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ROLE OF EXECUTIVE IN ENSURING JUDICIAL INDEPENDENCE IN INDIA

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Abstract

India's judiciary emerges as a pillar of democracy underlining justness, rights, and rule of law. The trinity of equity, fairness, and impartiality holds the ground for the very foundation up that the judiciary is based. This abstract is the exploration of the amalgamation of these basicconcepts in the Indian judicial system, the underlying importance and the related difficulties.Fairnessand impartialityisthe fundamentalprincipleofequitywhichisacentralto buildingasociety based on justice. The Indian courts provide all categories of people with an equitablemeans to justice and, especially, to the marginalized and disenfranchised groups. Another matter is the fairness; however, it is deeper than ensuring the fair proceedings of law; it implies that justice is not only a legal procedure but also it is the spirit of law, which is designed formoral and ethical principles. Role of the executive to make sure that judicial independency inIndia is preserved becomes a cornerstone of granting judiciary the status of integrity andimpartiality. This work looks at different means and approaches by which the executives can positively contribute to the maintenance of the judiciary independence, such as the appointments, budget indicating, and the following the guiding principles of the constitution.The report also elucidates the key challenges and risks to judicial independence which are created by executive obstruction and political interference. Through examining facts of previous cases and legal constraints, this paper portrays independence and strength of thejudiciary as key pillars in upholding the rule of law and realization of justice for populace. Lastly, it suggests a way to improve the cooperation within the executive and judges in order to promote the course of judicial independence in India.

KeyWords – Independence, Executive, Judiciary, Judges, Legal System

I - Introduction

Judicial independence without doubt acts like core element in every democracy. Every nation whether a developed or underdeveloped country places the independence of the court as top of the agenda. There are laws and constitutions of various localities and they comprise variousprocedures for judges to secure independence. Judiciary in India has been free from politicalinterferencebecauseofavarietyofconstitutionalandstatutorymeasures.WiletheConstitution gives some of the significant safeguards to the judges like the security of tenure,payment of salary and allowances from consolidated fund of India and multiple layer ofproceduretoremovethem,thequestionforthepeopletodayis howfarithasbeenmaintainingthe balance of power? However, the independence of judiciary that prevailed during the pre-independenceperiodisnotthecaseofIndiabeingfullydependentonthat.InduringtheancientHindu period, Muslim period, and British period, the question of judicial independence hasbeen a key focus. In the Hindu and Muslim periods of history, this is where one could noticeHindu kings and Muslim emperors stressing justice systems' fairness with a service deliverymechanism. Nonetheless, those years just after the beginning of the British rule in India weremarkedbyalackofinitiativesconcerningtheindependentjudiciaryandtheexecutivepowers.Itwas not until the

later years of the British regime that a serious attempt to avoid interference by the executive power in judiciary was undertaken through the separation of powers betweenthe legislative and judicial branches of the state. The aim of paper is thus to shed light on thecourse of independence of judiciary in India primarily looking at the pre independence erawhich was notable due to considerable judicial independence. The paper may discuss the operation of courts, the judges' appointment and their censure indifferent phases of history. On the other hand, the argument will focus on the judicial independence and it kinds and is rule of law.

II – Judges Appointment v. Independence of Judiciary

The method of selecting judges for the judiciary may affect the independence of the judiciary.Whenjudgesareappointedthroughafairandindependentsystemofselection,whichisbasedonmeritandqualifications,theindependenceofthejusticesystemispreserved.Thisisbecausejudges who are appointed through a fair and nonpartisan process are likely to handle cases based on the principles of the law and not on political influence or personal opinions. However, the appointment of judges through a political or arbitrary process tends to degrade the independence of a judiciary. This is because judges who are chosen through political contacts or are committed to their parties or people can make judgments based on such connections

rather than law by law. A formal and impartial standard in which judges are chosen is anessential aspect of the judicial independence and the judges' ability to make fair and correct decisions based on the rule of law. According to the rule of judicial independence the judiciary should be isolated from executive and legislative branches. It is vital that judges should remain absolutely unbiased and not affected or interfered with by the other branches of the government or external forces when they are taking their important decisions. Such decisions must be based only on the law and the given facts. Judicial independence is one of the main ideas, that cannot be avoided, when we talk about democracy, rule of law, and justice. It assures judicial independence from political interference and defend against arbitral & unjust decisions from infringing upon individual rights.

III – Concept and Meaning of Judicial Independence

The absolute independence of judiciary can be acquired through various methods like providing the judges with tenure and making them invulnerable to salary cuts in addition to developing judicial review mechanisms and bringing clear rules and procedures of appointing or dismissing the judges. The Indian judiciary independence is based on the constitutional guarantee and institutional framework, providing judiciary without external influence of the executive or legislative wings of government. This is one of the most important principles inensuring that the rule of law is upheld, probably people's rights are protected and the justice system remains intact. The independence of judges in India implies that the judiciary should be free from intervention from any political bodies and the judiciary should be able of making reliable and law abiding decisions. It is a component of an independent judiciary that judges are making their decisions in the absence of any external interference; be that from either the executive branch, individuals or any other bodies. Such freedom of the Judiciary is of utmost importance for the defense of justice and overcoming of biases in that system, and this is the underlying idea of the Indian Constitution. This reason is one of the most important for keeping the power structures and checks and balances under the system of democracy. Moreover, thejudges should demonstrate integrity to withhold their bias in case of drawn-out proceedings. Judicial independence is the key pillar for the democracy that protects the right of people and the natural law of states.

IV – Need for Independence of Judiciary

The impartiality and the independence of the judiciary is necessary to guarantee that there is equal, fair and just treatment within a legal system. The judiciary which is an independent one is a basis for having the rule of law. Judicial independence should be upheld so that judges have a clean and unbiased mind to consider the law and legal principles in rendering decisions. The role of the Court in safeguarding rights and freedoms of people is very big as well. Judges' unbiased approaches should be accompanied by no fear of reprisals or pressure from any sides, although justice is to be served and rights are to be settled.

The judiciary is an integral part of the Constitution's system of checks and balances bymediating and resolving disputes between the executive and legislative branches. A judiciarythat can stand alone ensures the power equilibrium and does not let the government abuse itspowers. A well-functioning judiciary that is independent helps to them to be responsible boththe government and individuals. The judges are the ones who make decisions impartially andfairly, not being affected by personal interests or anyone's political agendas. An independentcourt is particularly crucial for sustaining the faith of the population in the justice system.People who think that judges are impartial and unbiased, will have confidence to trust thejudicial system greater and to obey its verdicts. The independence of the judiciary is a vital factor in promoting justice, fairness, and the rule of law in a democratic society. It ensures that the rule of law prevails over any other considerations. The protection of basic rights and freedoms of individuals, as well as, provision of checks and balances and accountability all are the reasons that make rule of law very important in the justice system.

V – Role of Executive to Ensure Independence of Judiciary

In India, where the concept of these parathion of powers is regarded as an innovative institution in the Constitution, the Executive branch plays a key part in guaranteeing the independence of the judiciary.

i. Appointment of Judges: The Executive has the responsibility of nominating judges forthe higher courts including the Supreme Court and the High Courts in liaison with theChief Justice of India and other senior judges. The Executive will have to see to it that it gravitates towards merit, integrity and legal knowledge as well as watch out for political or other manipulators. This procedure plays a key role in ensuring an independent court system that stays free from any undue interference.

ii. Respect for Judicial Decisions: The Executive is part of the infrastructure that secures the independence of the judicial system from outside interference or bias. Be it for oragainst the government, the issue is to allow scrutiny or support the liberality of the process of justice.

iii. Resource Allocation: The Executive is responsible for providing the sources required by the judiciary, budgetary funds included. Adequate funding is a key to smooth running of the court system, quick case disposal, infrastructure development, and organization of training and retraining of employees. The Executive makes this possible through the provision of sufficient financial resources to support the independence of judiciary and ensure that justice is available to all the citizens.

iv. Security and Protection: The security and protection of judges, court personnel andcourt premises are the key safeguards that form a part of the protection mandate of the Executive. The impartial justice must have the sufficient safeguards to protect against threats, intimidation, or outside pressures that aim to independently undermine the judiciary and impede justice.

v. Legislative Reforms: The Executive can legislate and reform through the legislature to set a framework that guarantees judicial independence and accountability. It is likely the fact that the methods could be implementing-for instance strengthening the transparency of judicial appointments, establishing mechanisms for judges accountability, and safeguarding judges from any interference.

vi. Promoting Judicial Autonomy: The Executive must resist the temptation of acting in ways that may appear to exert undue influence over ongoing judicial proceedings. Non-interference in the judiciary by the judiciary guarantees judges to rule disinterestedly and free of harassment so to make the judicial sector impartial and independent.

vii. International Engagement: International forums and other kinds of partnerships in the areas of judicial independence, human rights, and rule of law give an Executive Authority a chance to align with the international standards of practice. India's keeping up international undertakings immensely proves its independence of judiciary as a crucial foundation for the democracy and good governance.

Through this function, the Executive Body supports the Constitution's respect for the separating of powers, which is important in guaranteeing the independence, impartiality, and effectiveness of the judiciary in India

and the preservation of the rule of law and the citizens' rights. The Executive's job in sustaining the judiciary's independence is by enforcing the principles of separation of powers, rule of law, and judicial autonomy.

VI – Doctrine of Separation of Powers:

The basis of the Democratic arch is the Doctrine of Separation of Powers. 2It is a theory which explains how the government power must be distributed in orderly standing, firstly proposed by Montesquieu – a French enlightened thinker who lived in the 18th century and whose roots come from Aristotle - the for under to Political Science. Starting from the time of Hobbes, Locke and Rousseau, who articulated the values of the "State of Nature" in their Theory of Social Contract, up to what is perceived today as a embryo of democracy, or the state in which manloses his natural freedom and gains civil liberty, the foundation of Montesquieu's doctrine ofthe separation of powers became reinforced. Regarding the duality of powers the division of governmental powers was given to three organs with separately functions the legislature or the law making body, the executive, which administered laws and put them into force, and the judiciary interpreting statutes. Montesquieu was a strong proponent of human esteem during that era so he came up with the Doctrine of separation of powers to reinforce the individuals' freedom that made up the State. According to Montesquieu the Doctrine applied prevents people to conglomerate all the power in one of the organs of governance, as the latter can be a detriment to political liberty. One organ cannot possibly serve as both the source of power and the judge, because it would create stifling laws while imposing them tyrannically. When the judicial and legislative bodies operate together, the life and liberty of individuals in the State will be at risk because the judge can modify the law. This is because if the judicial andexecutive power were to be in the same organ, the judge might behave with violence and tyranny, as they would have the power to interpret the law and also could do something more pursuant to it when ever necessary.

Lastly, the worst possible outcome could be the case where one body was to undertake all three roles of legislation, carrying out and adjudicating them and this could lead to formation of a despotic and tyrannical form of government, and eventually could lead to the doom of the very nature of the State. According to a saying of Montesquieu "power tends to corrupt, and absolute power tends to corrupt absolutely." He suggested that organs of the government should be sostructured and interpreted each organ should be entrusted to different person or persons performing different functions within the sphere of power described for them. He held in hisopinion that the exercise of powers would be restricted to attain liberty in the state as well. He suggested that the authorities of the government should be split into different organs and limitations so that each of its organs will remain independent from each others. Therefore the birth of the idea of judiciary independence became possible.

VII – Role of Judiciary to Ensure Independence of Judiciary by Executive

The judiciary has a fundamental role ensuring its independence from the executive department of the governance. The government must provide an unbiased performing system for appointing and removing judges. This process should deserve immunity from any political influence and should secure the best qualified candidates. Such practice also ensures that judges are appointed according to their significant roles in their capacity to uphold the law and keep their independence. Judiciary, among other matters, should retain its independence in budget and administration. This autonomy functions as a buffer against external impacts and allows the judges to reach decisions undisturbed by possible retaliations or interference. Among the judiciary, code of conduct and ethical standards should be clear guided the behavior of judges.

Judges must be subject to accountability if there is any wrongdoing or violation of conductrules, even if they hold a position of authority or a high status. Such accountability serves to preserve the public's confidence in the judiciary, and indeed, to render it independent ofexternal pressures. The judiciary is endowed with the power of judicial review which grants itthe right to neutralize and annul executive actions that are against the constitution or the law. This is a kind of check on the cabinet and helps to ensure that power isn't violated. The independence of judges must not be compromised on any grounds, including interference from Executive branch. For example, shielding them from the danger of being intimidated orotherwise retaliated upon because of their choices. The judicial independence guarantees judges that they can interpret and use the law fairly and blamelessly. It is imperative that the judiciary strives to maintain an independent role from the executive branch to ensure that therule of law prevails and to provide equal justice for all citizens. In this way, the judiciary will be able to play its vital function as a separate and impartial arm of the government.

VIII – Landmark Cases

A few of the Indian landmark cases have seen the light of the day and profoundly upheld the concept of the judiciary as independent from executive acts of interference as follows :

S.P. Gupta v. Union of India

The "First Judges case," so-called, simply established the position of the Chief Justice of India (CJI) as the head of the judicial system that holds the final say on the appointments of judges. The Supreme Court ruled that the CJI's opinion be the determinant factor in the appointment of Supreme Court and High Courts judges, while placing emphasis on judicial independence.

Supreme Court Advocates-on-Record Association v. Union of India

Similarly, namely as the "Second Judges Case", the decision contributed to an improvement of the appointments of judges. The Supreme Court has declared that the CJI in appointing judges to higher courts should have a permission from the collegiums of senior judges. This resulted to the critical position of the judiciary in the protection of independence in the process of judicial appointments.

Kesavananda Bharati v. State of Kerala

In effect, this case was largely about constitutional amendment and the basic structure doctrine. Its role in the support of the judicial independence as an integral part of the Constitution was, however, established unambiguously. It said that the judiciary is a keeper of the Constitution and therefore should remain free from or control by the executive.

D.K. Basu v. State of West Bengal

Not only did the case demonstrate a verdict, it revealed another facet of the judiciary, which is providing fundamental rights against executive excesses. The Court then pointed out that the role of judiciary is to deliver impeccable and just decisions, irrespective of the actors involved, in all the situations.

Indira Nehru Gandhi v. Raj Narain

The 1975 Emergency case was this ruling in which the role of the judiciary as a guardian of official dom was highlighted. The decision was a victory for India's judiciary that protected the country's democratic principles and constitutional values despite the high-level political machinations during the Emergency.

Such pronouncements, along with others, are there for manifestations of the Indian judiciary’s resolution and a signal that the judiciary has a role to play in defending the judiciary’s independence and the supremacy of law. The court cases like these formed the bases of the precedents on the judiciary independence which then increased the division of powers, judiciary as a shield wall that they formed to protect the executive branch from breaching the constitutionally established principles and individual liberties.

IX - Conclusion

The crucial role of executive in maintaining the checks and balances among the three arms of the government with the independent judiciary is absolutely vital to the preservation of democratic values and rule of law. The head of state should maintain respect for judicial

independence and corresponding non-interference of the judiciary. The former may have enough of funds and resources among the executives, so that the judiciary is received of independence and effectiveness. Further, the executive must respect the decisions of the judiciary and observe the principle of checks and balances to ensure an impartial judiciary atthe helm. However, it is essential for there to be a collaborative and cooperative tie betweenthe executive and the judiciary for the system to run well and the justice to be ensured for all the citizens. Indian Executive plays a multidimensional role of supporting and maintaining the independence of Judiciary that facilitates rule of law and ensures the observance of democratic principles. Through its accountability the Executive is able to accomplish its role in such a way as to preserve the independence and impartiality of the Judiciary. The Executive's judicial appointments based on merit and integrity to maintain the judiciary's autonomy, which is vital for development of an independent and competent judiciary. Carrying out and enforcing judicial pronouncements without interference assures the Executive branch’s dedication to

the rule of law and judiciary's independence. Insufficient financial resources and judicial infrastructure undermines the effectiveness of the judiciary and, as a consequence, the judicialindependence. Protection of judges and judiciary facilities grants immunity from the outside pressures or threats, enabling the judges to freely carry out their functions. The establishmentof laws and reforms, which fortify judicial independence and accountability, emphasize the judiciary as an independent authority administering justice. Implementation of transparency, fairness, due process, and independence from external influences within the judiciary not only builds public trust but also enhances the power and reliability of the judiciary as an independent body. Adherence with international norms and objectives related to the judicial independence shows India's efforts to meet democratic values and the rule of law.

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