A BRIEF OVERVIEW OF INDIA'S AND A FEW OTHER NATIONS' JUSTICE STRUCTURES

K. Rama Krishna Baba[1]

[1]Research Scholar, P.G. Department of Legal Studies and Research, Acharya Nagarjuna University, Guntur

1. INTRODUCTION

Judicial independence is a cornerstone of our constitutional system. This highlights the critical need for a judiciary unfettered by executive or presidential meddling. This independence is guaranteed by the detailed and complex provisions of the Constitution. However, the judiciary's independence is a broader concept that includes freedom from biased pressure and other sources of prejudice. There are numerous facets to this, including a lack of bias stemming from the judges' own social class, and an unwavering confidence when dealing with other economic and political power centers. There must be no taint to the public justice system or the judiciary's autonomy. Social injustices must be eliminated, and equality must be genuinely granted to all individuals regardless of caste, creed, sex, religion, or geography, with the only safeguard against discrimination being the rule of law. When a judge enforces the law in accordance with the Constitution to uphold its principles, he or she cannot continue to play the role of the earlier, passive judge. Due to the extraordinary complexity of modern litigation, the judge must not only declare citizens' rights but also fashion the specific relief warranted under the given facts and circumstances.

Additionally, the judge often commands the executive and other agencies to enforce and give effect to an order, writ, or direction, or prohibits them from committing unconstitutional acts. In this complicated adjudicatory process, the judge's job is not only to interpret the law; he or she must also establish new legal standards and shape the law to fit evolving social and economic situations so that constitutional aspirations may be realized. Since this is a matter of law, the judge must give due consideration to economic and social consequences. Because of this, the public expects judges to play active roles in court—roles that were once unusual but are now commonplace. If a judge is to carry out these duties effectively, he or she must act independently and have confidence that these actions will not bring personal or professional ruin.It is the judiciary as an institution that is guaranteed independence, not just the individual judge. Therefore, institutional independence is both necessary and appropriate. A thoughtful ruling from the court ensures constitutional emancipation, which flourishes best in a setting of judicial independence. In order for judges to carry out their constitutionally mandated function as public protectors, every effort must be made to maintain an independent judiciary. The idea that the independence of the court and basic human rights are inextricably linked is frequently challenged. France is one nation that rejects this relationship, at least in its traditional sense. In Rousseau's nation of liberty, equality, and fraternity, fundamental rights are strictly upheld; nevertheless, disputes are resolved by the courts using existing statutes as an absolute guide.

All legislation must uphold fundamental rights, but it is the duty of the non-judicial Constitutional Council, rather than the ordinary judiciary, to ensure that this happens. Bills are examined by this Council at the drafting stage, and a bill cannot become law until it is approved by them. Fundamental liberties are neither reduced to a "mere teasing illusion" (as phrasing from Bhagwati, J. warns) nor turned into "ornamental show-pieces" in France. The framers of our Constitution debated this equilibrium. As Dr. Ambedkar noted, "I do not see how five or six gentlemen sitting in the Federal or Supreme Court can be trusted to determine which law is good and which law is bad."^4 The framers initially thought it was unwise to give the judiciary the overarching power to strike down laws purely because they violated vague underlying principles. The role of the judiciary in relation to fundamental rights has evolved significantly since 1952, when the early restrictive view was expressed in State of Madras v. V.G. Row^5. Now, the concept of fundamental rights aligns closely with society's socio-economic needs, and reasonable restrictions on these rights are continually absorbed, following the reasoning of Bhagwati, J. in Minerva Mills Ltd. v. Union of India^6 and Waman Rao v. Union of India.

The purely mechanical duty of the judge has been relaxed. The fact that citizens in certain countries acknowledge basic human rights without the courts constantly acting as a referee disproves the claim that such rights inevitably become mere decoration in a state lacking absolute judicial supremacy. Judicial power has evolved from being a passive "sentinel on the qui vive" to actively verifying the authenticity of the connection between a challenged statute and the Directive Principles it aspires to adopt. As a result of Article 12, in conjunction with Article 37, the Indian courts are obligated to implement Directive Principles, which are now treated as acceptable limitations on basic rights. Given the altered political and legal stance toward the Directive Principles—which are essential for developing an equitable society—the dogmatic attitude resulting from an isolated reading of Article 13(2) regarding the duty of the court has been greatly watered down. Furthermore, the fact that President Roosevelt did not actually execute his court-packing threat does not prove that the American judiciary is completely immune to political pressure. Quite the contrary; the President achieved his policy goals because the threat itself caused the judiciary to alter its stance, maintaining a visible distance from striking down economic laws and regulatory measures ever since.Some contend that the court is trying to establish an exclusive role for itself via its expansive interpretations—a role that the text of the Constitution does not explicitly authorize. Not only do judges have the structural protections that the judiciary has asserted under various sections of the Constitution, but so do the Comptroller and Auditor General, the Chief Election Commissioner, and other independent constitutional authorities. Furthermore, absolute judicial review is not an inherent, unchecked prerogative of the Indian courts, but rather a textually balanced authority that the judiciary has interpreted into the structure of the Indian Constitution. In addition, the strict separation of powers is not explicitly codified in the Indian Constitution but has been progressively introduced and solidified via landmark court rulings.As a general concept, "judicial independence" encompasses the total absence of prejudice and governmental interference. Therefore, an independent court is crucial to preserving a citizen's right to privacy and liberty. When there is a serious systemic threat, the court has a fundamental obligation to maintain the balance of justice, unaffected by the emotional voices of the masses or by real or apparent executive authority. Ultimately, judicial individuality is the foundation of judicial independence. The court is not an abstract, disembodied body; it relies on individual judges who, much like independent decision-makers, must operate impartially and autonomously.

2. Indian Jurisprudence

The monarch was revered as the source of justice in ancient India. The protection of his subjects was his first priority. He was given the highest power and was revered as the ruler of Dharma. He was given the highest power to administer justice in his realm and was revered as the Lord of Dharma.14 Considerations of paramount state significance were originally heard by the king's court, which also served as the highest court of appeal. Learned Brahmins, the Chief Justice and other judges, ministers, elders, and traders all served as advisors to the monarch in his court. Seated behind the kings sat the pradvivaka or chief justice. The court was comprised of a board of justices that assisted the Chief Justice. The judges were all members of one of the three highest castes, and most were Brahmins. At times, these judges served as independent tribunals with defined geographical authority. Stationery tribunals, moveable courts convened by Royal signet while the King is not present, commissions under the King's presidency, and permanent courts are the four types of tribunals mentioned by Brihaspati.15 The kulani, or tiny village council, was responsible for dispensing justice to the population and was formed of a board with five or more members, similar to modern panchayats. Endowment, irrigation, cultivable land, land penalty, etc. were all covered. Simple civil and criminal disputes were handled by village councils. At a higher level, government officers presided over courts in towns and districts, with the king's authority to dispense justice. The role of the village headman was to act as a liaison between the local assembly and the formal government. The hereditary position of village headman meant that he was responsible for keeping the peace and dispensing justice in every community. In addition, he served on the local council. In addition to mediating disputes with the government, he was also the village chief.16 Members of different trade guilds, companies, and associations of merchants and craftspeople would have their conflicts resolved by authorities with the power to effectively govern them. At the bottom of the hierarchy is the family arbitrators, then there are judges, then the Chief Justice (Adyakshya), and finally the monarch, whose verdicts are made into

law, as stated by Brihaspati.17 Central tribunals or tribunals convened under royal authority were the usual venues for criminal proceedings. Local judicial assemblies might only hear cases involving minor infractions. Throughout ancient India, the ruling of any higher court would take precedence over any lower court's judgment. The rulings of the upper courts were duly respected by all of the inferior courts. Therefore, the king's decision was final The idea that justice should not be handed down by a single person was a fundamental principle in ancient Indian law. The administration of justice was traditionally best left to a bench of at least two judges. For example, the phrase "no decision was given by a person singly" appears many times in the original writings. In ancient India, the legal system was very complex.

2.1 Judicial appointments and Procedures

Caste was a significant factor in the top judge's and other judges' appointments. A Brahmin's preference for appointment as a head judge or judge is mentioned in almost all legal literature about the ancient judicial system. Sudra was never selected as a judge; instead, Kshatriya and Vysyas are next in line of choice. No one who is ill-informed about the country's traditions, who does not believe in the caste system or in God,18 who hates holy texts, who is mad, angry, or upset may be assigned to a position of judge, according to the requirements. It was taboo for women to serve as judges. The requirements for magistrates and judges were very stringent. Before presiding over cases involving citizen conflicts, judges were had to swear an oath of impartiality. A judge who follows these rules while carrying out his judicial responsibilities is spiritually equivalent to someone who does a Yagna. 19 The gravest transgression was the immorality of a judge being dishonest. First and foremost, one must have integrity. Brihaspati says, "A judge should decide cases without consideration of personal gain or prejudice or any kind of bias and his decisions should be in accordance with the procedure prescribed by the texts." This is in reference to the judge's honesty.

2.2 The Royal Judges

The king's counselors and judges had to be courageous, unbiased, and able to restrain him from being unjust or making errors while they were on the case. "It is the duty of the judge samya to warn the king and prevent him from inflicting an illegal or unrighteous decision upon the litigants' vivadinam," Katyayana argues. Even if the king refuses to hear the judge's view, the judge has fulfilled his responsibility to advise him in a way that he believes is legal. "If the judge fails in his duty, he is guilty." This means that he has no need to appease the king when he learns that the monarch has strayed from fairness and justice.

2.3 Royal separation of Judicial power

As the king's responsibilities grew with civilization, he had less and less time to personally hear cases, therefore he delegated more and more of his judicial tasks to professional judges. "If the king is unable to hear suits in person due to work pressure, he should appoint as a judge a Brahmin who is knowledgeable about the Vedas," Katyayana adds. There were stringent requirements for becoming a judge. Judgment should be handed down by someone who is austere and controlled, unbiased in temperament, steady, God-fearing, diligent in his work, not prone to wrath, living a virtuous life, and from a good family, says Katyayana. Though his authority as head of the highest court of appeal was preserved, the king's judicial duties were diminished throughout time due to the establishment of a formal hierarchy. A regular court function, as mentioned above, existed during the Maurya Empire. A judge's first and main responsibility was to uphold the rule of law without favoritism or prejudice. Both the notion of integrity and the judicial code of integrity were given very broad and stringent meanings. When deciding cases, a judge should not be biased or motivated by personal benefit; instead, he should follow the process outlined in the legal codes, according to Brihaspati. By carrying out his judicial responsibilities in this way, a judge

attains the same level of spiritual merit as someone who conducts a Yajna. In order to guarantee that the judges were not biased, the most rigorous measures were used. It was understood that a private hearing may lead to bias, thus all trials had to take place in open court. Additionally, judges couldn't have private conversations with the parties while the case was ongoing. The five reasons that induce judges to take sides in 17 cases are outlined in Shukra-nitisara. Attachment, avarice, fear, animosity, and secretly listening to one side of a dispute are all present. Another measure to ensure the fairness of the court system was the prohibition of having a single judge not even the king hear a case. The ancients understood that there is less room for corruption or mistake when two brains communicate, thus they made sure that judges sat in benches with an unequal number of judges and that the king sat alongside his advisors while making decisions.

The Supreme Court said that "Persons entrusted with judicial duties should be learned in the Vedas, wise in wordly experience and should function in groups of three, five, or seven." Three judges should hear a case, according to Kautilya's edict. The British-established legal system in the United States now does not adhere to this superior protection. Due to financial considerations, all cases are now presided over by a single district judge, civil judge, or Munsif. It was the quality of justice, not the economics, that mattered most to the ancient Indian state. The sabhasada, or councilors, who served as the King's assessors and advisers were a defining element of the court system. Their role was similar to that of a contemporary jury. Yajanvalkya asks: "The Sovereign should appoint as assessors of his court persons who are well versed in the literature of the law, truthful, and by temperament capable of complete impartiality between friend and foe." Even if they disagreed with the Sovereign and warned him that his view ran counter to law and equity, these assessors or jurors were compelled to speak their minds without fear. The assessors should not remain quiet when they see the Sovereign tempted to resolve a disagreement illegally, according to Katyayana. If they do, they will join the King in torment. A similar passage in Shukr-nitisara repeats the same instruction. In fact, the Sovereign (or, in his absence, the presiding judge) was required to issue a decree Jayapatra in line with the jury' recommendations rather than overturn their decision. When the assessors have delivered their decision, the King should issue a decree to the victorious side, according to Shukr-nitisara. its position is comparable to that of the Judicial Committee of the Privy Council,

which "humbly advises" its Sovereign, but their recommendations are legally enforceable. One parallel may be the Soviet system of people's assessors, who sit alongside the professional judge in the People's Court but have the same standing and the power to overturn his decisions. 18 One exception, nonetheless, did exist. The Sovereign may make a personal decision in a particularly contentious issue if the jury couldn't reach a verdict. If the assessors are unable to reach a decision on a dispute due to the fact that it involves complex or uncertain problems, the Sovereign may utilize his Sovereign privilege, according to Shukra-nitisara. According to the ancient Indian literature such as the Vedas and the Smritis, which detail the country's judicial administration, it was a crucial part of the government back then. Dharma, which was paramount and binds all individuals including the King to its rules, entrusted the state with the duty of delivering justice to the people. It was believed that the Judges would have extensive knowledge of the Dharma Shastras.

A Chief Justice aided the King in his role as the ultimate court of appeal. The King-in-Council20 was obligated to observe the Dharma in action.21 Certain fundamental principles were guaranteed to govern the administration of justice. The idea that the law had ultimate authority and that the monarch had no choice but to recognize this was one such premise. The king had to pay penalties that were a thousand times more than those an ordinary citizen would pay for a comparable offense,22 according to Manu, the great law giver. The ancient judicial administration also adhered to the fundamental idea of separation between the executive and the judiciary. Both the jury system and the public trial system ensured its success. Under Hindu monarchy, the judiciary was conceptually and functionally distinct from the executive branch.

Historical accounts, however, place the actual establishment of India's legal and judicial systems in the fifth century B.C., a period that R.S. Sharma dubbed the "age of Buddah." Traditional tribal laws did not distinguish between social classes. The tribal communities, however, have already been firmly divided into four separate classless groups. In India, many imperial dynasties such as the Mauryas, Guptas, Kushanas, and Vardhanas rose to power beginning in the fourth century B.C. and continuing until the sixth century A.D. Judicial administration was very important throughout the reign of these kingdoms.

3.Judicial Independence and its Constitutionality

The Constitution establishes a dual polity, but it also establishes an integrated judiciary that has the authority to interpret and decide cases involving legislation passed at the federal and state levels. The judicial system in the nation is organized in a pyramidal fashion. Above everything else, there is the Supreme Court. A separate high court is present in the majority of states. A shared High Court exists in some states. Article 124 of the Indian Constitution regulates the process of selecting and dismissing judges from the Supreme Court. For certain ancillary issues, see Arts 125– 129. Article 217 regulates the process for selecting and dismissing judges from the High Courts. Articles 218–221, as well as 223–224A, address specific ancillary issues. The process of transferring judges between different high courts is outlined in Art. 222. Articles 233–237 of the Constitution address matters pertaining to the subordinate judiciary. The regulations promulgated by the individual state governors in accordance with the requirement of Art. 309 of the Constitution naturally augment these provisions.

The constitutional separation of the judiciary and the executive branch is a deliberate attempt to reflect the weight and gravity of the judicial branch's role. In addition to this, the Constitution clearly favors judicial independence. This goal has been advanced via the enactment of several regulations concerning the appointment and removal of judges, regardless of their status.

3.1 Appointments to the Supreme Court by the judiciary

The goal of the social revolution's judicial branch was to uphold Native Americans' long-sought equality. Within the public services of the State,75 "The State shall take steps to separate the judiciary from the executive," reads Article 50 of the Constitution. This has been designated as a "fundamental in the governance of the country" Directive Principle of State Policy. The first and most important step in reforming the judiciary is to change the process of judge appointments. Appointing the correct judges "would go a long way towards securing the right kind of judges who would invest the judicial process with significance and meaning for the deprived and exploited sections of humanity," as Justice Bhagwati put it. Articles 124–147 address matters pertaining to the Supreme Court, including its responsibilities and nominations. 3.3.1 (2) Makeup of the Judgment Members of India's highest court, the Supreme Court, include the Chief Justice and a maximum of seven additional justices appointed by Parliament. Parliament may, therefore, increase this figure via legislation. In 1977, the number of judges was increased from seven to seventeen, excluding the Chief Justice.

Judgment Expertise To be appointed to the position of Supreme Court judge, an Indian citizen must fulfill two criteria: (1) they must have been a judge on the High Court for a minimum of five years. (2) The President regards the person as a distinguished jurist; (3) They have been an attorney for a high court for at least ten years. Thus, a lawyer who does not currently practice law may nonetheless be appointed as a judge of the Supreme Court by the President if he thinks the lawyer, is an outstanding jurist. In the past, the United States Supreme Court has appointed individuals who did not have experience as practicing attorneys to serve as judges. One such case in particular is the nomination of Mr. Felix Frank Further to the US Supreme Court. Prior to his nomination to the Supreme Court, Mr.

Frank Furter served as a professor of law at Harvard University. So yet, no judge of India's highest court has been appointed who is not also a practicing lawyer. Before taking the oath or affirmation required by his position, every Supreme Court judge appointed by the President must do so in the presence of the President or another person designated by him.

3.2 Appointment Process for Judges

The President appoints the Supreme Court justices. The President appoints the Chief Justice of the Supreme Court after consulting with as many Supreme Court and High Court judges as he thinks fit. However, the President must always seek the advice of the Chief Justice of India while designating additional judges. As he sees fit, he may seek advice from other high court and supreme court judges.80 Two distinct forms of consultation are discussed in Article 124(2). The first is entirely up to the President's discretion, while the second is mandated by law (with the caveat that the President's authority to nominate judges is primarily ceremonial.

Discretionary in the sense that when the President makes the appointment of a judge of the Supreme Court (including CJI) he has a wide range of judges of Supreme Court and high courts to whom he may consult in this regard. He may consult one or ten or none judges for this purpose. But the proviso makes it mandatory that in the matter of appointment of a judge other than CJI, the CJI shall always be consulted). recommendation of the Council of Ministers on this issue). Many were concerned that the executive branch would use judicial appointments as a political football. Judges are not to be appointed at the whim of the Indian executive, according to the country's constitution. When it comes to the nomination of judges, the Executive must seek the counsel of those who are ex-hypothesis and competent to do so in accordance with this Article. Article 124(2) states that the President must contact the Chief Justice of India while selecting additional Supreme Court judges. However, he is under no need to seek advice from anyone before selecting India's chief justice. that is not required of him to consult anybody, since the term "may" be employed in Art. 124 to make that plain. "Judicial incompetence manifests itself in a lack of familiarity with the legislative history, the Constitution, well-established principles of interpretation, and the precise meaning of common English words."It is easy to see how the President may be given extensive discretionary authority to choose judges under these rules. And by "President" we mean the current administration, both legally and in practice.

In a world without sound conventions, the phrase "after consultation with" would imply that the Chief Justice of India should be included in the process but that his judgment is not necessarily binding. The members of the Constituent Assembly clearly had judicial independence and the separation of powers in mind when they drafted the Constitution, yet such an interpretation would clearly render these principles meaningless. Actually, Art. 50 of the Directive Principles already addressed the subject, thus the Constituent Assembly had previously decided against a certain modification that would have completely separated the Judiciary from the executive branch in the chapter addressing judicial nominations. The Honorable Supreme Court voiced its skepticism over the validity of the phrase "consultation" in light of the Supreme Court's interpretation in S.P. Gupta v. Union of India, and proposed a bigger bench of nine judges to consider the matter of whether the Chief Justice of India had absolute power to nominate judges to positions of higher judiciary. 86 It should be mentioned that the establishment of the National Commission was being considered throughout the hearing of this case, and it was decided that it is unnecessary to review the Chief Justice of India's stance, as established in S.P. In the matter of Gupta. The phrase "consultation" is used in clause (2) of Article 124, which might refer to meetings with the Chief Justice of India, Supreme Court judges, or High Court judges.87 The word "concurrence" is incorrect. Contrary to what some members of the Constituent Assembly had proposed, the term "concurrence" was not approved during the debates that followed. Both the common and formal definitions of a term could change based on the surrounding material. Common language often makes use of words that do not correspond to their true meaning, and this is not limited to legalese. Thus, their popular use may vary from their legal definition. But in any given language, a word's conventional meaning is the

thing it denotes. Although English is one of India's official languages, the authorities in English semantics, such as the Oxford English Dictionary, remain foreign. As a result, the judiciary has invaded the domain of semantics by equating the words "consultation" and "concurrence" in its pronouncements, attempting to change the meaning of a word that is attached to a foreign language. "Consultation" and "seeking opinion" 88 are almost synonymous in most dictionaries. Actually, they mean the same thing. However, "consultation" is now considered to be synonymous with "concurrence" as the Court has "decided" that the terms will have distinct legal meanings. At first, the Court determined that "the word 'consult' implies a conference of two or more persons or, an impact, of two or more minds in respect of a topic in order to enable them to evolve a correct or at-least a satisfactory solution".

However, this in no way suggests or indicates that consultation is legally binding. In the case of S. P. Gupta, the Court affirmed Justice Krishna Iyer's statement that "Consultation is different from consentaneity. They may discuss but may disagree; they may confer but may not concur."90 The Court emphasized that the power of appointment is limited to consultation and that the two are not the same thing. However, the current legal position is that, as established by the Honorable Supreme Court in the SC Advocates on Record Association case, Articles 124(2) and 217(1) of the Constitution of India require the highest-ranking officials from both the executive and judiciary branches to fulfill their constitutional duty working together in consultation to appoint judges to both the highest court in India and the country's lower courts. If there is a dispute throughout the consultation process, the position of the Judiciary, which is paramount, must be given precedence. In accordance with Article 124 (2), the chief justice of the judiciary is to be consulted as part of the process of consultation.

A group of persons at the highest level of the judiciary formulate the Chief Justice's opinion, not the Chief Justice himself. This group will be comprised of the Chief Justice, two senior-most Supreme Court judges, and the senior Supreme Court judge from each state. According to Articles 124(2) and 217(1) of the Constitution, the President cannot nominate anybody unless the Chief Justice of agrees with the nomination. Indian systems do not differ from others in that they also include consultation. The nomination of judges is a matter that many of the world's most powerful nations address via consultative processes. A system of consultation is also present in the English legal system, which is often seen as the inspiration and genesis of India's legal system. Indeed, it exemplifies the ideal method of democratic consultation. In the English system, a diverse group of senior legal practitioners and judges are consulted for their thoughts and opinions of an applicant's work and abilities. Appointments to the High Court Bench and higher judiciary positions are made by the Queen on recommendations from the Prime Minister and the Lord Chancellor.

4. Legal Reforms in India and the Law Commission

Quick and fair justice is essential to a democratic society. There have been periodic attempts to make this a reality, and Lok Adalats have been established to handle the backlog of millions of cases in various courts around the nation. Even though suspects may have already completed their sentence, they continue to languish in jail since neither the courts nor anybody is willing to post bail for them. To ensure that laws are applied fairly, legal reform is necessary. Equality, freedom from hunger and persecution, and fair play are basic or fundamental rights that depend on these. The Law Commission becomes indisputablely important on these aspects. Not only does it need to propose wellconsidered changes to the frequency of general elections, but it must also revise legislation that impact public life. There is a lot of room for impartial investigation of the challenges facing our country on the Law Commission's wide canvas. Whether the recommendations address issues of national or regional priority reorganization, the economy, the environment, or science and technology, they are the property of the country and decisionmaking authority rests with the court, the administrative branch, and the deliberative branch. Nobody ever hears from or sees the Law Commission. When no one is looking, that is how it ought to be. Thoughtful Indians, both individually and collectively, may sense the effects of its efforts on the nation's affairs. It would be very difficult to quantify the

outcome of the Commission's discussions, but it may not be required. Chairman of the Law Commission Shri Justice B.P. Jeevan Reddy said that law reform has been an ongoing process throughout Indian history, but especially over the past three hundred years. Historically, reform efforts were more ad hoc and did not include formally established law reform institutions; instead, they were based on religion and customary law. But every so often, beginning in the mid-nineteenth century, the government would form Law Commissions with the authority to suggest legislative reforms in order to clarify, consolidate, and codify specific areas of law whenever they saw fit. Despite being an ad hoc entity, the Law Commission of India has played a crucial role in India's legal reform process. The Supreme Court of India and academics have acknowledged its innovative and forward-thinking work, which has included both advising and criticizing government policies. The Supreme Court has used the Law Commission's findings and recommendations in many rulings. A retired judge from the Supreme Court often serves as chairman of the Law Commission, which has contributed to the Commission's prominence. The Commission's recommendations do not have any legal weight because "they are recommendations.

They may be accepted or rejected. Action on the said recommendations depends on the legislature and executive, which are concerned with the subject matter of the recommendations." For this reason, several crucial recommendations have gone unimplemented, but the Commission has kept working on its assigned tasks. The authority granted to the Commission to consider and make recommendations on its own initiative has also been useful to the country's legal system. The Commission's record is full of such recommendations that have been made in response to changing circumstances and the need for new legislation. Additionally, the Commission has been summoned multiple times to reconsider its previous reports in light of new circumstances and the appropriateness of the law in such cases. The 205th Report of the Commission was prepared in response to the Supreme Court's request for assistance in determining "certain legal issues relating to child marriage, and the different ages at which a person is defined as a child in different laws." The Commission has been asked to work on specific issues and provide its views by the Supreme Court on multiple occasions, in addition to the Law Ministry. In addition to making all of its publications available online, the Commission has been a great help to legal scholars in India.

The fact that several of its reports have been welcomed by different ministries and are now being used to alter the legal landscape speaks volumes about the Commission's role in promoting legal reform in the country. Upon gaining independence, the Constitution of India, outlining the fundamental rights and state policies, provided a fresh framework for law reform that was to meet the requirements of a pluralistic democratic society. Despite the fact that the Constitution required the pre-Constitutional laws to remain in effect until amended or repealed, there were calls in Parliament and elsewhere for the creation of a Central Law Commission to advise on the revision and updating of the inherited laws to meet the evolving demands of the nation. In response, the Government of India duly established the First Law Commission of Independent India.

5. CONCLUSIONS AND RECOMMENDATIONS

5.1 CONCLUSIONS

Many people believe that the ability to choose judges may be misused. This means that the process for selecting judges has to be updated as well. The current level of secrecy surrounding the nomination of judges is unacceptable. There seems to be some disagreement over the precise scope of Art. 124 (2). Someone thinks the president shouldn't consult with every single high court judge and Supreme Court justice that he or she deems appropriate for the job. The executive may choose to confer with the individuals listed therein or not at all. The consultation process is merely ceremonial and has no bearing on the President's authority, who always acts on the Council of Members' suggestion.

Another opinion holds that the government must give proper consideration to the recommendations offered by those contacted and that the consultation stipulated in Art. 124(2) is required. However, there is an opposing perspective that states the President is required to consult with the persons named in Article 124(2) before selecting the Chief Justice since the Chief Justice is considered one of "every judge" in that provision. Judges for the High Court are appointed by the President after consultations with the State Governor, the Chief Justice of the applicable High Court, and the Chief Justice of India. Despite not being specifically specified in Article of the Constitution, Union Law and Home Ministers now play a crucial role in providing information on a qualified candidate.

It is often observed that the Chief Justice suggests potential judges to the Chief Minister, who then recommends them to the Governor, if all parties agree. It is evident that politics is involved in the appointment of judges via this system. The Law Commission of India recommended disbanding the National Judicial Service Commission (NJSC) and its eleven members in its Report. The actual limits of the executive's power in certain domains remain a matter of debate.

5.2 RECOMMENDATIONS

There is a lack of detail about the procedure to be followed in the event that the consultees are unable to reach a consensus or if the majority disagrees with the Chief Justice of India. Because the complete record was compiled and made public in the S.P. Gupata case, it has already been established that the public can view all of the correspondence between the various agencies involved. The American and English justice administration systems have left their mark on the Indian legal system in the form of several concepts and tenets. All parties involved the society, the system, and the country's future stand to benefit greatly if the Indian system follows these systems' lead when it comes to nominating justices to the Supreme Court. Through judicial review and other measures, the court will prevent the legislative and the executive branch from abusing their powers, although "Quis custodiet ipsos custodes" (who watches the watchman) applies.

One way to accomplish the goal of keeping the executive and judiciary branches separate would be to have people who hold judicial office themselves assess the merit of potential appointees. This would include the Chief Justice of India and the high courts, as well as other senior judges of the Supreme Court and the High Courts. Other human rights can only be effectively enforced via affirmative state action; when the state fails to do so, the court must step in and force it to do so. Therefore, it is imperative that the court maintain its rigorous independence and be completely free from any influence or pressure from the executive branch. Naturally, independence is a trait that must originate from the heart. It must be an inherent characteristic of the judge's being; nonetheless, judges must maintain their complete independence and bravery in the face of executive intimidation, coercion, or blandishment. The executive branch also has a significant amount of influence when it comes to appointing judges to higher courts. Particularly in developing countries, I fear that the judiciary's independence may be eroded if the executive branch is given too much power. It is true that the executive is granted this authority in the majority of democratic nations as Parliament holds the executive branch responsible for its activities. In reality, however, this accountability no longer exists as, in many nations, the executive now commands the legislature and the legislative branch has vanished, with the former ruling the latter. Furthermore, discussion-based accountability can only be "enforced" once the appointment has been made and is finalized. Therefore, the chief justice must chair a Judicial Service Commission made up of distinguished judges, attorneys, and legal scholars, to which the executive branch should be represented. This commission will then recommend a candidate for appointment that the government must approve. Just that would guarantee the nomination of honest and capable individuals while avoiding political meddling. It is necessary to establish the National Judicial Commission in order to investigate the justice system's accountability. These judges have the power to determine the lives and liberties of all citizens in the nation. We have a right to know about their personality and lives. The

Constitution must be amended if necessary in order to address the appointment of judges and their wrongdoing. We are quite entitled to discuss a judge's wrongdoing.

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