

TO GET AN UNDERSTANDING OF THE EXPERIENCE THAT THE JUVENILE AND THEIR FAMILY HAVE HAD WITH THE JUVENILE JUSTICE SYSTEM

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ABSTRACT

They are unable to make their own decisions due of the innocence or immaturity that comes along with being that age. On the other side, they are unable to do so because of their own free will. On the other hand, it is a frightening reality that juvenile offenders often behave in the most reprehensible manner, and that their crimes are just as vile as those committed by adults. This is a truth that makes the situation even more disturbing. Both the gang rape that took place in Delhi in 2012 and the one that took place at Shakti Mills are horrible acts that leave one with the shivers. According to the most current statistics that was made public by the National Crime Record Bureau, there seems to have been a jump of almost sixty percent in the number of incidents explicitly containing rape that were committed by teenagers between the years 2012 and 2013. The primary objectives of this study are to investigate the various factors that may have contributed to the commission of "heinous crimes" by a juvenile and to determine whether or not the Juvenile Justice System infringes upon the rights of victims. The Juvenile Justice Care and Protection Act of 2015, which was adopted by the legislature in 2015 as a response to this potentially hazardous scenario, stipulates that there must be an investigation that is exhaustive as well as meticulous.

Keywords: Juvenile Justice, heinous crimes, National Crime Record

INTRODUCTION

In the very beginning, it is important to bring up the well-known academic Abraham Lincoln, who once stated: In every culture, the judicial system is regarded as the most important and respected institution. provide that everyone should have the right to a hearing that is both public and fair before a competent, independent, and impartial legal body that has been created in accordance with the law. For the proper exercise of this right, the existence of an impartial judicial system is essential. The administration of justice is aimed, in principle, at an all-out strengthening of the social, economic, and political legality, the protection of social, economic, political, and personal rights, the freedom of citizenry that is proclaimed and guaranteed by the constitution, protection against any encroachments, and the prevention of offences and other breaches of the law. It is without a doubt a difficult work, but at the same time it is tremendous, and it calls for the independence of the court as well as many qualities in those who are administering justice. Only when the legal system operates with full independence while still maintaining integrity and honesty is it possible to complete a mission of this kind.

A Brief Analysis of Independence Of Judiciary

Because the members of the Constituent Assembly viewed the judicial system as a shield for rights and justice, they were very careful to keep it distinct from the political process. The individuals who participated in the Constituent Assembly shared the view that the judicial system serves as a safeguard for individual liberty and ensures that everyone is treated equally under the law. How was it planned to prevent the courts from becoming political arenas? According to Granville Austin, "The Assembly's answer" was to fortify the walls of the castle with constitutional measures. "The Assembly's answer"

At the time that the Indian Constitution was being drafted, its authors were worried about the kind of judicial system that should be in place in India. Nearly all of the members of the Constituent Assembly were worried about the impartiality and independence of judges, which was a topic that was discussed in the Constituent Assembly in a manner that was both lengthy and comprehensive.

In addition, it is noteworthy to reference Alladi Krishnaswami Ayyar, who held the position that "While there can be no two opinions on the need for the maintenance of judicial independence, it is also necessary to keep in mind one important principle." It is not acceptable to elevate the principle of judicial independence to the level of a dogma since this would give the court the ability to act as a kind of super-legislature or super-executive power. The Constitution and other legal documents are subject to interpretation and adjudication by the judicial branch.

The system of government that is in place in a country has a direct bearing on whether or not its judges enjoy full independence. Different nations approach the concept of judicial independence in their own unique ways, using a variety of procedures for judicial selection or selection of judges. Life tenure or lengthy tenure for judges is one strategy to encourage judicial independence. This should provide judges the freedom to resolve cases and issue judgements in accordance with the rule of law and judicial discretion, even if such decisions are politically unpopular or opposed by strong interests. It is imperative that those who hold positions of authority within the judicial system make personal sacrifices in order to ensure the continued viability of the constitutional principles to which they are sworn.

The capacity of the court to exercise oversight over the legislative branch is bolstered in some nations, such as India, thanks to the institution of judicial review. This authority may be used, for instance, when the court is of the opinion that lawmakers are endangering fundamental rights, such as the rights of those who have been accused of a crime. Churchill said it best when he said, In India, discussions on the independence of the judicial system have always been contentious. It has caused agitation in the minds of politicians, jurists, and regular people. There are reasons that may be made in support of as well as objections against the idea of judicial autonomy. A person who believes in the ultimate independence of the judiciary would argue that democracy cannot exist if there is no such thing as an independent judiciary. This is due to the fact that rule of law can only be maintained by a supreme court.

And this adherence to the rule of law is absolutely necessary to ensure the smooth operation of democratic government. On the other hand, those who oppose it make reference to the paramount importance of the Parliament. The perspective of the opponents is to restrict the authority of the judicial system. Even during the time of the British, there was a widespread sentiment that there should be a separate judicial branch. The following, among other things, are some of the fundamental reasons why there is an absolute need for judicial autonomy.

To keep a check on the functioning of the organs of government.

In a democratic nation that is ruled by the rule of law, the judicial system is given a position of pride mainly as a conflict resolution tool to resolve disputes and administer justice between citizens themselves or between citizens and the state and its instrumentalities. This is because the primary function of the judicial system is to settle disputes. Not only does the Supreme Court have broad powers of judicial review or the authority to make any decisions or directions in accordance with the Constitution of India's Article 32 or 226, but it also has these powers in accordance with Articles 132-136 and 227 in order to ensure that total justice is served.

The task of interpreting the Constitution, which is the highest legislation in the nation, The Indian judicial system is often regarded as one of the democratic world's most autonomous constitutional institutions. The Constitution and the democratic process are both guarded by the superior judicial system. The legislation that was announced by the Supreme Court is enforceable throughout the whole of India, and all other institutions are obligated to act in support of the instructions. There is a pressing need to understand things in a progressive and meaningful way.

The democratic society upholds a set of fundamental principles, including the rule of law, constitutionalism, individual liberty, human rights, and dignity of the human person, as well as certain social norms and values.¹⁰ In order for democracy to thrive, it is necessary to have a judiciary that is free from outside influence and can continually instill and extend egalitarian societal values. As was said previously, the concept of judicial independence may mean a variety of things to different countries. The independence of the judiciary is only mentioned in passing throughout the numerous laws that are included in the Constitution of India; however, this concept is not defined in either the Constitution of India or any of the other statutes that are in place. The doctrines of judicial review and separation of powers, both of which have been around for a good number of years, form the foundation of the fundamental debate over the judicial branch's right to operate free from political interference.

The alternative meaning of judicial independence may be deduced from the works of a number of different academics, jurists, and legal specialists who have conducted study on the subject. Some academics make an attempt to describe the concept of the judiciary by focusing on the concept of the independence of the judges who make up the judiciary. It is worth noting that there are many different aspects of judicial independence, each of which is so vitally crucial that the sanctity of judicial independence would be compromised in the

event that even a single one of these aspects is missing. In the same vein, it is very challenging to stipulate a particular set of requirements due to the fact that the law is inherently dynamic and adapts to the shifting economic, political, and social landscape. As a result, it will be reasonable to address the articles of the Constitution that govern the independence of the court in a little more depth here.

OBJECTIVES

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2. The Study Family Have Had with The Juvenile Justice System

Constitutional Provisions of The Independence of The Judiciary

The Constitution of India has a great number of clauses that are meant to safeguard the independence of the country's judicial system. The following are some of the main constitutional clauses that will be examined. Varies depending on the level of court they sit on (the Supreme Court justices must be at least 65 years old, while High Court judges must be at least 62 years old). The subject of whether or not a judge should be removed from office prior to his or her retirement is an important one since it has a considerable impact on the judicial system's autonomy.

They can only be removed from office by the President, and even then, only for reason (such as significant misbehavior or inability to execute their responsibilities), which is proved by a resolution that was voted by a majority of both chambers of parliament and by a majority of those who were present and voting. Because the procedure is so difficult to follow, there has never been a successful attempt to remove a judge from the Supreme Court or the High Court using this rule. Judges' Salaries and Allowances The judges' salaries and allowances are another component that contributes to their independence. Unlike other aspects of their compensation, such as whether or not they are subject to a vote by the legislature, the judges' salaries and allowances are predetermined. Because of this, their benefits, including salaries, pensions, and allowances, cannot be changed in a way that is detrimental to them unless in the case of a severe financial crisis.

Powers and Jurisdiction of the Supreme Court Parliament's ability to influence the powers and jurisdiction of the Supreme Court is limited to the ability to expand them; it cannot reduce them. In the area of civil law, the monetary threshold at which matters may be appealed to the Supreme Court can be altered by Parliament. There is a possibility that Parliament may broaden the Supreme Court's appellate authority. It is possible that the Supreme Court will be given extra powers in order to allow it to function more efficiently. It is possible for it to grant the authority to give directives, orders, or writs for any reason that is not specifically listed in Article 32. It is not possible to strip the Supreme Court of its authority.

It is against the law for state legislators to debate the activities of any judge on the Supreme Court or the High Court while that judge is doing their responsibilities, since this is prohibited under Article 211. Because of this article, it is explicitly forbidden for any state legislature or parliament to ever discuss the behavior of a judge. Article 121 contains a clause that is quite similar to this one, and it states that Parliament shall not debate the behavior of a judge who is currently serving on either the Supreme Court or the High Court while the judge is executing his responsibilities, unless there is a move to deliver an address to the President requesting for the judge's dismissal. This limitation, which is identical to the one given in Article 121, states that there is to be no discussion in Parliament regarding the conduct of a judge serving on either the Supreme Court or a High Court while he or she is carrying out his or her obligations.

Both the Supreme Court and the High Court have the authority to punish any individual found to be in contempt of either court for whatever offence they may have committed. According to the provisions of Article 129, the Supreme Court must be a court of record and must have all of the authorities that come along with being a court of record, including the ability to penalize for contempt of itself. In a similar vein, Article 215 stipulates that every High Court should have the authority to impose penalties for the court's own contempt. Article 50 of the Constitution of India is founded on the basis of the concept of the independence of the judiciary. These principal mandates that the judiciary be kept apart from the executive branch of government. It includes one of the Directive Principles of State Policy, which states that the state must take measures to separate the judicial system from the public services provided by the state. This principle may be found in the document. This indicates that there will be a distinct judicial service that is not under the supervision of the executive branch. The purpose of this Directive Principle is to ensure that the judicial branch is free from any influence exerted by the executive branch. It is generally agreed upon that a wall must exist between the judicial and executive branches of government in order for there to be effective administration of justice in the nation.

Restrictions on Being a Practitioner after Retiring - No one who has ever served as a judge on India's highest court is allowed to argue their case or represent themselves in any court or before any authority anywhere in the country of India. In order to preserve the Supreme Court's autonomy and integrity, Article 124(7) of the Indian Constitution states that a retired judge from the Supreme Court may not attend or plead in any court or authority located within the borders of India.

It is now obvious that the Constitution of India offers enough protection for the judicial system's independence by mandating that every Judge of the Supreme Court serve until he reaches the age of 65, and These ages were chosen because they are the ages at which judges are required to step down from their positions. Although Parliament has the right to create laws controlling the remuneration, leave, and retirement of Supreme Court justices, there is a safeguard in place to ensure that the advantages enjoyed by the judges will not be diminished while they are serving on the court. Without first obtaining an address from both houses of parliament requesting for the judge's removal due to misbehavior or incompetence, the

President is unable to remove a judge from their position as a judge in the court system. The President does not have the authority to dismiss any judge from office in the absence of such an address.

Before appointing a judge to either the Supreme Court or a High Court, the President of India discusses the matter with the Chief Justice of India as well as with as many other active Supreme Court and High Court judges in India as the President believes are required. In the end, the Constitution of India promises to protect the Supreme Court and the High Courts of India from any kind of political interference by guaranteeing their independence. It is against the law for members of Parliament or a state legislature to debate the activities of a judge while that judge is executing their responsibilities on the Supreme Court or the High Court. This is done to prevent political interference with the judicial branch. Because of their status as the "court of record," superior courts are allowed additional safeguards to ensure the integrity of the legal system. The Judicial Protection Act does not just offer protection to members of the superior courts; it also extends such protection to members of the lower courts as well.

This is something that one must take into consideration. The abuse of these advantages by certain individuals has also led to a need for more consistent norms of behaviour and more responsibility on the part of the judicial system. In a contemporary welfare state, the size and complexity of the judicial system has ballooned to unmanageable proportions. Increasing public trust in and dedication to the system is one way that public awareness campaigns may help the judicial system become more independent and accountable to the people. The society has a duty and a responsibility to insist that the judicial system provide better governance. Many people in the community are demanding that judges be held responsible because they believe there are no channels through which they can address even the most little instances of improper conduct or treatment of witnesses or litigants on the part of judges.

They have the impression that higher courts will not remedy even relatively small instances of improper conduct or treatment, that the superior courts will defend their own men, and that it is pointless to complain about the situation since nothing will be done about it. Accountability and openness are crucial to the functioning of any democratic system. The judicial branch of the government is held responsible much like any other institution that interacts with members of the general public. However, the kind of accountability that is anticipated from the executive branch as well as any other public institution is not the same as the form of responsibility that the judiciary is held to. When it comes to the court, the level of independence and impartiality that is expected is far greater than any other entity. An additional component of such accountability is the provision of orders that are well-reasoned and the prompt and impartial resolution of issues brought before the courts. The judiciary should not have the mindset that conforming to the requirements of accountability would compromise its independence in any way. Any judicial institution's efficacy should be proportional to the degree to which it enforces high norms of public accountability.

The higher the level, the more respect it will get from both the domestic population and the society at large on a global scale. It is essential to understand that the Indian judicial system derives its power from maintaining high standards of accountability, which is why it is so effective in nations such as India, where the general populace looks to the judicial system to resolve a great deal of the challenges they face. The instant that this judicial responsibility begins to weaken, political groups and entrenched interests will not hesitate to exploit it as a weapon to erode the credibility of the legal system.

Maintaining the highest standards in terms of judicial activity and the distribution of justice requires, as an additional prerequisite, the concept of judicial responsibility. For this reason, it is very necessary that the judicial system at all levels not only be obliged to maintain highly competent but also to keep up with the newest development in the law and practice. This may be accomplished by including regular training programmes and skill upgrades in the schedules of judicial officers.

These training courses absolutely have to include a study of the worldwide legal landscape, which may cover topics like international human rights, humanitarian legislation, refugee law, intellectual property law, and environmental law. In addition to this, a judicial officer has an obligation to have an up-to-date awareness of the political, social, and economic climate of his nation. This is necessary to guarantee that the decisions he or she renders are both applicable and acceptable to the general populace. It is only when a judicial officer has such information at his disposal that he can meet the high standards and expectations that the majority of nations have for the legal system, in contrast to the demands that are placed on other arms of the state. It is for this reason of the highest significance specialists.

However, it is also accepted that judicial accountability, if extended to its limits, may gravely impair judicial independence. As a result, it is vital that there should be the appropriate balance between the two, as it is essential that there should be the appropriate balance between the two. One of the most effective ways to achieve such a balance may be to rely on the long-standing culture of open communication that exists throughout the judicial system across the commonwealth. This culture encourages the exchange of both ideas and experiences.

"Attacks that call into question the integrity of judicial institutions or scurrilous abuses of specific members of the judiciary undermine public confidence in the courts and acceptance of their decisions." This in no way implies that the justice system ought to be exempt from scrutiny. On the other hand, the decisions made by the courts have to be subjected to close examination and thorough analysis. However, those who occupy positions of power and influence in the nation have a duty to ensure that the line between balanced criticism of judgements and denigration of judges is not crossed at any point. Antagonism aimed at the judicial system, which plays such a critical part in upholding the rule of law, does not contribute to the strengthening of constitutional government in Australia. Therefore, in a nutshell. The weighty burden of ensuring that the most valued aspect of the Constitution, namely the basic rights of the people, be upheld lies squarely on the shoulders of the judicial

branch. If the judiciary's right to operate independently cannot be maintained, the basic rights lose all of their meaning. Not only in terms of the citizen's rights that have emerged as a result of the evolution of administrative law in the nation, but also in terms of the basic rights, the judicial system serves as a barrier between the average person and the vast authority possessed by the contemporary state.

A Brief Analysis of Judicial Activism

As is the case with many other catchphrases, the term "judicial activism" has become so loaded with connotations that it obscures more than it discloses. However, this is not a concept that can be simply disregarded as being "void for vagueness," since at its core are worries over the fundamental nature of law and whether or not it will continue to exist.

The act of judicial legislation, sometimes known as judges establishing positive law, became commonly known as "judicial activism" at some point in the 20th century. The word "judicial activism" came into use. Although the underlying dispute on judicial activity has been there since the days of Blackstone and Bentham, the credit for popularising the phrase "judicial activism" falls to a non-lawyer named Arthur Schlesinger Jr. His piece published in 1947 in *Fortune* sparked the beginning of the current discussion. It brought into foreground the duality that is seen in the judicial process, such as unelected judges vs legislatures that are democratically elected; result-oriented judgement versus principled decision-making; respect of precedents versus sidestepping of them; law versus politics, and so on.³⁵ Schlesinger classified some of the judges on the United States Supreme Court as "judicial activists," others as "champions of self-restraint," and yet others as members of the middle group based on their different approaches to the law and how they interpret it. Scholars of law, practitioners, and members of the general public have disputed, sometimes in a contentious manner, the appropriateness or inappropriateness of this kind of judicial action. Some of these individuals advocated for John Austin's respect to restraint, while others advocated for Justice Benjamin Cardozo's views, which inclined towards activism.

When judges refuse to limit their decisions to reasonable interpretations of existing laws and instead write new legislation, this is known as judicial activism. Alternately, judicial activism is when courts do not confine its decision to the dispute that is before them, but rather develop a new rule to apply widely to situations that are not addressed in the particular case. This may be seen as a violation of the separation of powers. When judges substitute their own political ideas for the relevant law, this is known as "judicial activism." Another definition of "judicial activism" is when judges operate more like a legislator (legislating from the bench) rather than like a regular court.

In the United States of America, it is often considered that although while a judge who participates in judicial activism does not legally make a law, he or she frequently has the same effect by handing down a judgement that authorises or bans a given conduct. This is despite the fact that a judge who engages in judicial activism does not officially write a law. In this regard, the case that may be used as an example is the one addressing abortion, which

is a particularly contentious topic. The Roe v. Wade decision established a legal right for women to have abortions, and this right quickly became the law of the nation. The same may be said of marriage, in addition to a great number of other controversial topics. Because the Constitution does not provide the Supreme Court or the federal government the authority to intervene in this manner, it is up to the states and the people to determine how these matters should be handled, not the judiciary via judicial activism. The only other viable option is to propose an amendment to the Constitution in order to address the concerns that have not yet been addressed.³⁹

Intrinsic Considerations

The fact that it is difficult to understand what the Constitution really states is one of the most evident challenges to doing what it mandates. It is essential to understand the scope of this challenge. No one thinks that every issue can be resolved, with each having a distinct answer that is set by 'black letter law.' Even the most ardent proponents of 'judicial restraint' give norms of interpretation that include unspoken recognitions that it is impossible to postulate answers that are evident, all-encompassing, and uniquely predetermined. In this context, the question of what exactly the Constitution means by such phrases as "due process" or "privileges and immunities" would be relevant to specifying an infinite series of unique points; however, it would not necessarily be relevant to establishing boundaries, nor would a lack of exactness preclude uniquely defined decisions in particular instances.

The way in which a job of interpreting the Constitution or a legislation is thought of might influence the level of complexity associated with doing that work. Some of the interpretative norms provided by those who advocate for judicial restraint offer hints towards the interpretive process they foresee and, more importantly, throw insight on the meaning that should be given to the term 'original purpose.'

Blackstone receives credit for his contributions in this area since he made it possible to obtain a numbered and sequential set of actions for. Despite the fact that it appears to be straightforward, this is a significant disadvantage since it restricts the kinds of things that may be achieved. This meant that legal phrases were to be understood not according to the meanings that might be given to them with "propriety of grammar," but rather according to "their general and popular use." This was a significant change from the previous interpretation of legal terminology, which was based on "propriety of grammar." To put it another way, it meant that the law had to be obeyed exactly as written. Specifically, the text of the law. When referring to anything, "terms of art" and "technical terms" are sometimes employed. At issue, it was stipulated that these terms were to be interpreted in accordance with the meaning that was generally accepted in the specific domains to which they applied. In a nutshell, the court was not allowed to interpret the terms *de novo* in any manner that might be permitted by grammar and the dictionary, much less in accordance with subsequent views or use.⁴³

Extrinsic Considerations

The following are some of the reasons why extrinsic elements are taken into account while interpreting laws:

1. Some jurists do not choose to interpret within the confines of intrinsic meanings and
2. there are gaps in law and language which must be filled in from extrinsic sources.

CONCLUSION

The lowering of juvenile criminality would also benefit from the teaching of sexuality in schools, which would be another positive side effect of this reform. Change may occur as a result of several factors, including but not limited to improved social and economic situations, more empathy, and a shift in people's views about juveniles. India is a developing country that also has a legal system that is evolving. There has been a rise in the dread of criminals, who utilise their intents without any hesitance. This is because there are basic inadequacies in the juvenile legislation in our nation. On the one hand, Indian law acknowledges the concept of a child who is in conflict with the legal system. On the other hand, it completely disregards the innocence of a child who has entered the criminal world and may be in conflict with the law for a variety of different psychological and physical reasons. This is something that the Indian population has witnessed in recent years.

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