

Vidyavardhaka Sangha (R), Mysuru

## Vidyavardhaka Law College

Sheshadri Iyer Road, Mysuru - 570001



# SRI K. PUTTASWAMY

**MEMORIAL ENDOWMENT LECTURE SERIES-6** 

## **Introduction about Sri K. Puttaswamy**



#### Early life of Sri K. Puttaswamy:

Sri K. Puttaswamy was born in 1917 at Arakere, Srirangapatna taluk, Mandya district to an agriculturist family as the son of Kalastawadi Sri Lingegowda and Smt. Lingamma. His father had primary education, but was a good Gamaka (Kavya Vachana). He grew up amidts the nature and had influence of many historical places. As a young boy he was not shy and mingled with all kinds of people. He inherited good talent from his parents.

#### **Education:**

Sri K. Puttaswamy was a clever boy and voracious reader. He did his schooling at Arakere, Srirangapatna Taluk. His father noticed his talent and sent him to Mysore for further education. He always excelled in his studies and was more innovative in his thinking. He obtained B.A (Honors) from the University of Mysore and law degree from Poona. Besides, being a good student he involved himself in curricular activities too.

#### **Legal Profession:**

Sri K. Puttaswamy a child born during Gandhian era was honest person in legal profession. At the outset he worked as an assistant under the renowned lawyer Sri Yathiraj Naidu and Sri Lakshmi Narayan. He also practiced as a lawyer under H.C. Dasappa who was a famous politician and freedom fighter. He had shown great interest in freedom movement. He and other great leaders were arrested and were put behind bars for some years. After coming out from jail, he went to Dasappa's office but in vain, his place was occupied. He then began to practice independently. He practiced law profession till 1962 and throughout his profession he had good acquaintance with well-known writers and great leaders.

#### **Political Career:**

Besides a great lawyer, he emerged as a great politician in the province of Mysuru and of Karnataka. He was president of Mysuru City Council and during his tenure as president, he tookup many development activities and for the first time in Mysore city cement roads were laid. He was also President of District Co-Operative Society. He was also a member of Mysore University Senate and Syndicate.

He was elected as a member of Karnataka Legislative Assembly from 1952 to 1978. He was very active on the floor of assembly and had lot of knowledge regarding legislative assembly. As a member of legislative assembly he roared like a tiger in the assembly and raked up many issues. He had deep concern for the downtrodden people. When he stood up to speak in the assembly, his eloquent voice and his vast knowledge put the whole assembly in great silence. He had brought many initiatives in the fields of Agriculture, Irrigation and Land reforms.

His exemplary behavior, promptness, his care towards serving the people made him to rise to the level of a minister under the guidance of the Chief Minister Sri S. Nijalingappa. He served as a cabinet minister of Municipal administration, health, co-operative, Housing, law, labour and parliamentary affairs very efficiently. Thus, he emerged as an eminent leader in the province of Mysore.

#### **Educational Visionary:**

Vidyavardhaka Sangha (R) in Mysuru is a dream of Sri K. Puttaswamy, which made its humble beginning in the year 1949 with an intention of propagating education to the poor sections of the society at a small choultry in Mysuru. He was a true Gandhian, social worker, political leader and disciplined person, who dedicated his whole life for the betterment of the down trodden people.

Vidyavardhaka Educational Institutions has since grown by leaps and bounds. It imparts education not only at Primary and High School Level but also provides Degree, Law, ITI, Engineering and Diploma Courses. All these have materialized because of the services and contributions by great philanthropist whose main motto was 'Service before self' and 'Education for all'.

Now, Vidyavardhaka Sangha (R) stands as one of the prestigious educational institution in the heritage city of Mysuru. This had been possible because of the dedication and pragmatic approach towards education by late Sri K. Puttaswamy.

Vidyavardhaka Law College was established in 1974. Sri K. Puttaswamy was not only founder secretary but also was a founder principal of Law College. This great soul disappeared from the world abode in the year 1978 but, still his contributions are remembered as an indelible print in the history of Indian politics.





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## Sri K. Puttaswamy Memorial Endowment Lecture Series-6

on

## "ROLE OF JUDICIARY IN DEMOCRACY"

By

## Hon'ble Mr. Justice H.P. Sandesh

Hon'ble Judge High Court of Karnataka, Bengaluru

**Delivered on 17th May 2025** 







## **ROLE OF JUDICIARY IN DEMOCRACY**

by

### Hon'ble Mr. Justice H.P. Sandesh

Hon'ble judge, High court of karnataka, Bengaluru

At the outset, I feel it a privilege for me to have been invited to deliver "Sri K. Puttaswamy Memorial Endowment Lecture". Sri Puttaswamy was a great visionary, a great lawyer, educationist, politician and a true guardian. The topic which I intend to give a lecture is "Role of Judiciary in Democracy". I feel that the same would be relevant at this present scenario to know the democracy and also the role of judiciary since the great visionary was also the founder of Vidyavardhaka Sangha and he was also the founder of Law College and his vision is to impart education to the needy and also strengthened the country providing education as well as to establish the rule of law in the country. To achieve the same, Judiciary plays pro-active role in strengthening democracy by ascertaining the truth. The justice and truth shall dwell together.

"Truth is the foundation of justice. It must be the endeavour of all the judicial officers and Judges to ascertain truth in every matter and no stone should be left unturned in achieving this object. Courts must give greater emphasis on the veracity of pleadings and documents in order to ascertain the truth." - Justice Dr. Dalveer Bhandari.

Before going to enlighten the subject, it is appropriate to know what is 'democracy' and what is the role of judiciary in democracy in fulfilling the idea of having the democratic Government.



## **DEMOCRACY**

#### Introduction

The term democracy and the classical conception of democratic rule are firmly rooted in Ancient Greece. Like other words that end in 'cracy'—such as autocracy, aristocracy and bureaucracy—democracy is derived from the ancient Greek word kratos, meaning 'power' or 'rule'. Democracy therefore means 'rule by the demos', demos standing for 'the many' or 'the people'. Democracy in its true sense of the term means inclusion; it means sharing; it means a universal outlook free from narrowness and prejudices; it means an all embracing attitude which upholds the rights and obligations of all sections of society and at the same time recognizes the rights of other living beings to lead a life of their own. In other words, it is founded on the core principle of fraternity acknowledging the unity of all people and the communalities of all faiths.

#### **DEFINITION OF 'DEMOCRACY':**

- 1. **Abraham Lincoln** defined democracy as a system of government of the people, by the people, and for the people.
- 2. **Aristotle** defines democracy as the freedom of every citizen.
- 3. Harris Soche defines democracy as a form of people's government. In other words, the people are the holders of power in the government who have the right to regulate, defend, and protect themselves from coercion from their representatives.

#### CHARACTERISTICS OF DEMOCRACY

The characteristics that describe a government based on a democratic system are reflected in the following:

- 1. In running the government, the government is based on the people's will and interests.
- 2. The government applies constitutional characteristics related to the interests, will or power of the people written in the





constitution and laws of the country.

- 3. The government applies the context of representation, the characteristics of democracy related to people's sovereignty that will be represented by several people who have been elected by the people themselves.
- 4. The characteristics of democracy have to do with general elections, which are a political activity carried out to choose parties in government.
- 5. Democracy in a party characteristic as a medium or a means to be part of implementing a democratic system.
- 6. Democracy in terms of power is the division and separation of power.
- 7. Democracy in the nature of responsibility is the responsibility of parties who have been elected to participate in the implementation of a democratic system.

#### TYPES OF DEMOCRACY

Democracy is divided into two types, i.e. direct democracy and indirect or representative democracy. Direct democracy is the notion of democracy that involves its citizens in deliberation to determine public policies and laws. Indirect democracy is the notion of democracy implemented through a representative system usually carried out through general elections.

## 1. Parliamentary Democracy

Parliamentary democracy is the concept of government in a country that gives the parliament the authority to carry out State tasks. Parliament has a fundamental and strong role to appoint a civil minister. In fact, parliament has the legitimacy to overthrow the government in a country. "Basics of Political Science" describes two patterns in parliamentary democracy i.e., the executive (government) and legislative bodies (parliament) which are dependent on each other.





## 2. Presidential Democracy

Presidential democracy is a system of government in which the head of government is held by the President and has no responsibility to the Parliament (the legislature). Meanwhile, the Minister is responsible to the President because the President has the position as both head of State and head of government.

- ▶ The President is elected by the people and can appoint government officials,
- ▶ The President has a fixed term of office, and
- ▶ There is no overlapping status between the executive and legislative bodies.

#### PRINCIPLES OF DEMOCRACY:

### **♦** Government by consent:

Democracy is government by consent of the people. Rational consent can be obtained by persuasion for which an atmosphere of free discussion is essential. Consent is obtained at two levels.

- A) Among the representatives of the people in the legislative assemblies where members of the opposition have their full say and
- B) At a public level where there is a direct communication between the leadership and the people.

## **♦** Public Accountability:

It essentially means the representatives must remain answerable to the people. As we have seen earlier that democracy essentially is based on public consent, therefore it is implied that the government should be responsible and responsive to the people. Whatever will and aspirations of the people are, the government should attempt to fulfill/realise those if they fall well within the constitutional framework of the country.





## ♦ Majority Rule:

In modern representative democracies, decisions are taken in several bodies right from electing the government to the committees that are constituted. It is considered to be the heart of the democratic system that all issues in all the bodies from legislature to cabinet, executives and other committees are resolved through majority decisions. Political equality is secured by the principle of one man on vote, which implies that there will be no privileged sections claiming special weight age nor any underprivileged section whose voice is ignored. No discrimination is allowed on grounds of religion, race, caste, sex, place of birth or ownership of property. The principle of majority rule relies on the wisdom of the majority.

### Constitutional government and Rule of Law:

Constitutional government means government by law rather than by men. Democracy requires an infinitely complex machinery of process, procedures and institutions to translate the majority will into action. If one compromises with the law, rampant corruption and decay of democracy is ensured. It is, therefore, essential to have a well-established tradition of law and constitution for the stability of a democratic government.

#### MERITS OF DEMOCRACY

#### ♦ Individual Freedom:

Democracy is based on individual freedom and equality principles. It ensures that every citizen has the right to express their opinion, vote and participate in the governance process. This freedom empowers citizens to hold their leaders accountable and to demand change when necessary.

## Protection of Human Rights:

Democracy is built on the foundation of human rights. It guarantees





the protection of basic human rights such as freedom of speech, religion and association. The democratic system also ensures that every citizen is treated equally and that the law is applied fairly and impartially.

"There is a recognition to the hard reality that without protection for human rights there can be no democracy and no justification for democracy.". - Justice Dr. A.K. Sikri in National Legal Service Authority V. Union of India 2014.

## **♦** Social Equality:

Democracy is designed to promote social equality. It ensures that every citizen has an equal opportunity to succeed and that the government provides basic services such as healthcare, education and housing to all citizens, regardless of their social or economic status.

#### **♦** Economic Growth:

Democracy promotes economic growth by creating an environment encouraging innovation, entrepreneurship and investment. It allows the free market to operate, which leads to increased competition, better products and services, and ultimately, economic growth.

#### Peaceful Transfer of Power:

Democracy allows for the peaceful transfer of power from one leader to another. This reduces the likelihood of political instability, violence and conflict, which are prevalent in authoritarian regimes.

#### **DEMERITS OF DEMOCRACY**

## ◆ Slow Decision-Making:

The democratic system can be slow in making decisions. This is because the decision-making process involves consultations, negotiations and compromises, which can be time-consuming.





#### ♦ Political Polarisation:

Democracy can lead to political polarisation, where political parties become more extreme and less willing to compromise. This can result in gridlock and prevent important decisions from being made.

## ♦ Voter Apathy:

Democracy relies on the participation of citizens to function effectively. However, many citizens may become apathetic and disinterested in the political process, leading to low voter turnout and a lack of engagement.

## **+** Corruption:

Democracy can be vulnerable to corruption, as politicians may be tempted to use their power for personal gain. This can result in a lack of accountability, and public funds being diverted away from their intended purposes.

"Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of the Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist secular democratic republic. It cannot be disputed that where corruption begins all rights end." - Justice A.K. Ganguly in Subramanian Swamy V. Manmohan Singh (2012) 3 SCC 64, para 68.

"Liberty cannot last long Unless the State is able to eradicate corruption from public life.". - Justice Dr. B.S. Chauhan.

"Justice means justice to the parties in any particular case and justice according to law." - Justice A.N. Sen.

"Corruption corrodes the moral fabric of the society and corruption by public servants not only leads to corrosion of the moral fabric of the society but is also harmful to the national economy and national interest, as the persons occupying high posts in the Government by





misusing their power due to corruption can cause considerable damage to the national economy, national interest and image of the country.". - Justice G.T. Nanavati in J. Jayalalitha V. Union of India (1999)

"Every corrupt practice, partisan official action, basic breach of rules or deviance from the fundamental of electoral fair play is a danger signal for the nation's democratic destiny."-Justice V.R. Krishna lyer.

## **♦** Minority Disadvantage:

In a democracy, the Majority rules. This can lead to the oppression of minority groups and the violation of their rights. It is therefore essential for a democratic system to protect minority rights and ensure that their voices are heard.

Having taken note of what is democracy, definition, characteristics of democracy, types of democracy, merits and demerits of democracy, we have to make our endeavour to look into the democracy which we have in our country in a proper perspective and the same suits the present scenario in the country.

We have the largest democracy in the world. After our independence, we have framed our own Constitution, checks and balances of each organ of the State. Within the sphere of these three organs, judiciary has played a pro-active role in strengthening the democracy in our country. The judiciary is the watchdog of the Constitution which we have adopted after independence. After the second world war, the British came to know about that it is high time to give independence to India and hence process was started in the year 1946 itself and committee was constituted and thereafter process of handing over the country to the Indians were also thought of and process was begun. When independence was given in 1947, to frame the Constitution, after having making preliminary discussion and efforts, Dr.Rajendra Babu was appointed as the Chairman to prepare the Constitution and Constituent assembly





discussions were also made and later on having considered the potential of Dr.B.R. Ambedkar, he was made as the Chairman of the drafting committee headed by the eminent lawyers. They took 2 years 11 months 18 days to prepare the draft, having made several discussions and debates and ultimately the same was adopted on 26.11.1949 and the same was given effect to from 26.01.1950.

The Judiciary has to play its pivotal role within the framework of Constitution. The framers of Constitution also borrowed several features of different Constitution which were in existence in the world and also having taken note of the diversity of this country, with an intention to make use the same as Unity in Diversity, different articles are framed to protect the interests of each citizens with a hope to establish welfare State. Each individual should live with dignity and more focus was given to fundamental rights and also the directive principles to meet the need of the people of this country.

"The Fundamental rights and the directive principles are the two wheels of the chariot as an aid to make social and economic democracy a truism.". - Justice K. Ramaswamy.

Having taken note of the same, what is the role played by Judiciary in democracy has to be looked into.



## **DEMOCRACY**

#### Introduction

The Judiciary is one of the organ of the government. It has the responsibility to apply the laws to specific cases and settle all disputes. The real 'meaning of law' is what the judges decide during the course of giving their judgments in various cases. From the citizen's point of view, Judiciary is the most important organ of the government because it acts as their protector against the possible excesses of legislative and executive organs and helps the good governance and purity of Administration.

Role of Judiciary as the guardian-protector of the constitution and the fundamental rights of the people makes it more respectable than other two organs. There are various levels of judiciary in India – different types of courts, each with varying powers depending on the tier and jurisdiction bestowed upon them. They form a strict hierarchy of importance, in line with the order of the courts in which they sit, with the Supreme Court of India at the top, followed by High Courts of respective states with district judges sitting in District Courts and Magistrates of Second Class and Civil Judge (Junior Division) at the bottom.

The Supreme Court of India is the highest judicial forum and final court of appeal under the Constitution of India, the highest constitutional court, with the power of constitutional review. Consisting of the Chief Justice of India and 34 sanctioned other judges, it has extensive powers in the form of original, appellate and advisory jurisdictions. As the final court of appeal of the country, it





takes up appeals primarily against verdicts of the high courts of various states of the Union and other courts and tribunals. It safeguards fundamental rights of citizens and settles disputes between various governments in the country.

The law declared by the Supreme Court becomes binding on all courts within India and also by the union and state governments. As per Article 142, it is the duty of the President to enforce the decrees (order or mandate) of the Supreme Court.

"Democracy relies on the freedom of the press. It is the inalienable right of everyone to comment freely upon any matter of public importance. This right is one of the pillars of individual liberty freedom of speech, which our Court has always unfailingly guarded.". - Justice A.P. Sen.



# HISTORICAL CONTEXT AND EVOLUTION OF JUDICIAL POWERS IN DEMOCRACIES

The judiciary's role as a pillar of democracy has evolved through centuries of legal development, with roots tracing back to foundational legal systems such as British common law and the U.S. Constitution. Judicial power in democracies has developed to encompass the functions of interpreting laws, protecting rights, and ensuring the separation of powers. These functions, however, vary in their expression across different democracies, reflecting each nation's unique history, political culture, and legal traditions. This section examines the origins of judicial power in democratic societies, milestones in its evolution, and comparative into how judicial power functions in various democratic systems. The origins of judicial power in democracies can be traced back to early legal systems and philosophies that emphasized the rule of law. One of the earliest models of a judiciary that balanced government power and individual rights was established in England through British common law. Common law principles, established over centuries through judicial precedents, gradually entrenched the concept that legal decisions should be based on established rules rather than arbitrary authority.

The evolution of judicial power in democracies is marked by key decisions and constitutional amendments that expanded judicial authority and independence.

In India, a significant milestone in the evolution of judicial power was found and after independence, Judiciary has played its pro-active role in strengthening the democracy and now the entire world is focusing on the Indian Judiciary and several judgments of the Apex Court enlighten the recognition all over the world and several judgments of the Apex Court strengthened different democratic systems by taking note of the work rendered by the Apex Court on





different heads. The entire world is looking into the Indian judicial system since the judiciary's role in upholding democratic norms varies across different democratic systems, influenced by each country's legal tradition, constitutional framework, and historical context.

In the United States, the judiciary plays a central role in checking governmental power and protecting individual rights, with the Supreme Court often issuing landmark rulings that shape public policy. Judicial review is a key tool in this system, allowing the judiciary to interpret the Constitution and invalidate laws or executive actions that contravene it.

In India, the judiciary similarly exercises judicial review but does so within a context of judicial activism. The Indian Supreme Court has frequently intervened in matters of social justice and public interest, positioning itself as a defender of individual rights and a counterbalance to governmental authority. Through Public Interest Litigation (PIL), the court has broadened access to justice, enabling citizens to bring issues of national importance directly to the judiciary.

This proactive role has sometimes led to tension with other branches, but it has also strengthened democratic accountability in India. While judicial roles vary across systems—shaped by each nation's legal traditions and historical experiences—the judiciary remains a fundamental institution in any democratic government. Through its independence, authority, and adaptability, judiciary upholds democratic principles, ensuring that the rule of law prevails over arbitrary power. In Indian Constitution under Article 50, Judiciary is an independent body and the same is free from other two organs.

#### **FUNCTIONS OF JUDICIARY**

By serving as a guardian of the constitution, enforcing the rule of law,



and offering a mechanism for judicial review to check the power of the legislative and executive branches, the judiciary's main duties include resolving disputes between people, interpreting and applying the law, and ensuring the protection of individual rights. Its significance lies in preserving social order, defending fundamental rights, and guaranteeing fair and impartial justice for all citizens. A separate provision is made to exercise the same under Articles 226 and 32 both the High Courts and the Apex Court can exercise the powers to protect the fundamental rights of each citizen. Dr.Ambedkar said Article 32 of the Constitution is the heart and sole of the Constitution which protects the fundamental rights of the people.

#### 1. To Give Justice to the people:

The judiciary's main duty is to provide justice to the people whenever they seek it. After a trial, a person is punished if they are found guilty of violating the law or the rights of the people. People can go to the courts for restitution and a remedy (rectification and correction) if they feel mistreated, harmed, or tortured. When they have suffered a loss or are concerned that their rights will be infringed, they may take this action. The judge decides the type and extent of punishment given to criminals. It makes decisions in every case when citizens must get compensation.

## 2. Interpretation and Application of Laws:

One of the main duties of the court is to interpret (clarify or explain) the law and apply it to specific circumstances. When deciding cases that are brought before them, judges apply and comprehend the law. For any law to be applied in a particular circumstance, it must be correctly read. The judges perform this function. The courts decide the meaning of the law which helps the evolution of law for establishment of rule of law in the Country.





## 3. Role in Law-making:

The judiciary also has a role in the formulation of legislation. In actuality, court decisions define the scope, nature, and meaning of the laws passed by the legislature. The judiciary's interpretations of the laws constitute lawmaking since these understandings are what really define the laws.

The decisions of the upper courts, referred to as the Courts of Records, must also be followed by lower courts. The latter have the authority to decide cases based on the decisions of the higher courts. The courts are the source of legal decisions.

## 4. Equity (fairness) Legislation (law enactment):

When a law is silent, ambiguous, or appears to clash with another national law, judges make decisions based on their sense of justice, fairness, honesty, impartiality, and intellect. Such choices typically include the creation of legislation. It is commonly known as equity legislation.

## 5. Protection of Rights:

The judiciary's top goal is to defend the people's rights. If the government, private organizations, or other individuals violate or threaten to violate a citizen's rights, the citizen has the right to seek protection through the Indian legal system. The judiciary is entrusted with duty to protect the rights of the people in each of these circumstances. The primary duty to protect the rights of the people rests with the court.

## 6. Special Role:

The court must also play a crucial role in upholding the constitution and mediating conflicts between the federal government and the states. Both between the states and between the federal governments, it serves as an unbiased and independent referee. The judiciary resolves all legal center-state issues.





## 7. Running of the Judicial Administration:

The government does not own the judiciary. It operates independently of the executive and legislative branches. With its own officers and organization, it is a distinct and autonomous organ. It has the authority to determine the state's judicial structure. It creates and upholds its own regulations. These regulate the hiring and operations of magistrates and other court employees. It creates and upholds regulations for the effective and well-organized operation of court administration.

#### POWERS OF THE INDIAN JUDICIARY

The Indian judiciary is essential to maintaining justice, safeguarding citizens' rights, and enforcing the Constitutional provisions. It functions independently of the legislative and executive branches of government. The Constitution gives the judiciary the ability to interpret and apply the law, settle disputes, and uphold the rule of law throughout the nation.

#### 1. Power of Judicial Review

Judicial review, which enables courts to assess whether legislation and executive acts are constitutional, is one of the most important role of judiciary in India. The judiciary has the power to overturn laws or government actions that are determined to be unconstitutional. This authority guarantees that people's fundamental rights are upheld and that the government operates within the bounds of the constitution.

## 2. Power of Interpretation

The court has the authority to interpret legislation passed by the legislature whether the same is within the framework of the Constitution. As the ultimate arbiter of constitutional interpretation, the Supreme Court of India establishes precedents that serve as a guide for subordinate courts and subsequent court decisions.





#### 3. Power to Enforce Fundamental Rights

The Indian Constitution's Articles 32 and 226 grant the Supreme Court and High Courts the authority to grant writs, including habeas corpus, mandamus, prohibition, quo warranto, and certiorari, in order to uphold basic rights. This authority guarantees that people can pursue justice in the event that the government or another organization violates their rights.

## 4. Power of Contempt of Court

For contempt of court, the judge has the authority to penalize people or organizations. This guarantees that court orders are followed and carried out without hindrance. The judiciary can take action against anyone who tries to subvert its power, and contempt of court can be either civil or criminal.

## 5. Power of Advisory Jurisdiction

The President of India may consult the Supreme Court on legal or factual issues of public concern under Article 143. The court's decision has substantial weight and can affect governance and policies even if it is not legally enforceable.

#### 6. Power of Judicial Activism

The judiciary actively addresses societal inequities and government shortcomings through judicial activism. It accomplishes this by extending the reach of fundamental rights, applying progressive interpretation to the law, and directing the government to address urgent problems including corruption, human rights, and environmental preservation.

## 7. Power to Settle Disputes

The court has the power to resolve conflicts between people, between people and the government, and between various government agencies. Under Article 131 of the Constitution, the





Supreme Court also decides cases involving states and the federal government.

## 8. Power of Special Leave Petition (SLP)

The Supreme Court may, at its discretion, issue special leave petitions (SLP) to hear appeals against any ruling made by any Indian court or body under Article 136. This authority guarantees that the highest court can evaluate cases that involve important legal issues or matters of great public concern.



# JUDICIAL INDEPENDENCE AS A PILLAR OF DEMOCRACY

Judicial independence is fundamental to any functioning democracy, ensuring that the judiciary can operate impartially and free from undue influence. An independent judiciary can interpret laws and resolve disputes fairly, uphold the rights of individuals, and check the powers of the executive and legislative branches. As a pillar of democracy, judicial independence is safeguarded through various mechanisms, including the separation of powers, tenure, appointment processes, and protections against external influence.

However, judicial independence faces multiple challenges, such as political interference, funding constraints, and threats to judicial security, which can undermine the rule of law and democratic integrity. This section explores these components and challenges of judicial independence and their implications for democratic governance. The principle of separation of powers is essential to judicial independence, as it creates a system in which each branch of government—the executive, legislative, and judicial—operates independently, with checks and balances to prevent any one branch from accumulating excessive power.

This structure helps ensure that the judiciary can act as an impartial arbiter of laws, rather than a tool of the executive or legislative branches. By serving as a check on the actions of these branches, the judiciary prevents overreach and promotes accountability, preserving democratic values and upholding the rule of law. The judiciary exercises this checking power primarily through judicial review, the ability to assess the constitutionality of legislative and executive actions. In many democracies, judicial review allows courts to invalidate laws or government actions that violate constitutional principles, thereby ensuring that the government remains within its lawful bounds.



In India, the Supreme Court has upheld judicial review and independence, often positioning itself as a counterbalance to governmental power, as seen in cases like Kesavananda Bharati v. State of Kerala (1973). By enforcing constitutional limitations, the judiciary acts as a guardian of democracy, ensuring that the executive and legislative branches do not infringe on citizens' rights or exceed their constitutional powers. In democracies, this function helps maintain a balance of power and prevents authoritarianism. The judiciary's independent status is crucial in this role; without it, courts could be swayed by political pressures, eroding their ability to hold 547 other branches accountable. Several institutional safeguards are in place to protect judicial independence, ensuring that judges can make decisions based solely on the law and facts of a case, without interference from other branches or external pressures. One of the primary safeguards of judicial independence is tenure security, often granted in the form of life tenure or long, fixed terms.

In Kesavananda Bharathi's case 1973 by a Bench of 13 judges of the Supreme Court after hearing the marathon arguments for about 70 working days; 4½ hours each day, culminating in a majority judgment of 7:6, holding that the power to amend the Constitution conferred on Parliament by Article 368 cannot be extended to damage or destroy the basic structure of the Constitution. What precisely was the basic structure of the Constitution did not arise for decision there. It was for the first time in the history of the Supreme Court that the entire complement of judges sat to hear a case, and two more judges had to be appointed as ad hoc judges to assist the 14th judge to hear the other cases including admissions.

Life tenure, as practiced in the United States, for example, ensures that judges are not influenced by the potential for reappointment or removal based on their rulings. Judges in countries like the U.K., Canada, and Australia enjoy fixed terms or retirement ages, allowing



them to serve without fear of reprisal. This job security helps judges make decisions independently, as they do not need to worry about political repercussions from the executive or legislative branches. Transparent and merit-based appointment processes are critical to judicial independence, ensuring that judges are selected based on their qualifications, experience, and integrity rather than political connections.

Judicial independence also requires insulation from external pressures, including political, financial, and societal influences. Many democracies prohibit direct interference in judicial decisionmaking through legal protections, preventing other branches of government, private individuals, or corporations from influencing rulings. To prevent the judiciary from being financially dependent on the executive or legislative branches, some countries have mechanisms in place for judicial funding that ensure the judiciary's operational stability. Courts with adequate funding are better able to operate independently, hire competent staff, and maintain necessary resources. This autonomy reduces the potential for executive or legislative bodies to use budget constraints as a means of exerting influence over the judiciary. These mechanisms collectively help safeguard judicial independence, enabling courts to exercise their role as impartial arbiters and protectors of democratic principles. When the judiciary is free from external control, it can make fair decisions that serve justice and uphold citizens' rights.

#### CHALLENGES TO JUDICIAL INDEPENDENCE

Despite the safeguards in place, judicial independence faces several threats that can weaken the judiciary's role as a defender of democracy. These challenges include political interference, funding limitations, and threats to judicial security, which, if left unchecked, can undermine the rule of law and public trust in the legal system.

Political influence is one of the most significant threats to judicial



independence. In many countries, the executive or legislative branches attempt to exert control over the judiciary by appointing judges aligned with their agendas, pressuring judges to deliver favorable rulings, or even attempting to remove or discipline judges who issue unfavorable decisions. Political interference can erode public confidence in the judiciary, creating a perception that courts are biased or politically motivated. In recent years, several countries have experienced political interventions that threaten judicial independence.

Budgetary control over the judiciary can be another form of indirect influence, as inadequate funding can hinder the courts' ability to operate effectively and independently. When judicial budgets are set by the executive or legislative branches, they can be manipulated to exert control over the judiciary, especially when governments reduce funding as a response to unfavorable judicial rulings. Underfunded courts may face backlogs, lack of resources, and compromised security, all of which weaken their ability to provide timely and impartial justice. In some developing democracies, limited funding for the judiciary results in low judicial salaries and poor infrastructure, increasing the risk of corruption and reducing judicial morale.

Judges handling sensitive cases, such as those involving organized crime, political corruption, or high-profile rights issues, are sometimes subject to intimidation, harassment, or even physical violence. In nations with weak rule of law, judges may be threatened by powerful political actors, criminal organizations, or extremist groups seeking favorable judgments.

In the digital age, judges face new challenges in the form of media scrutiny and public pressure, particularly in high-profile cases. Public opinion and media coverage can sometimes sway judicial decisions or create an atmosphere of bias, which can be especially problematic if judges are elected rather than appointed.





# JUDICIARY'S ROLE IN CURBING EXECUTIVE OVERREACH

In democratic systems, the judiciary serves as a crucial check on executive power, ensuring that actions taken by the executive branch remain within constitutional boundaries and do not infringe upon individual rights. This oversight function, commonly exercised through judicial review, enables courts to assess the legality of executive actions and strike down those that violate the constitution or democratic principles. By limiting executive overreach, particularly in cases involving emergency powers and national security, the judiciary plays an essential role in upholding the rule of law. This section explores the concept of judicial review, the judiciary's role in restraining emergency powers, and international examples where courts have acted to curb executive overreach. Judicial review is the power of courts to examine and invalidate executive actions that are inconsistent with the constitution or other established laws.

In India, judicial review is explicitly enshrined in the Constitution and the Supreme Court frequently exercises this power to assess executive actions, ensuring they comply with constitutional mandates and protecting the rights of citizens.

The judiciary plays an essential role in scrutinizing such executive actions to ensure that emergency powers are used lawfully and that individual rights are not unduly compromised. Courts in various democracies have intervened to curb executive overreach in cases involving emergency powers and national security. In India, the Supreme Court has been proactive in curbing executive overreach, particularly regarding emergency powers. During the 1975-1977 Emergency, then-Prime Minister suspended civil liberties and concentrated power within the executive. In response, the judiciary issued significant rulings following the Emergency that reinforced





democratic principles and limited executive power.

In the case of Minerva Mills Ltd. v. Union of India (1980) 8, the Supreme Court emphasized that Parliament could not alter the "basic structure" of the Constitution, effectively limiting the scope of executive and legislative actions that might infringe on citizens' rights.

#### JUDICIAL ACTIVISM AND JUDICIAL RESTRAINT

It is stated that judiciary is one of the organ apart from the other two organs of legislative and executive and each one claiming that they are the supreme, but none of them are supreme but constitution is the supreme. When the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty, because apprehensions may arise, lest the same monarch or senate will enact tyrannical laws and will execute them in tyrannical manner. Again, there is no liberty, if the judicial powers is not separated from the legislative and the executive powers. Where it is joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would then be the legislator. Where it is joined with the executive power, the judge might behave in violent and oppressive manner. Miserable indeed would be the case, where the same man or the same body, whether of the nobles or of the people, to exercise those powers, that of enacting laws, that of executing the public resolutions and that of judging the crimes or differences of individuals'. According to this theory, all three powers and functions of the Government, i.e., legislative, executive, and judicial, must always be kept separate and be exercised by three separate organs of the Government. This doctrine is very much in debate for being violated by the judiciary in the name of judicial activism. Judicial activism is basically a deviation from this principle.

"Struggle between liberty and power is eternal. Vigilance is the price





that we like every other democratic society has to pay to safeguard the democratic values enshrined in our Constitution.". - Justice K.S. Hegde and Justice A.K. Mukherjee in Keshavananda Bharati's case.

The term 'judicial activism' is a philosophy of decision making, whereby judges allow their personal views about public policy, among other factors, to guide their decisions'.

There is no doubt that a judge has to interpret the law according to the words used by the legislature. 'A word is not a crystal, transparent and unchanging'. It is a skin of a living thought and may vary greatly in colour and content according to the circumstances and the time in which it is used. It is for the judge to give meaning to what the legislature has said and it is this process of interpretation of which constitutes the most creative and trilling function of a judge'.

"Judges should be of stern, stuff and tough, fibre, unbending before power, economic or political, and they must uphold the core principle of the rule of law which says, "be you ever so high, the law is above you.". Justice P.N. Bhagawati in S.P. Gupta V. Union of India 1981.

Four things belong to a Judge - to hear courteously; to proceed wisely; to consider soberly; and to decide impartially-Socrates

While exercising powers given to each of the organs, each organ must understand the scope and ambit of each organ, judicial activism and judicial restraint and judiciary also should have its limit and exercise its powers within its limit, scope and ambit and also there must be some restraint or it would lead to complication. On personal liberty, the Court was extremely positivist. Soon after the Constitution came into force in the year 1950, in **A.K.Gopalan's case**, the Hon'ble Supreme Court gave a narrow and restrictive interpretation of Article 21 of the Constitution. It was held that — 'the procedure established by law means procedure established by a law made by the State' and the court refused to infuse in that procedure the principles of natural justice, but after Twenty eight years and



after this judgment in 1978 the interpretation was that the procedure contemplated by Article 21 must be 'right, just and fair' and not arbitrary; it must pass the test of reasonableness and the procedure should be in conformity with the principles of natural justice and unless it was so, it would be no procedure at all and requirement of article 21 would not be satisfied.

The Supreme Court held that the right to freedom of speech includes the right to freedom of press and the right to receive information. Since India is a developing country, one third of its population is illiterate, poor and ignorant about their rights. It is impossible for them to assert their rights in the court of law. Therefore, to give true meaning of the fundamental rights of these people, the Supreme Court in **Madhav Haskot's case**, held that providing free legal service to the poor and needy is an essential element of the 'reasonable, fair and just procedure'.

"Freedom of speech is the lifeblood of democracy. The free flow of information and ideas informs political growth. It is a safety valve. It checks abuse of power by public officials "-Justice Swatanter Kumar.

Again, in **Hussainara Khatoon V/s State of Bihar** case, while considering the plight of the under trials in jails, speedy trial was held to be an integral and essential part of the 'right to life and liberty' contained in article 21 of the Constitution of India. This case is marked as first case of judicial activism in the history of Indian Supreme Court, because here the court granted relief not on the petition of the aggrieved person but on the petition of a third person. This is the first case where traditional rule of locus standi is relaxed without recognizing it in express words.

This rule was relaxed in **S P Gupta V/s President of India**, where Justice Bhagwati said that: It must now be regarded as well-settled law where a person who has suffered a legal wrong or a legal injury or whose legal right or legally protected interest is violated, is unable to





approach the court on account of some disability or it is not practicable for him to move the court for some other sufficient reasons, such as his socially or economically disadvantaged position, some other person can invoke the assistance of the court for the purpose of providing judicial redress to the person wronged or injured, so that the legal wrong or injury caused to such person does not go unredressed and justice is done to him.

I also would like to rely upon the judgment of D.K.Basu case reported in **AIR 1997 SC 610,** wherein 11 commandments were issued with regard to the arrest and detention of a person safeguarding the interest of person who has been arrested should know the cause for his arrest.

"The sentencing court must hear the loud cry for justice by the society and more particularly, in case of heinous crime of rape of innocent helpless children, as in this case, of the victim of crime and respond by imposing a proper sentence." - Justice Dr. A.S. Anand.



## JUDICIAL RESTRAINT

It is true that judicial activism strengthens the democracy and reaffirms the faith of the common man in the rule of law, but it has to be controlled and properly used. Courts have to be careful not to overstep the limits assigned to them by the Constitution. The judges in exercise of their power of judicial review are not expected to decide a dispute or controversy which is purely theoretical or for which there are no judicially manageable standards available with them. The courts should not, generally speaking, interfere with the policy matters of the executives unless the policy is either against the Constitution or some statute or is actuated by malafides. Policy matters, fiscal or otherwise, is thus best left to the judgment of the executive. This is called judicial restraint. This is just opposite of the judicial activism.

When the government changes, policies are bound to change and judges should excuse themselves from setting new policies with their decision. Judicial restraint is important mainly for two reasons, first, only judiciary is empowered to decide the limits of the jurisdiction of the other organs of the government, and therefore, this power should be exercised with utmost humility and self-restraint. Second, the mistake or errors of the lower courts can be corrected by the higher courts, but there is none above the Supreme Court to correct its error.

Thus, in the light of above discussion, it becomes clear that the court must, while exercising the power of judicial review, exercise proper restraint and base their decisions on recognized doctrines or principle of law. In fact, judicial activism and judicial restraint are two sides of the same coin. At the same time, judicial restraint is not equivalent to judicial stagnation. Judicial moderation must not give rise to judicial paralysis.





# DISSENTING JUDGEMENTS: THE TOUCHSTONE OF DEMOCRACY

The Constitution of India guarantees to every citizen, the Right to Freedom of Speech and Expression and this freedom includes the liberty to freely express one's views, opinions, and thoughts, through speech or text. This right also includes the right to think and organise one's thoughts; to not be influenced by any external views and hold a view that is completely one's own. This calls for the need to discuss the relevance of the right to freedom of speech and expression and dissenting judgments on the touchstone of democracy as anticipated in the Preamble to the Indian Constitution.

Dissenting judgments are decisions rendered by one or more judges of a particular court, who disagree with the majority opinion and therefore express their views in relation to the case, differing from the majority opinion of the bench. This may or may not be adopted, owing to the facts and circumstances of each case. Further, with the publication of such dissent, the writer can clarify his or her stance with regard to the case and the need to adopt a different view. Needless to say, a dissenting judgment paves way for different approaches and solutions to a particular dispute, initiating discussion in society. Nevertheless, it is, at this juncture, very important to profoundly delve into the relevance and rationale of dissenting judgments. The roots of dissenting opinions may be predominantly found in common law countries.

Common law countries thus began to publish dissenting opinions for improved judicial administration. The origin of dissenting opinions in India can be broadly split into four categories - Judicial dissent in the Supreme Court at Calcutta and other Presidency Courts, Judicial dissent in the Federal Court of India, Judicial dissent in the Privy Council and lastly, Judicial dissent in the Supreme Court of India (post-independence).





I would like to discuss with special emphasis on its influence on the functioning of the Indian Democracy since we have adopted and implemented the constitution on 26.01.1950.

The first instance of dissent in India was witnessed in the case of **A.K. Gopalan v. State of Madras,** Justice Fazl Ali delivered his opinion which is very astonishingly came to be recognized as a law only about 27 years later in the case of **Maneka Gandhi v. Union of India.** Furthermore, the dissenting opinion of Justice Khanna in the case of **ADM Jabalpur v. S.K. Shukla** (landmark judgment for habeas corpus cases), is also a significant example. Most recently, the dissenting opinion of Justice Dhananjay Chandrachud in **K.S.Puttaswamy v. Union of India** case is highly laudable in the context of declaring the right to privacy as a fundamental right and declaring the Aadhar Act to be ultra vires of the Constitution.

The dissent by Justice Indu Malhotra in the case of **Indian Young lawyers Association v. State of Kerala** sparked discussion relating to the extent to which the courts can interfere in the matters of religion. Justice Malhotra opined that issues with a deep religious connotation shouldn't be tinkered with to maintain a secular atmosphere in the country and said that the notions of rationality cannot be brought into the matters of religion.

During the period 2017-2018, Constitution benches of the Supreme Court of India have rendered 18 judgments. Out of these, only two judgments (the Aadhar case and the Sabarimala Case) contain notable dissents. This sort of a change in the trend of dissenting judgments calls for a reality check of the democratic practice in the Indian judiciary. Article 145(5) of the Indian Constitution provides that the majority opinion of the judges is to be taken into consideration, however, the judges are free to write their own dissenting opinions, if they feel that the majority opinion is inconsistent or requires an alternative approach to that of the



majority. This gives "mental independence" to the judges to think and opine in a manner that they think is rational.

The importance of recognizing dissenting opinions is per se linked to judicial autonomy and the exercise of democracy in its truest essence. The necessity of dissenting judgments stems from the fact that this power helps the judges to decide in a non-partisan manner such that it inculcates a sense of progressive thinking. The evolution of law and society is possible only with the recognition of such dissent. It isn't entirely wrong to think that dissent and democracy are two sides of the same coin. So long as dissent takes a backstage in a democracy, such a kind of democracy remains only a democracy in theory. A democratic rule fails (in practice) when the dissenters aren't given a voice leading to acceptance of the totalitarian opinion, and eventually giving rise to mobocracy. Dissenting opinions aid in the evolution of law by doing away with those provisions that are redundant and amending those that require to see the light of change. By suppressing dissenters, not only is the dissenter victimized but it also proves highly detrimental to the practice of democracy. Dissent in a democracy must not be suppressed. The need to politicize must be discouraged.

To conclude, it is important to note that dissenting opinions form the backbone of any democracy and suppressing a dissenter would only mean to wreak havoc in the society. The sanctity and independence provided to each judgment must and should be respected, after all, every judge in the Supreme Court is a human being and among such an intellectual conglomeration of learned stalwarts, disagreement and debate, is bound to arise. Therefore, such conflicts of interests and debates must be highly encouraged and each individual's personal opinions must be respected.

"If the instinct of power is concentrated in few individuals then naked greed for power will destroy the basics of democratic principles." - Justice G.S. Singhvi.



In Maneka Gandhi's case, out of seven Judges, the Court by a majority of 6:1, held that the expression "personal liberty" in Article 21 was of the widest amplitude and covered a variety of rights which added up to constitute the liberty of an individual, that Articles 19 and 21 were not mutually exclusive, and that the procedure contemplated by Article 21 must be fair, reasonable and just, not capricious, whimsical or arbitrary.



## CURRENT CHALLENGES AND CRITICISMS IN JUDICIARY'S ROLE IN DEFENDING 100DEMOCRATIC PRINCIPLES

The judiciary's role in defending democratic principles has been highlighted through numerous landmark cases worldwide, where courts have upheld constitutional values, protected individual rights, and maintained the balance of power. This section examines influential cases from the United States, India, South Africa, and the European Union, showing how the judiciary serves as a bulwark against authoritarianism and a defender of democratic norms. In the United States, the judiciary has historically played a pivotal role in shaping the nation's democratic framework, primarily through judicial review and the protection of individual rights.

The Indian judiciary, particularly the Supreme Court, has been instrumental in upholding democracy through judicial review and by safeguarding the fundamental rights of individuals. **Keshavananda Bharati v. State of Kerala (1973)** which has been discussed above wherein discussion was made with regard to the "basic structure doctrine". This doctrine remains a vital tool in preventing executive and legislative overreach, enabling the judiciary to act as a guardian of democratic principles.

In landmark case of **Navtej Singh Johar v. Union of India (2018):** The Supreme Court decriminalized consensual same-sex relationships, affirming the fundamental rights to privacy, dignity, and equality under the Indian Constitution. The court emphasized that the law should evolve to protect all individual's rights, thereby underscoring the judiciary's role in democratic values in a rapidly changing society.

Despite its fundamental role, the judiciary faces multiple challenges in maintaining democratic integrity. These include political influence, the balance between judicial accountability and independence, and public trust issues. The judiciary's independence can be compromised by political biases and appointments, leading to perceptions of partisanship.





Striking a balance between judicial accountability and independence is a perennial challenge. While judges must be accountable to the public and subject to ethical standards, excessive scrutiny or control could impede their ability to act independently. Some countries have experimented with various mechanisms to ensure accountability, such as judicial councils or disciplinary boards. However, excessive oversight mechanisms can weaken the judiciary's capacity to uphold democratic principles, as judges may feel pressured to issue decisions that conform to popular or governmental expectations. Effective accountability measures must therefore avoid compromising judicial independence, focusing instead on ethical standards, transparency, and fair disciplinary processes. Public trust in the judiciary is vital for its effectiveness.

Controversial judgments, especially those involving divisive social issues, can erode public confidence in the judicial system. Media coverage can influence public opinion and shape perceptions of the judiciary's impartiality. In cases where judges are elected, as in certain/enhancing judicial independence and ensuring fair, unbiased rulings are critical for maintaining the judiciary's reputation as a pillar of democracy.

The judiciary must evolve to address new challenges, including shifting political landscapes, digital rights, and threats to judicial independence. With the rise of populism and authoritarianism in some regions, the judiciary must find ways to resist executive overreach and protect democratic norms. Courts may need to assert their independence more strongly and exercise judicial review to counteract undemocratic measures.



#### CONCLUSION

The judiciary is indispensable to democratic governance, acting as a guardian of constitutional principles and a protector of individual rights. Through landmark cases worldwide, the judiciary has demonstrated its power to hold governments accountable, limit executive overreach, and preserve civil liberties. Despite challenges like politicization, public scrutiny, and maintaining judicial independence, the judiciary remains a vital force in upholding democratic values. The judiciary's essential role lies in its capacity for impartiality and independence, both of which are necessary to check governmental power and interpret laws fairly.

"Justice has no favourite, except the truth.". - Justice Dr. Arijit Pasayat.

"Truth must triumph" is the hallmark of justice." - Justice C.K. Prasad.

"Justice to all is a more satisfactory way of dispensing justice than justice from case to case.". - Justice Y.V. Chandrachud.

"The entire purpose of the constitutional provisions as well as other provisions of law is to ensure that true democracy functions in this country and the will of the people prevails.". - Justice Sabyasachi Mukherji.

"Dispensation of social justice and achieving the goals set forth in the constitution are not possible without the active, concerted and dynamic efforts made by the persons concerned with the justice dispensation system.". - Justice K.T. Thomas.

"A well-informed voter is the foundation of democratic structure.". - Justice M.B. Shah in PUCL V. Union of India 2003.

"Rule of law is the essence of democracy. It has to be preserved. Laws have to be enforced." - Justice Y. K. Sabharwal.





"The right to get information in a democracy is recognized all throughout and it is a natural right flowing from the concept of moving."-Justice. M.B.Shah

In an era of rapid technological advancement and shifting political landscapes, the judiciary must continue to evolve to address new challenges and protect democracy in changing times. Ultimately, the judiciary's responsibility is enduring: to uphold justice, adapt to emerging issues and protect the rule of law. As democracies continue to evolve, the judiciary's role as a stabilizing force becomes even more crucial, underscoring the need for a resilient, independent, and impartial judicial system that upholds the fundamental tenets of democratic governance.

The judiciary plays a vital role in safeguarding justice, equality, and the rule of law, ensuring these principles endure amidst changing political, social, and technological landscapes. Its responsibility is both reactive-addressing violations of rights and government overreach-and proactive, anticipating threats to constitutional norms and protecting fundamental freedoms. An essential function of the judiciary is its ability to adapt to evolving societal norms, new technologies and shifting political dynamics while staying true to core democratic values. The judiciary must balance honoring historical precedents with evolving legal frameworks to address modern challenges.

It must also protect individual rights, acting as a check on government and majority rule, especially when political power threatens democratic principles. The judiciary must ensure access to justice for all citizens, remain transparent, and build public trust. As new issues like digital privacy and artificial intelligence emerge, courts must safeguard individual freedoms in the digital age. Judicial independence is crucial, but it must be balanced with accountability to maintain public confidence in its impartiality. In conclusion, the





judiciary's responsibility to uphold democracy requires it to remain adaptive, independent, and committed to justice, protecting democratic ideals and individual rights for future generations.

Having dealt with the role of judiciary in democracy, it is high time for us to make self introspection that our forefathers have fought against the British colonial administration and fought like anything for decades to get the independence to this country. While fighting several persons have lost their life, property, their profession with a fond hope that this country, if gets independence, gets its recognition and people of this country would take this country to the great height. At the same time, shall not forget that judiciary does not stand above democracy, but it is the part of the democratic system just like other organs. Powerful judiciary without accountability is not only an anathema to our constitution, but also a recite for disaster for our democracy. To serve in a modern society, the judiciary has no other way but uphold the democracy that will justify its role in checking the exercise of power by the government and with that ambition we have adopted out Constitution of India on 26.11.1949 by the Constituent Assembly its members were mindful of the challenges of the governance, Dr.B.R.Ambedkar who was the Chairman of the Constitution Drafting Committee also said that ("I feel that the Constitution is workable, it is flexible and it is strong enough to hold the country together both in peace time and in war time, indeed if I may say so if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is that man was vile." "The members also recognize that mere adoption of as good Constitution would not culminate the value of constitutionalism permeating the civil and political coutre in the Country nor could it ensure good governance. Democracy would succeed in India, only when both the people and government observe certain moralities or conventions. Social justice for achieving Social Democracy, Federalism, Independence of Judiciary, socio-economic justice and eradication of inequalities").



The Democracy in India is very strong because of Judiciary. Dr. Ambedkar observed that cultivation of mind should be the ultimate aim of human existence and sincerity is the sum of all moral qualities. Having quoted the same, it is high time for us to make self introspection and evaluate whether we have achieved after independence and also to make self introspection whether we are moving in a right direction to take the country to the great height and have the responsibility. I leave it to august assembly to think whether we have achieved the very ambitions of our forefathers who have dreamt this country should be in a great height among the world while fighting for independence of this country.

I thank the organizers for giving me an opportunity to share my views on 'Role of Judiciary in Democracy' and I hope that I met justice in sharing my thoughts. I thank all of you for your patience hearing.

Jai Hind and Jai Karnataka.































