



INDIAN JOURNAL OF  
LEGAL REVIEW

VOLUME 6 AND ISSUE 2 OF 2026

INSTITUTE OF LEGAL EDUCATION



## INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 6 and Issue 1 of 2026 (Access Full Issue on – <https://ijlr.iledu.in/volume-6-and-issue-1-of-2026/>)

### Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

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## INFLUENCE OF POLITICS IN INDIAN JUDICIARY

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**BEST CITATION** – SAUMYA PANDEY & DR ASTHA SRIVASTAVA, INFLUENCE OF POLITICS IN INDIAN JUDICIARY, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (2) OF 2026, PG. 246-252, APIS – 3920 – 0001 & ISSN – 2583-2344.

### Abstract

The constitutional democracy is based on judicial independence, which guarantees the rule of law and safeguards the fundamental rights. The judiciary through judicial review in India has been constitutionally seen as an independent organ, charged with the task of curbing legislative and executive profligacies. The growing overlap of political and judicial operation has, however, been of grave concern as far as its impact on political influence is concerned especially in terms of judicial appointments, transfers and adjudication in politically charged cases. "The article reviews the dynamics of politics and the Indian judiciary with both a doctrinal and an analytical perspective. It follows the historical progress of judicial independence, examines constitutions and other eminent assessment decisions, and discusses whether the division of politics and judicial reputation reflects on the credibility. This research points out such challenges as transparency in the appointment processes, the intervention of the executive, and biased judicial activism. It claims that to protect judicial independence a balanced system should be in place that guarantees transparency, accountability and independence of the system to political pressure. The article ends with a reminder of the necessity of the institutional changes to reinforce the level of trust and democracy in the society.

### Keywords

Indian Judiciary; Judicial Independence; Political Influence; Separation of Powers; Constitutional Law; Judicial Appointments

### 1. Introduction

In any constitutional democracy, judicial independence is one of its pillars because it guarantees the rule of law, security of basic rights and balances of powers among the organs of the state<sup>555</sup>. Under a democratic regime, the judiciary plays the role of the protector of the Constitution that ensures that the citizens are not at the mercy of the legislature and the executive. Independent judiciary makes people more confident in the

law and strengthens the democratization through justice in an unbiased manner, not under the sway of outside influence or politics. Judicial independence in the Indian constitutional paradigm takes a central stage, as portrayed by stipulations that provide security of tenure, fixed service terms and non-responsive to the political necessities of the day.

A co-equal arm of the government, according to the Constitution of India, the judiciary has wide judicial review and constitutional interpretation authority. Articles 124 to 147 and 214 to 231 define the composition, authorities

<sup>555</sup> Kumar A, Singh A. The impact of political influence and power on the indian judiciary. *IJLS*. 2023;9:1.

and operation of the higher judicial system, which highlights its independence. Nevertheless, regardless of these precautions, the issues of political interference into the work of the judiciary have been escalating in the past few years<sup>556</sup>. Judicial appointment, transfer, delay in appointing and filling inferiorities, and political considerations have also attracted concerns on how far political considerations influence judicial decision-making.

The key research question that will be used in this study is whether and how the political influence may impact the independence of Indian judge. The motivation to this question is based on the increasing discussion among the population and academia on the issue of executive interference, institutional obscurity, and loss of judicial credibility. The aims of the work are to review the constitutional provisions of judicial independence, evaluate the interplay between politics and the judiciary, and determine the consequences of political interference in judicial operations. The questions to be addressed by the study can be summarized as follows: What is the influence of politics on the Indian judicial system? Does this kind of influence harm judicial independence? What are the means that can maintain judicial independence? It is limited to the higher judiciary in India, mostly the Supreme Court and the High Courts and it uses doctrinal and analytical approach relying on the provisions made in the constitution, case laws and literature.

## 2. Conceptual and Theoretical Framework

Judicial independence refers to the ability of the judges to deliver rulings in a non-partisan manner (that is, based on the constitutional requirements, statutory requirements as well as the legal precedents), with no reference to the political pressure, people pressure, executive influence or any other form of influence. It is directly related to the doctrine of separation of powers, which aims at avoiding the

consolidation of power by dividing the functions of the legislature, executive, and the judiciary<sup>557</sup>. This institutional segregation is aimed at keeping the institutional balance and preserving a democratic rule. But, in the real-world, the lines between these two are not hard and fast and the influence of law on politics and vice-versa are bound to happen especially under constitutional democracies such as in India.

There is an endemic tension between judicial accountability and judicial autonomy as a theoretical issue. Although independence is necessary to ensure that the judges are free of any outside influence, the lack of control may lead to the lack of transparency and insularity. On the other hand, too much accountability processes, particularly when they are run by political parties, have the danger of weakening the freedom and impartiality of the judiciary. Finding a balance between these conflicting issues is one of the key problems of the democratic government.

The interaction between law and politics is most evident in the case of constitutional adjudication, in which courts in many cases are called on to determine politically sensitive cases of state power, basic rights, and national policy. Constitutional morality in such situations plays a critical role. It obliges the judges to uphold democratic principles, restraint and the Constitution spirit, and thus acting as a normative check on the politicization of the judicial process of making decisions.

## 3. Historical Evolution of the Judiciary–Politics Relationship in India

The judicial-political relations in India have changed in passing stages by the prevailing constitutional vision, political trends, and the judicial reactions. The framers of the Constitution were quite conscious of the necessity to have an independent judiciary in order to provide a check against any form of excess on the part of the executive and

<sup>556</sup> Radhanpurwala S, Trivedi N, Pandya J. Influence of External Factors upon the Judiciary. Issue 2 Indian JL & Legal Rsch.. 2023;5:1.

<sup>557</sup> Shukla S. Independence of Judiciary in India, Its Role and Impact in Present Time. Indian JL & Legal Rsch.. 2021;2:1.

legislative branches during the Constituent Assembly debates. Dr. B.R. Ambedkar has put a lot of importance on judicial independence as the way of safeguarding fundamental rights and constitutional supremacy. Simultaneously, the framers aimed to achieve a balance between the two, which did not imply excessive executive interference in selecting judicial members, but its control over judicial independence<sup>558</sup>.

During the early years of existence after independence and mostly in the 1950s and 1960s, the judiciary-political branch relationship was very peaceful. The courts were restrained and deferential to the legislative policy decisions, and the executive tended to respect the judicial authority. Famous rulings at this time were very conservative in terms of judicial review without confronting political authority. This balance however started to change with the rise in constitutional amendments and political assertiveness.

The most remarkable break in the judiciary-political relationship was the Emergency period of 1975- 1977. Suspension of the fundamental rights, press censorship, as well as the provocative ruling in the case of *ADM Jabalpur v. Shivkant Shukla* demonstrated the weakness of judicial independence in the political pressure<sup>559</sup>. The inability of the judiciary to provide a check to the executive authoritarianism in this era led to mass criticism and it also loss of confidence by the people in the judiciary. This step was a turning point of the constitutional jurisprudence.

The judiciary became more activist in the post Emergency period as it aimed to regain its constitutional position. By broadening the interpretations of key rights, the rise of the public interest litigation, and the claim of the judicial review, the court made accessible to themselves as guarantors of democratic values. Theories like the basic structure doctrine

enhanced constitutional supremacy and enhanced institutional checks and balances. The judiciary has over the years become an influential counter-majoritarian organ, which has re-defined its balance between political power.

#### 4. Constitutional Provisions Governing Judicial Independence

According to the Constitution of India, the judicial independence is secured by offering a detailed framework in a structural, functional and financial way. Articles 124 through 147 address the composition, power and operation of the Supreme Court whilst Articles 214 to 231 address the High Courts. These are the provisions that make the judiciary an independent body, independent of the executive and the legislature, and endow it with the mandate of interpreting the constitution.

The appointment and removal of judges is controlled by the constitution to ensure that there is no arbitration. The President will appoint judges of the Supreme Court and the High Courts on a prescribed procedure but can only remove them by a difficult process of impeachment which requires a special majority in Parliament<sup>560</sup>. This guarantees tenure security as well as safeguard of judges against political retribution. The Constitution also provides fixed salaries and conditions of service, which are levied on the Consolidated Fund of India and hence the judiciary is not under the control of the executive.

Judicial independence is based on a major pillar, which is the power of judicial review, which allows judicial bodies to review the constitutionality of legislative and executive acts. The judiciary is strengthened by this power to act as a protector of the Constitution. Although the executive and legislature still have a faint role in appointments and law making, the constitutional design is such that the three arms of government do not interfere with each

<sup>558</sup> Fischer A. *The judicialisation of politics in India: Origins and consequences of the power of the Indian Supreme Court* (Doctoral dissertation).

<sup>559</sup> Agrawal V. Constitutional Influence on Our Judicial and Legislative Systems. Issue 4 Indian JL & Legal Rsch.. 2022;4:1.

<sup>560</sup> Yadav J. Judicial Independence under Political Pressure: A Comparative Study of India and the United States. *LawFoyer Int'l J. Doctrinal Legal Rsch.* 2025;3:507.

other, hence there is a fine balance between the three arms of government.

### 5. Political Influence in Judicial Appointments and Transfers

An appointment in the Indian judiciary has been a debatable arena in terms of the conflict between independence of judiciary and politics. The executive during the pre-Collegium period had dominance in appointing judges as the President under the recommendation of the Council of Ministers<sup>561</sup>. This system gave a lot of political discretion which in most cases raised apprehension of favoritism and ideological orientation. The ordeal with the Emergency highlighted the threats of executive primacy whereby the judiciary came out demanding increased authority in regards to appointment. This gave birth to the Collegium system by judicial pronouncements, which caused the primacy in appointment to the senior judges of the Supreme Court. Although the Collegium was designed to separate appointments and politics, it has been accused of secrecy, lack of transparency, and internal unpredictability.

The failure to abolish the Collegium by the National Judicial Appointments Commission (NJAC) was due to dissatisfaction between the executive and legislative with judicial monopoly. Nonetheless, the judicial supremacy of appointment was reinforced through the threat to independence by the Supreme Court in its invalidation of the NJAC. Political pressure has continued to be alleged especially on delays on appointments, selective approvals, and transfers of judges. Although constitutionally allowed, transfers of judges have been criticized as a way of exercising insidious political influences. This has been further compounded by the absence of clear criteria and publicly justified decisions and has led to more questions of accountability and legitimacy in the appointment process.

### 6. Case Law Analysis: Judiciary vs Political Power

The Indian constitutional jurisprudence provides various landmark cases that demonstrate how the judiciary has been involved in the political power. In *Kesavananda Bharati v. State of Kerala*, the Supreme Court exercised its jurisdiction by propounding the Basic Structure Doctrine which restricted the power of the Parliament to amend the Constitution<sup>562</sup>. This decision was a clear claim to the judicial dominance over the majoritarianism of the political. In contrast, *ADM Jabalpur v. Shivkant Shukla* is a low count of judicial independence because the Court approved the suspension of fundamental rights during the Emergency as a sign of submission to the executive.

The season after the Emergency was marked by the corrections of the judiciary and institution. The cases of Advocates-on-Record Association of the Supreme Court delineated and reiterated the Collegium system in the spotlight of judicial independence of appointment ruling<sup>563</sup>. Equally, the NJAC ruling affirmed the judiciary as the ultimate determinant of the constitutional protection. Some recent politically charged decisions, involving election matters, federal cases, and civil liberties, show an uneasy trend of judicial activism and restraint. Where at times the courts have been decisive in dealing with the political extravagance, selective intervention has brought up the issue of consistency and neutrality.

### 7. Impact of Political Influence on Judicial Credibility

The credibility of the judiciary is greatly affected by the political influence (real or perceived). The belief that judicial rulings are objective and that they would not be affected due to political reasons determines the public trust in a court. Perceptions of judicial conduct are more and more being formed through media accounts

<sup>561</sup> Sihmar AK. Role Of Judiciary in Interpreting the Indian Constitution and the Concept of Judicial Activism. *Ianna Journal of Interdisciplinary Studies*, ISSN (O): 2735-9891, ISSN (P): 2735-9883. 2025 Nov 7;7(2):138-46.

<sup>562</sup> Hooda P. Legal Realism: Investigating How Social and Political Factors Influence Judicial Decision-Making. *Jus Corpus LJ*. 2024;5:364.

<sup>563</sup> Kumar L. THE POLITICAL INFLUENCE ON JUDICIAL REVIEW: HOW JUDICIAL INDEPENDENCE WORKS ACROSS SYSTEMS. *JUDICIAL*. 2025:362.

and politicized popular discourse, which occasionally forms a judgment based on the view that the judges are ideologically motivated<sup>564</sup>. The fear of selective judicial activism whereby the courts play an aggressive role in certain political affairs and a passive role in others also contributes towards the skepticism. Mature democracies also face similar problems comparatively, but institutional transparency and accountability operations can help reduce the credibility erosion. This has the threat of compromising the moral authority and democratic legitimacy of the judiciary in India, which is a long-term political pressure.

The discussion of political influence in the judiciary should not only be confined to institutional reforms, but informal and systemic factors that influence judicial behavior should also be taken into consideration. There is no such situation as judicial decision making in a vacuum but rather in a wider socio-political context where there is an indirect pressure by the opinion of the population, media attention, and political discourse. The growing comparative publicity of courts and judges has raised expectations of judicial responsiveness to the point of confusing constitutional adjudication and popular feeling. Although democracy needs to be transparent, there is a danger of excessive scrutiny by the citizens, which would limit the discretion exercised by the judiciary and promote conservative or erratic decisions to be made in politically charged issues.

The other important dimension is the inner workings of judicial institutions. The effects of courts on the judicial verdict through the hierarchical decision-making, administrative control within the court, and the assignment of cases can impact the judicial results without any noticeable political interference. These internal dynamics are however seldom spoken of but they can have as much influence on

judicial independence as the external pressures do. Moreover, the very slowness of the process of adjudicating politically important cases can have political repercussions, casting doubts upon the promptness of the judicial process and the judicial restraint.

The comparative experiences of other constitutional democracies indicate that the phenomenon of political involvement into the judiciary is not peculiar to India, although a well-established institutional cultures and clearly defined norms are limiting the negative impact of this phenomenon. In India, it is necessary to reinforce ethical norms, reinforce judicial education on constitutional values, and create a culture of institutional integrity as an influence against the insidious forms of politicization. These structural and normative issues are important in order to maintain the judicial authority and long-term viability of the constitutional rule.

## 8. Challenges and Criticisms

One of the issues that the Indian judiciary is facing is balancing independence and accountability. The Collegium system has been held to high criticism on the basis of lack of transparency, lack of specified selection criteria and also lack of public scrutiny. The lack of judicial efficiency and access to the justice has been caused by the long vacancies caused by persistent tussle between the executive and the judiciary over appointment of judges. Also, threats of impeachment, negative publicity and legislative interference are risks to institutional autonomy. The mentioned difficulty enables one to recognize the complications of maintaining judicial independence in a more and more politicized democratic system.

## 9. Recommendations and Reforms

Making the judiciary stronger and more accountable needs significant and well conceived reforms. The appointment of judges will have to be reformed so that there is openness, specified eligibility criteria as well as disclosures that are not irrational as well as

<sup>564</sup> Kumar S. A New Managerial Approach to the Judiciary in India: Critical Review of the Irrational Bureaucratic Structure and a Call for Change. *European Journal of Law and Political Science*. 2022 Apr 28;1(1):27-36.

bring greater credibility to the institution without damaging judicial independence<sup>565</sup>. Arbitrariness and opaqueness can be solved by introducing more transparency in the work of the Collegium, including the publication of selection rationales and timelines. Meanwhile, institutional protection should be enhanced so as to avoid indirect political interference in the form of delay in appointments, approvals, or coercion. The civil societies and media also have vital roles to play with respect to protecting judicial integrity by ensuring that people are well informed in their discussions but not sensationalism that destroys trust in the institutions. Also, restricted constitutional or legislative reforms based on the principles of democracy and the respect of the separation of powers could be used to define the roles of the institutions and reinstate the balance between the judicial branch, the executive branch, and the legislative branch. These solutions are necessary to strengthen the civic trust and make the judicial activity efficient.

## 10. Conclusion

This analysis shows that in spite of the fact that the Indian Constitution envisages the existence of a strong and independent judiciary, the issue of political influence is still present. The independence of the judiciary is not just a symbolic expression of a constitutional ideal but a practical need to support the rule of the law and democratic government. Politics and judiciary have implications of the institutional credibility and the societal trust in the judiciary through the interaction between politics and judiciary especially on appointments and politically sensitive adjudication. It is hence necessary to ensure that the political pressure is insulated against and at the same time promote transparency and accountability. Central to this fine balance is the future of Indian democracy which is based upon institutional reform, restraint on ethics and academic speculation. Additional studies can

be used to develop new frameworks that attain judicial independence alongside increasing democratic accountability.

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INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 6 AND ISSUE 2 OF 2026

APIS – 3920 – 0001 (and) ISSN – 2583-2344

Published by  
Institute of Legal Education

<https://iledu.in>

Law and Political Science. 2022 Apr  
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