



Mains Practice Question

Q. “Constitutionally guaranteed judicial independence is a prerequisite of democracy.” Comment. (150 Words) (GS-II, Mains 2023)

19 Sep, 2023 GS Paper 2 Polity & Governance

Approach:

- Begin your answer with a concise and clear introduction. Define or explain what judicial independence in a democracy means.
- Discuss the various reasons for which an Independent Judiciary is crucial in a democracy. You can also provide some examples to support your arguments.
- You can conclude the answer with an emphasis on the critical role of constitutionally guaranteed judicial independence in preserving and strengthening democracy.

Introduction

Judicial independence is the principle that the judiciary should be free from any external influence or interference in its functioning. It is essential for ensuring the rule of law, protecting fundamental rights, and maintaining checks and balances in a democratic system.

Body

Judicial independence is not just an ideal, but a fundamental necessity for the functioning of a democratic society for the following reasons:

- **Checks and Balances:** The Independent Judiciary plays a vital role in ensuring that the executive and legislative branches of the government do not violate the Constitution or encroach upon the rights of the people.
 - For instance, in the case of **Kesavananda Bharati vs State of Kerala**, the Supreme Court held that the Parliament cannot amend the basic structure of the Constitution.
- **Protection of Rights:** The Independent Judiciary has been a staunch defender of the fundamental rights and freedoms guaranteed by the Constitution to all citizens. The Court has expanded the scope of these rights through various landmark judgements, such as **Indira Sawhney vs Union of India**, which upheld the reservation policy for backward classes and **Navtej Singh Johar vs Union of India**, which decriminalized homosexuality and recognized the right to sexual orientation as a part of the right to privacy.
- **Fair and Impartial Justice:** The Independent Judiciary strives to deliver justice without fear or favor, regardless of the status or identity of the parties involved. The Court has demonstrated its commitment to fair and impartial justice by taking up cases suo motu, entertaining public interest litigation (Hussainara Khatoun vs. State of Bihar), and appointing amicus curiae (friends of the court) to assist it in complex matters.
- **Conflict Resolution:** In a democratic society, disputes and conflicts are inevitable. An independent judiciary provides a peaceful and lawful means to resolve conflicts, reducing the likelihood of social unrest and chaos.
 - The Court has also exercised its extraordinary powers provided by the Constitution under **Article 142** to pass any order necessary for doing complete justice in any case or

matter pending before it.

- Some examples of conflict resolution by the Supreme Court are *S.R. Bommai vs Union of India*, which laid down guidelines for imposition of President's rule in states; and *Ayodhya Judgement*, which settled a long-standing dispute over a religious site.
- **Protection of Minority Rights:** Democracy is not just about majority rule; it also entails protecting the rights of minorities. An independent judiciary can safeguard minority rights by preventing the majority from oppressing or discriminating against minority groups.
 - The Court has also intervened to protect minorities from discrimination, violence, or persecution, such as in **Mohd. Ahmed Khan vs Shah Bano Begum**, which granted maintenance to a Muslim woman divorced by her husband; and **John Vallamattom vs Union of India**, which struck down a discriminatory provision in the Indian Succession Act applicable to Christians.
- **Upholding the Constitution:** Constitutions are the bedrock of democratic societies. An independent judiciary ensures that the Constitution remains the supreme law of the land, guarding against unconstitutional actions by the government or any attempts to amend the Constitution in a manner that undermines its democratic principles.
 - The Court has evolved various doctrines and principles to safeguard the constitutional values, such as basic structure doctrine, doctrine of harmonious construction, doctrine of pith and substance, doctrine of eclipse, etc. to uphold the spirit of the Constitution.

Conclusion

Constitutionally guaranteed judicial independence is indeed a prerequisite for democracy. Without it, the principles of democracy, such as the rule of law, protection of individual rights, accountability, and checks and balances, cannot be effectively upheld. An independent judiciary is a cornerstone of democratic governance, providing the necessary legal framework and oversight to ensure that the democratic system functions as intended, protecting the rights and freedoms of all citizens.

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