following independence, the Constitution of India came into force on 26 January 1950 and established a unified and independent judiciary with the Supreme Court at its apex. The framers of the Constitution envisioned the judiciary as a guardian of constitutional values, fundamental rights, and the rule of law. Accordingly, the Indian judicial system was designed to function independently from the executive and legislature, ensuring impartial adjudication and protection of democratic principles. The constitutional framework also established a hierarchical judicial structure consisting of the Supreme Court, High Courts, and subordinate courts, thereby ensuring accessibility to justice across the country. Over time, the judiciary has emerged as one of the most significant institutions in India's democratic framework, exercising powers of judicial review and constitutional interpretation.

²An important yet often overlooked aspect of India's legal history is the evolution and eventual abolition of the jury system. The history of jury trials in India dates back to the colonial period and was first introduced by European powers. One of the earliest recorded jury trials took place in Madras in 1665, where a petit jury composed of English and Portuguese jurors acquitted Ascentia Dawes, who had been charged with the murder of her enslaved servant. During the East India Company's rule, jury trials were implemented mainly in Presidency towns under Crown Courts, where both European and Indian defendants could be tried before juries in criminal matters. In contrast, Company Courts operating outside Presidency towns generally functioned without juries and were presided over by Company officials. After the British Crown assumed direct control over India in 1858, the enactment of the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1861 further institutionalized criminal justice administration. However, jury trials remained mandatory only in Presidency town High Courts

² *Judiciary of India*, Wikipedia, https://en.wikipedia.org/wiki/Judiciary_of_India#History

and were optional in most other parts of British India. Notably, in cases involving European or American defendants, at least half the jurors were required to be Europeans or Americans, reflecting the racial biases embedded within the colonial legal structure.

In the twentieth century, both the colonial administrators and the Indian thinkers expressed doubts about the working of the jury system. Issues like prejudice and susceptibility to media influence by the jurors, lack of legal knowledge on the part of jurors and lack of uniformity in the verdict led to the strong arguments against jury trials. However, after independence of India the Constitution was silent on any constitutional provision of jury trials and the system started receding. The Fourteenth Report submitted by the Law Commission of India in 1958 strongly opposed jury trials with the assertion that jury system be abolished, in favor of the "professional administration of justice." Henceforth jury trials were discontinued gradually in the 1960s and completely abolished by the Code of Criminal Procedure, 1973. Present day system of criminal adjudication which is now governed by the Bharatiya Nagarik Suraksha Sanhita, is complete switch from layman participation to the judge-centric adjudicatory system of law and procedure.

Structure of Indian Judiciary

³In the Indian constitution, the Judiciary holds the status of the most significant organ by acting as the guardian of the constitution, guardian of individual rights and as the interpreter of law. The part concerned with judiciary, is enshrined in part V Chapter IV "The Union Judiciary" and in part VI Chapter VI "Subordinate Courts" of the Indian constitution. However, in India the judiciary has an integrated set up, having a single hierarchy with Supreme Court of India at the apex. India lacks the dual judiciary present in the federations, like in USA. A single hierarchy serves the purpose of uniform application of law and also the highest dispute settler of conflicts between Union and States and also between one State and another.

Both Supreme Court and High Courts act as guardian of the Constitution as well as the citizens' rights and liberties by the method of judicial review and interpretation of law. Judicial review performed by Indian judiciary has guarded individuals against state atrocities and also established democratic institutions in the country. Indian judiciary is often termed as a 'sentinel on the qui vive' for its vigilant role to ensure rule of law and functioning of various branches

³ Ministry of Law & Justice, Government of India, Chapter 7(7.2)

of government under its watchful supervision. Though 'judicial activism' of Indian judiciary has often come under attack for intruding into government functions and policies, judiciary is still recognized as indispensable for a democratic governance in the country.

⁴ The Indian judicial system is organized in a hierarchical structure consisting of the Supreme Court, High Courts, District Courts, subordinate courts, and village-level courts. At the apex stands the Supreme Court of India, established on 26 January 1950 after the Constitution came into force. It traces its origin to the Federal Court established under the Government of India Act, 1935. ⁵As the highest judicial authority in the country, the Supreme Court exercises original, appellate, advisory, and writ jurisdiction. It adjudicates disputes between the Union and States, hears appeals from High Courts, protects fundamental rights under Article 32, and ensures uniform interpretation of laws throughout the country. The decisions of the Supreme Court are binding on all courts in India.

⁶Below the Supreme Court are the High Courts, which function as the highest judicial bodies at the state and union territory level. India currently has twenty-five High Courts exercising original, appellate, and supervisory jurisdiction. They hear appeals from subordinate courts and exercise writ jurisdiction under Articles 226 and 227 of the Constitution. Under the High Courts function the District Courts and subordinate courts, which deal with civil and criminal matters at the district and local levels and play a vital role in the administration of justice.

To improve access to justice in rural areas, the Gram Nyayalayas Act, 2008 introduced village-level courts known as Gram Nyayalayas, aimed at providing speedy and affordable justice to rural populations. In addition, technological reforms through the E-Courts Mission Mode Project, launched in 2005, have modernized judicial administration through digitization, online case management, and virtual hearings. These developments reflect the continuous evolution of the Indian judiciary towards a more efficient, transparent, and accessible system of justice delivery.

Independence of the judiciary

⁷One of the cornerstones of the Indian Constitution is judicial independence and its protection

⁴ *Indian Judiciary System – Structure, Function & Key Facts*, Lloyd Law College

⁵ *Indian Constitution, Article 32*

⁶ *Indian Constitution, Article 226 and 227*

⁷ *Judiciary of India, Wikipedia(1)*

is imperative for ensuring rule of law, constitutional supremacy, and democracy in the country. An independent judiciary is able to decide matters without being swayed by political pressures, executive machinations, or public opinion, and its independence is guaranteed by such constitutional mechanisms as security of tenure, fixed service conditions, and stringent procedure for impeachment.⁸ The Supreme Court is governed by Articles 124 to 147 of the Constitution and⁹ High Courts by Article 214 to 231 of the Constitution.¹⁰ Moreover Article 50 of the constitution instructs the State to work towards the separation of the judiciary from the executive. The salaries and allowances of judges are charged on the Consolidated Fund and cannot ordinarily be reduced during their term in office ensuring that the judiciary receives no financial diktats from the executive.

The Supreme Court of India have been adamant that judicial independence forms a part of the basic structure of the Constitution and therefore it cannot be altered even through constitutional amendments. The Basic Structure Doctrine enunciated by the Supreme Court in the famous ¹¹Kesavananda Bharati v. State of Kerala case has ensured that the fundamental rights of the Constitution cannot be abrogated by any act of the parliament and therefore judicial review is perhaps the most powerful tool in the hands of the judiciary to test the validity of acts of the Parliament. The expansion of fundamental rights and constitutional safeguards from judicial pronouncements such as in the ¹²Maneka Gandhi v. Union of India and ¹³Justice K.S. Puttaswamy v. Union of India cases has shown the judiciary as an active partner with the citizenry in safeguarding constitutional provisions.

One of the principal mechanisms for safeguarding judicial independence is the system of collegium where senior judges of the Supreme Court appoint or transfer judges. This has been institutionalised as a consequence of a series of judicial pronouncements known as the Judges Cases with the primary purpose of shielding judicial appointments from executive hegemony. However, transparency, accountability and concentrations of power in the judiciary have come in for scrutiny with the 2025 report by International Commission of Jurists (ICJ) entitled "Judicial Independence in India: Tipping the Scale" pointing out "while constitutional protections exist, significant structural concerns about judicial appointments, transfer of

⁸ Indian Constitution, Article 124 to 147

⁹ Indian Constitution, Article 214 to 231

¹⁰ Indian Constitution, Article 50

¹¹ Kesvananda Bharati v. State of Kerala, 1973 Supp SCR 1

¹² Maneka Gandhi v. Union of India and Ors, 1978

¹³ Justice K.S Puttaswamy and Ors v. Union of India and Ors, 2017

judges, post-retirement appointments, and allocation of sensitive cases have persisted, particularly concerning executive interference in appointments and opaque transfer procedures." It was critical of lack of accountability of judges and added "the debate around judicial accountability has also become increasingly contentious, adding to the complex dynamics".

However, India's constitutional history does not necessarily show a picture where judicial independence was always upheld, as illustrated by the ADM Jabalpur v. Shivkant Shukla case during the emergency where the constitution upheld suspension of habeas corpus during emergency. This verdict is considered as the dark period in Indian constitutional history but it must be noted that Justice H.R. Khanna dissented with the majority view defending personal liberties and emerged as a champion of judicial independence. Following this period the Supreme Court has through a steady stream of constitutional interpretations along with the increased scope of Public Interest Litigations (PIL) have gradually managed to instill trust in the Indian judiciary again and have played a significant role in protection of fundamental rights through expansion of the concept of PIL, covering a wide range of issues like environmental protection, bonded labor, prison reforms, corruption, and women's rights.

Challenges faced by the Judiciary

¹⁴As one of the strongest and constitutionally important institutions in the world, Indian judiciary still confronts various critical issues, that have significant implication on its efficiency, accessibility and public credibility. The huge backlog of pending cases poses one of the critical challenges for the Indian judiciary. Judicial delays have become a chronic problem for the Indian judiciary as millions of cases remain pending before various levels of Indian judiciary. As of 2024, according to recent reports over 87% of all pending cases are in district and lower courts. Such delays pose an immense burden on the Indian judiciary and go contrary to the famous saying, 'justice delayed is justice denied'.

One of the most severe issues for the Indian judiciary is its opaqueness which needs immediate attention of those concerned to enhance public confidence in this democratic institution and uphold accountability standards within the judiciary. Judicial appointments and transfers of judges, various judicial proceedings and internal functioning of the judiciary are some of the

¹⁴ *A Comprehensive Understanding of the Indian Judicial System*, Bennett University, <https://www.bennett.edu.in/media-center/blog/a-comprehensive-understanding-of-the-indian-judicial-system>

few areas where the transparency of the judiciary comes under severe scrutiny by the courts, society, and academics. The fact that the provisions of the RTI Act are not fully applicable to the judiciary adds fuel to this debate on transparency, citizens' right to know and the need for enhancing the legitimacy of the institution.

Lack of closeness with society: The judicial system requires being more intimately connected to society to function effectively. In order to serve justice in an ideal manner, it needs to be attuned to social conditions and the concerns of the citizens and needs to be alive to evolving social norms and values. It is sometimes observed that there appears a gap between the judicial institution and the society, as the weaker sections of society are facing hindrances in seeking justice, whether it be economic, social or procedural barriers. To bridge this gap requires that judiciary be more accessible and in touch with the common man.

The non-usage of the use of technology in a prudent manner hinders the efficiency of judicial administration. Though initiatives like E-Courts Mission Mode Project are on, there are still many courts that rely on old infrastructure, excessive paperwork, and lack the required technological integration, and are thus becoming obstacles in efficient case management. Increased use of modern technology can certainly bring about a sea change in the efficiency, accessibility and transparency of the justice delivery system, thereby strengthening the judiciary and ensuring speedy delivery of justice to the common man.

The role of Judiciary in competent India

The judicial function of the judiciary is to protect constitutionalism, preserve the rule of law and dispense justice in society. In other words, as one of the pillars of the democracy, it operates independently to safeguard the rights and liberties of its people and to preserve the checks and balance between the three organs. One of the key functions of the judiciary is the protection of fundamental rights. In case any citizen feels that their right or freedom has been violated or suppressed then he may approach the court. The court will evaluate such violations and offer remedies in this regard thereby upholding the civil liberties and constitutional guarantees.

Apart from it, judiciary serves as dispute resolving mechanism through judicial pronouncement and alternative forms of dispute resolution such as arbitration. It assists individuals, organizations or government to arrive at mutually acceptable solutions of conflicting claims and interests in a just and impartial way. Arbitration enables people to sort out their issues

without resorting to conventional judicial system thereby bringing quick resolution to their problems and reducing the workload on judiciary. Also it supervises the process to make it just and equitable.

The judiciary acts as interpreters of the Constitution and laws enacted by the legislature. Judicial interpretation helps in understanding the scope and implications of provisions passed by the legislature and implementing the laws correctly. Through this function it seeks to clear the ambiguities in the existing law and to bring about modification in the legal system based on the ever changing constitutional or social need. In India, it is largely due to judicial interpretation that the constitutional jurisprudence has expanded. Also, various fundamental rights have been augmented through this role of judiciary.

Further, the judiciary also aims at social justice and protection of weaker sections of society. Courts have taken up issues ranging from protection of environment to equal right of all women, rights of children to protection of human rights and also protection of workers. Through Public Interest Litigation (PIL) and significant judgments the judiciary has broadened access to justice and promoted the concept of constitutional morality.

One of the most important features of the Indian constitutional system is the independence of the judiciary which is considered necessary for the Rule of Law and constitutional governance. An independent judiciary is a system in which the judiciary remains free from the influence of the legislature or the executive and dispenses justice without any fear or favor. The Indian constitution provides various provisions for ensuring judicial independence such as the security of tenure, remuneration and service conditions, and protection from arbitrary removal from office. The judges of the Supreme Court and High Court can only be removed by the process of impeachment and on grounds of established misbehavior or incapacity. Thus, they serve to promote public confidence and to ensure that the courts are free to protect the citizens from all types of undue influences.

¹⁵The judiciary is also referred to as the sentinel of fundamental rights and constitutional morality. By virtue of the judicial review, the Supreme Court and High Courts can declare any legislative and executive act as unconstitutional if it violates any provisions of the Constitution and thus uphold the democratic values, checks and balance of powers and the rights and

¹⁵ *Ministry of Law & Justice, Government of India, Chapter 7(7.10)*

freedom of citizens from state action. Through various decisions of the judiciary, the scope of fundamental rights has been further broadened by the expansive interpretation of the Constitution by the judiciary. Furthermore, it has been drawing from the principles enshrined in the Directive Principles of State Policy and has been instrumental in achieving social and economic justice.

Furthermore, increasing role of judicial activism is posing challenges in terms of constitutional debate, while at times judiciary acts as substitute to the absence of the executive and the legislature, issues such as judicial overreach are to be carefully examined and a balance has to be struck between activism and restraint. According to several debates in constitutional discussions and legal literature the true measure of strength of the judiciary's power of judicial review lies not only in the fact of its exercise, but also in the caution, justice and constitutional discipline which is exercised when powers are in force.

Notwithstanding the concerns with respect to the role of judiciary, Indian judiciary is holding high constitutional significance for democratic government, federal structure and fundamental rights. Its constitutional value has been strengthened since the judiciary is a guardian of the Indian constitution and it is accountable to the public authorities and for delivery of justice. The judicial interpretation of various constitutional provisions, along with expansion and strengthening of the constitutionality reflects an earnest desire for achieving Justice, equality and rule of law.

Conclusion

The Indian judiciary has become an integral and important part of the constitutional framework and the democratic edifice of the country. From its role as the guardian of the Constitution and defender of fundamental rights of people to being instrumental in protecting the ideals of democracy, justice, equality and rule of law, the Indian judiciary has earned an important place for itself. The three-tier judicial system comprising the Supreme Court, High Courts and the subordinate courts epitomizes India's dedication to equality, fairness and constitutional governance. From being the ultimate interpreter of the Indian Constitution and an apex arbiter at the highest judicial level down to the lowest functioning of Gram Nyayalayas, the judiciary assures that justice remains within the reach of every Indian citizen regardless of their social strata or financial capacity.

Over the years, the Indian judiciary has emerged as a vibrant institution that can be molded as per changing socio-legal and constitutional conditions. Judicial review, judicial activism, PIL and liberal interpretation of laws have broadened the dimension of fundamental rights and social justice. Various reforms like Gram Nyayalayas Act, 2008 and E-Courts Mission Mode project highlight the commitment of the judiciary to bring in accessibility, modernity, efficiency and transparency to the judicial system.

Notwithstanding the strength and achievements of the Indian judiciary as a constitutionally-empowered institution, it still encounters numerous issues that range from case backlogs to deficiencies in infrastructure, lack of accessibility and transparency, and lengthy disposal of cases. These issues, in turn, affect the efficiency and effectiveness of the judiciary. Judicial accountability, modern technology, better infrastructure and the appointment of judges in a timely fashion will bolster public confidence in the judicial system. A vibrant judiciary, being an independent body, will act as the vanguard in the fight against any undemocratic elements or injustice in a democracy. The stability of any democracy is predominantly hinged on the strength and independence of its judiciary.