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JUDICIAL INDEPENDENCE UNDER POLITICAL PRESSURE: A COMPARATIVE STUDY OF INDIA AND THE UNITED STATES

Jyotiranjana Yadav¹

I. ABSTRACT

Judicial independence is the cornerstone of the overall working. It ensures that the judicial officers deliver judgments free from any external pressure or influence. It forms an essential part of the democracy and governance. It safeguards the fundamental principles of the rule of law. However, political influence has often posed challenges to the autonomy of the judicial working across different jurisdictions. This research paper draws comparison between the framework in India and the United States. It will help in analysing how is the judicial independence is sometimes compromised under political pressure. In both of nation the tenure or term served by any judge is fixed. The aim behind this fixing of tenure is to make institution or judiciary free from executive and legislative pressure. In India, debates surrounding judicial appointments through the collegium system, executive interference, and recent controversies highlight the tension between the judiciary and political branches. On the other hand, in the United States, the politically charged process of judicial appointments, life tenure of Supreme Court judges, and instances of ideological polarization reflects a significant struggle. The paper aims to highlight strengths, weaknesses, and lessons each jurisdiction can draw from the other, reinforcing the need for a robust judiciary capable of maintaining independence amidst growing political contestations. By comparing these two nations, the paper tries to explore how structural safeguards, constitutional principles, and judicial traditions either insulate or expose the judiciary to external interference. The analysis and conclusion aim to contribute to a broader understanding of judicial independence under political pressure and its significance for democratic stability.

¹ LLM Student at Lovely Professional University (India). Email: jyotiranjanyadav79@gmail.com.

II. KEYWORDS

Judicial Independence, Political Pressure, India, United States, Judicial Appointments, Constitutional Safeguards.

III. INTRODUCTION

Judicial independence is universally recognised as A fundamental principle of democratic governance.² In democratic society, court should be able to deliver judgment of case impartially on the merits of the case, even when the decision has powerful political interests. As Justice Breyer has say that independence allows judges to “*protect individual rights even in the face of popular opposition*”, meaning that Individual rights (like freedom of speech, right to equality, right to life, etc.) must be safeguarded by the legal system or courts.

These rights should remain protected even if the majority of people, public opinion, or political forces oppose them. It reflects the principle that democracy is not just about majority rule but also about respecting minority rights and preventing the tyranny of the majority. tyranny of the majority refers to a situation when majority rule where the preferences and interests of the majority dominate the political landscape, potentially sidelining or repressing minority groups and using majority rule to take non-democratic actions.³

Tyranny of the Majority refers to a situation in which the will of the numerical majority in a society oppresses or disregards the rights, interests, or freedoms of minorities. The concept was most famously articulated by Alexis de Tocqueville in *Democracy in America*, where he warned that in democratic systems, “the majority... may be persuaded to oppress the minority.”⁴ John Stuart Mill also elaborated on this danger in *On Liberty*, cautioning that the social tyranny of dominant opinion could be “more formidable than many kinds of political oppression.”⁵

² Mira Gur-Arie and Russel wheeler, “Judicial Independence in the United States: Current Issues and Relevant Background Information” *Law and Political Science* 133-146 (2003).

³ Steven Levitsky and Daniel Ziblatt, “When Should the Majority Rule?” 36 *Journal of Democracy* 5-20 (2025).

⁴ Alexis de Tocqueville, *Democracy in America* (University of Chicago Press, 1st edn., 1835).

⁵ John Stuart Mill, *On Liberty* (Cambridge University Press, 1859).

In this comparative study, we examine how India and the United States two large democracies with written constitutions uplift judicial independence, and how each has encountered political challenges to it. India's constitutional system vests appointment power of Supreme court, High Court and District level itself judiciary.

The collegium is authority who appoint supreme court judges and rest high court appointment through promotion from district level according to their age and experience and district court appoint trust exam, whereas the U.S. system relies on executive nomination and legislative confirmation, in us totally depend open the president how was appointed as judge because once he selected any name, he forwarded Senate Judiciary Committee Review , committee investigates the nominee's background, past rulings, writings, legal philosophy, and even personal history. Then The Judiciary Committee sends its recommendation to the full Senate. A simple majority vote is required for confirmation the name. Both systems seek to separate the judiciary from the other branches, but neither operates in a vacuum due to political pressures, institutional shortcomings, and historical crises.

A. Research Problem

Judicial independence is vital for democracy, yet political pressure often challenges it. In India, debates over the collegium system and executive influence persist, while in the U.S., partisan judicial appointments and public attacks on judges raise concerns. This study explores how both nations safeguard courts against political interference.

B. Literature Review

- "Securing the Independence of the Judiciary – The Indian Experience" by M.P. Singh (2000): It examines the evolution of judicial independence in India. The paper traces the journey from colonial judicial structures to the post-independence emphasis on the judiciary as the guardian of the Constitution. It highlights challenges such as executive interference, judicial appointments, and the need for institutional reforms. His central theme is that the judiciary's

ability to maintain independence is essential for upholding the rule of law and protecting fundamental rights in a constitutional democracy like India.⁶

- *"Judicial Independence in the United States: Current Issues and Relevant Background Information"* by Mira Gur-Arie and Russel Wheeler (2003): This paper explores the historical foundations and contemporary challenges to judicial independence in the U.S. They emphasize the structural safeguards, such as life tenure and protected salaries, but also point out how political pressures—particularly through appointments and public criticism—continue to test the judiciary's autonomy. The work highlights the ongoing tension between judicial accountability and independence in a system designed to balance both.⁷
- *"When Should the Majority Rule?"* by Steven Levitsky and Daniel Ziblatt (2025): This paper discusses the democratic dilemma of majority rule vis-à-vis the protection of minority rights. They argue that while majority rule is a cornerstone of democracy, unchecked majoritarianism can lead to the "tyranny of the majority." Their analysis stresses the importance of constitutional limits, institutional safeguards, and a culture of mutual toleration to prevent democratic backsliding and ensure that minority interests are not systematically undermined.⁸

C. Novelty

This study uniquely compares India's collegium struggles with U.S. partisan appointments, highlighting fresh insights into how democracies differently navigate political pressure on judicial independence. Although scholarship has examined India's collegium debates and the U.S.'s increasingly partisan nomination/confirmation process separately, few studies systematically compare (a) the institutional channels through which political actors exert pressure and (b) the

⁶ M.P Singh, "Securing the Independence of the Judiciary - The Indian Experience" 10 *Indiana International and Comparative Law Review* (2000).

⁷ Mira Gur-Arie and Russel wheeler, "Judicial Independence in the United States: Current Issues and Relevant Background Information" *Law and Political Science* 133-146 (2003).

⁸ Steven Levitsky and Daniel Ziblatt, "When Should the Majority Rule?" 36 *Journal of Democracy* 5-20 (2025).

empirical consequences of those channels for judicial behavior, legitimacy, and reform pathways. This study fills that gap by pairing institutional process tracing with comparative measurement of pressure and assessing downstream effects on judicial decision-making and public legitimacy.

D. Research Objective

Following are the primary objectives of this paper:

1. To critically analyze the judicial appointment mechanisms in India and the United States by employing doctrinal review of constitutional provisions and landmark cases, coupled with comparative analysis of political practices and institutional structures
2. To examine the extent to which executive and legislative interventions affect the autonomy of the judiciary in both jurisdictions.
3. To undertake a comparative study of landmark cases where courts either resisted or succumbed to political pressure.
4. To evaluate the impact of political interference on public trust and confidence in the judiciary.
5. To propose potential reforms and institutional safeguards aimed at strengthening judicial independence in India and the United States.

E. Research Question

The primary research question examines whether meaningful judicial independence exists in contemporary times. The specific Question are as follows:

1. How do the judicial appointment processes in India and the United States influence the preservation of judicial independence?
2. To what extent do executive and legislative interventions undermine or strengthen judicial autonomy in both jurisdictions?
3. What comparative insights emerge from landmark cases where courts encountered significant political pressure?

4. How does political interference affect public trust and confidence in the judiciary in India and the United States?
5. What potential reforms and institutional safeguards could be introduced to enhance judicial independence in both democracies?

F. Research Gap

Existing study largely examines judicial independence in India and the United States separately, often focusing on appointments or isolated cases. However, limited comparative research addresses broader political pressures, public trust, and institutional safeguards. This study seeks to bridge that gap.

G. Research Hypotheses

In today's time, political influence is increasingly visible in judicial functioning, and judicial independence often appears to exist only in theory rather than in practice.

H. Research Methodology

The study will employ a doctrinal research methodology, which focuses on the analysis of legal texts, statutes, International Treaties, Legal Commentaries, Reports, articles, constitutional analyses, Guidelines, conventions, reports and case law.

IV. JUDICIAL INDEPENDENCE: CONCEPT AND SIGNIFICANCE

Judicial independence means judges decide cases impartially, guided solely by law and facts, free from political influence, external pressure, or interference, ensuring fairness, accountability, and protection of rights in a democratic system. International principles state that each judge must be free to decide cases in accordance with their assessment of the facts and their understanding of the law without any improper influences, inducements, or pressures.

Judicial independence has two key dimensions. Individual independence ensures each judge decides cases without fear, favour, or external influence, protecting personal integrity and Institutional independence safeguards the judiciary as an autonomous body, free from executive or legislative control, thereby maintaining balance of power and fostering public confidence in justice. In any democratic

country, judicial independence is balanced against democratic accountability. In the United States, the framers, wary of possible tyranny, designed the judiciary to be independent, as emphasized in Federalist No. 78.⁹

Judges were shielded from political influence through life tenure and protection of salaries.¹⁰ Yet, independence is balanced with accountability modern courts follow strict ethical codes, while many states use judicial elections or retention systems. This dual framework ensures judges remain impartial while still answerable to the public's trust in democratic governance.¹¹

In India, too, the separation of powers and independence of the courts were viewed as basic to preventing tyranny; the Supreme Court has recognized judicial independence as part of the Constitution's "basic structure," meaning Parliament cannot abatement it law relating to judicial Independence.¹² Without independence, people may lose trust in courts, fearing decisions are biased. This weakens fairness and justice, leading to the decline of the rule of law in society.

Thus, the main purpose of an independent judiciary is to make sure judges decide cases based only on the law, free from outside pressure or influence, ensuring fairness, justice, and equal treatment for everyone¹³. Judicial independence protects people's basic rights and prevents misuse of power by the majority. However, its strength depends not only on legal safeguards but also on how they work in practice. Since pressures constantly evolve, the idea of independence must keep adapting to meet new challenges in society.

⁹ Alexander Hamilton, 'The Federalist No. 78: The Judiciary Department' in Clinton Rossiter (ed), The Federalist Papers (New American Library 1961).

¹⁰ Threats to Judicial Independence and the Rule of Law, *available at:*

<https://www.americanbar.org/groups/litigation/about/awards-initiatives/american-judicial-system/threats-to-judicial-independence-and-rule-of-law/> (last visited on sept.07,2025).

¹¹ Mira Gur-Arie and Russel wheeler, "Judicial Independence in the United States: Current Issues and Relevant Background Information" *Law and Political Science* 133-146 (2003).

¹² All India Judges' Association And ... vs Union Of India And Others, 24 August, 1993.

¹³ M.P Singh, "Securing the Independence of the Judiciary - The Indian Experience" 10 *Indiana International and Comparative Law Review* (2000).

V. CONSTITUTIONAL AND INSTITUTIONAL FOUNDATIONS

A. India

The Constitution of India (1950) define a formal separation of powers among the executive, legislature, and judiciary and guarantees an independent judiciary through various provisions. For instance, Article 50 of the Constitution of India ¹⁴(Directive Principle) directs the State to separate the judiciary from the executive in public services. Article 124¹⁵ establishes the Supreme Court and Article 217¹⁶ the High Courts, with their judges appointed by the President in consultation with senior judges. In India, judges are chosen through the collegium system, where the Chief Justice of India and the four senior-most Supreme Court judges recommend names.

The Chief Justice of India, along with the four senior-most judges of the Supreme Court, plays a pivotal role in the judicial appointments process under the collegium system. The Chief Justice presides over the collegium and initiates discussions on the suitability and merit of candidates for elevation to the High Courts and the Supreme Court.

The four senior-most judges serve as key advisors, ensuring that the decision-making process reflects institutional wisdom rather than the opinion of a single individual. Their collective role is to deliberate on judicial competence, integrity, and independence, thereby maintaining a balance of perspectives and reducing the possibility of arbitrariness. This collegial consultation underscores the principle of judicial independence by placing appointments in the hands of senior judges rather than the executive, while also ensuring accountability through shared responsibility.

The government can raise objections or send back recommendations, but if the collegium repeats its choice, the government must accept it. This process aims to keep appointments fair and free from political pressure.¹⁷ Judges of the Supreme Court retire at age 65 and High Court judges at 62 and Removal of judges of Supreme court

¹⁴ The Constitution of India, art. 50.

¹⁵ The Constitution of India, art. 124.

¹⁶ The Constitution of India. art. 217.

¹⁷ Judicial Independence in India: Tipping the Scale

and high court is permitted only by a parliamentary by the impeachment process, if judges he/she involve in “misbehave or incapacity” was proven.¹⁸

The process of impeachment is requiring a two-thirds majority in both Houses to remove any judges from his office. In India history, removal of judges is rare. Justice V. Ramaswami, a Supreme Court judge, faced impeachment in 1993 but survived due to lack of majority support.¹⁹ Justice Soumitra Sen of the Calcutta High Court resigned in 2011 before impeachment. Such cases highlight accountability yet also the difficulty of removing judges.²⁰ The ICJ has pointed out that giving Parliament the power to remove judges, instead of an independent judicial body, goes against global standards of fairness and judicial independence.

In *All India Judges Association v. Union of India* (1993), the Court stressed that for true separation of powers, judicial appointments must include real input from judges. It warned that if political influenced involved in appointments, independence would be at risk.²¹ In the *Second Judges’ Case* (1993), the Court created the collegium system, making it clear that judges should be appointed free from government control. This historic incidence strengthened the autonomy of the judiciary, ensuring that judges are selected based on merit rather than political preference, and reinforced the principle that an impartial judiciary is vital for protecting democracy.²²

B. United States

The U.S. Constitution of 1787 protects judicial independence through Article III. It gives federal courts judicial power, ensures judges serve as long as they show good conduct, and guarantees their salaries cannot be reduced. These safeguards allow judges to decide cases fairly, without political pressure²³. In practice, U.S. judges serve

¹⁸ Threats to Judicial Independence and the Rule of Law, *available at:* <https://www.americanbar.org/groups/litigation/about/awards-initiatives/american-judicial-system/threats-to-judicial-independence-and-rule-of-law/> (last visited on sept.07,2025).

¹⁹ Subhash C. Kashyap, *Parliamentary Procedure: Law, Privileges, Practice and Precedents* (Universal Law Publishing 2014).

²⁰ *Rajya Sabha Debates*, 18 August 2011 – on the impeachment motion against Justice Soumitra Sen (Calcutta High Court).

²¹ *All India Judges’ Association v. Union of India*, (1993) 4 SCC 288.

²² *Supreme Court Advocates-on-Record Association v. Union of India*, (1993) 4 SCC 441 (*Second Judges’ Case*).

²³ The Constitution of the United States of America, art. III, s. 1-2.

for life and their pay cannot be reduced. They can be removed only through impeachment for serious crimes like treason or bribery. The U.S. Supreme Court has explained that impeachment acts as the ultimate safeguard to ensure accountability while preserving independence.²⁴

Judge Friedman notes that America's constitutional framers designed the federal judiciary to be mostly free from political pressure.²⁵ They did this by giving judges life tenure, protecting their salaries from cuts, and making removal possible only in rare cases. Federal judges, including Supreme Court justices, are nominated by the President and must be confirmed by the Senate. Once appointed, however, they decide cases independently, without outside influence. This system aims to balance accountability with the need for impartial justice. The American Bar Association is say judicial independence not to benefit to judges but its promote the rule of law.²⁶

VI. WHAT ARE THE POLITICAL CHALLENGES TO JUDICIAL INDEPENDENCE IN BOTH COUNTRY

A. Political Challenges in India

In Indian history, judicial independence has faced danger on many occasions, showing how the judiciary has often been at risk of political influence. One of the incidences was where clash over constitutional amendment in 1970.

In *Indira Nehru Gandhi v. Raj Narain* (1975), Supreme court upheld controversial amendment done by parliament, in which parliament has right to amend the fundamental rights which granted by Indian constitution, supreme court held that this amendment violated the constitutional rights.²⁷

In case of *Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr*(1973), Supreme court held that basic structure of constitution cannot be amendment, which

²⁴ United States v. Nixon, 418 US 683 (1974).

²⁵ Barry Friedman, *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution* (Farrar, Straus and Giroux, 2010).

²⁶ Threats to Judicial Independence and the Rule of Law, *available at*: <https://www.americanbar.org/groups/litigation/about/awards-initiatives/american-judicial-system/threats-to-judicial-independence-and-rule-of-law/> (last visited on sept.07,2025).

²⁷ *Indira Nehru Gandhi v. Raj Narain*, (1975) 2 SCC 159.

include rule of law.²⁸ These two cases showed that the judiciary itself the final authority to deciding the limits over government and parliament's power.

In Emergency 1975-77 was the time in which real test for India judiciary where fundamental rights were suspended and court remained silent due to lack of power during Emergency period . While a few judges resisted, the judiciary mostly accepted executive orders. this as a moment of weakness, showing the struggle between judicial responsibility and political pressure upon judiciary.

If we taken recent example of political challenges to Judicial independence is 2015 passed Ninety-Ninth Amendment creating a National Judicial Appointments Commission (NJAC) with government members, aiming to replace the collegium. Composition of the NJAC was Chief Justice of India (as Chairperson), two senior Supreme Court judges, the Union Law Minister, and two eminent persons. The two eminent persons was the issue for which the Supreme Court declared the NJAC unconstitutional in 2015, deeming that it undermined judicial independence by giving the executive and non-judicial members a veto power over appointments.²⁹ The process of selecting the eminent persons was to be nominated by a committee comprising the Prime Minister, the CJI, and the Leader of the Opposition in the Lok Sabha.

In 2018, Four senior Supreme Court justices come publicly and given interview to news report and say that the government was interference in appointment of judges and influencing the case judgement in his favour.³⁰ The judges pointed out how the government had controversially blocked the promotion of advocate Gopal Subramaniam to the Court. As one report notes, "*the Modi government unilaterally rejected the Supreme Court Collegium's recommendation*", which show was government

²⁸ Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461.

²⁹ Advay Vora, Why did the SC strike down the NJAC Act in 2015?, *The Times of India*, 4th Apr 2025, available at (<https://www.scobserver.in/journal/why-did-the-sc-strike-down-the-njac-act-in-2015/> , (last visited on sept.09,2025).

³⁰ Krishnadas Rajagopal, Four SC judges air differences with CJI Misra, *THE HINDU*, (last visited on sept.09,2025).

try snatch the independence of judiciary.³¹ One of the Critics observations say that Subramaniam had aided a case against a top BJP leader, which result the rejection his promotion, which shows politically motivated to curtailed the independence. The ICJ's 2025 report warns that judicial independence in India is under strain. Delayed appointments, huge case backlogs, judge transfers, executive criticism, and threats to override court rulings show growing pressure on the judiciary.³²

B. Political Challenges in United States

The United States has its own history which show how executive and legislative challenges to judicial system. In 1804, the U.S. House of Representatives impeached Supreme Court Justice Samuel Chase, accusing him of making politically biased decisions. But in 1805, the Senate cleared him of all charges. This case became an important moment in American history because it showed that judges should not be removed just for giving unpopular rulings. impeachment was taken place only for serious misconduct not for differences in legal opinion. This incidence help in protect judicial independence in the U.S., making clear that courts must be free from political pressure if democracy is to survive.

In 1937, President Franklin D. Roosevelt tried to introduce a "court-packing" plan, which aimed to add more judges to the U.S. Supreme Court so that his New Deal programs would be approved.³³ The idea was that by increasing the number of justices, Roosevelt could appoint judges who supported his policies. However, the plan faced strong criticism from Congress, the public, and even the judiciary itself. It clearly shows how president try to snatch independence of judiciary. This even show that even you are the popular president, you can not change the basic structure of the supreme court for just political reason.³⁴

³¹ Seraphin Dhanani, India's Justice System is No Longer Independent: Part II, *THE LAWFARE*, Friday, September 22, 2023, 11:34 AM, available at(<https://www.lawfaremedia.org/article/india-s-justice-system-is-no-longer-independent-part-ii>), (last vested on sept.09,2025).

³² ICJ, "India: ICJ Urges Major Structural Reforms to Ensure Fair Administration of Justice Under the Rule of Law" 15-20, (2025).

³³ Supreme Court Historical Society, *FDR & The Court Packing Controversy: Full Script* available at: <https://supremecourthistory.org/films/fdr-courtpacking-controversy-full-script/> (last visited on 21st Sep 2025).

³⁴ William E. Leuchtenburg, *The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt* (Oxford University Press 1995).

U.S. judicial independence has faced quiet but serious challenges. Supreme Court nominations have turned highly political influence. In 2016, Republicans blocked hearings for Judge Merrick Garland. Later, Justices Barrett and Kavanaugh were confirmed mostly along party lines. These moments show how court appointments have become political battlegrounds, raising concerns about long-term trust in the judiciary.

Even so, once appointed, U.S. federal judges serve for life. As Judge Friedman explains, the Constitution protects them from public and political pressure, unlike elected leaders. This safeguard helps judges stay independent and focused only on the law.³⁵ In recent years, political attacks on judges have sharply increased. During Trump's presidency, judges who blocked his policies, like immigration and travel bans were personally criticized by him and his supporters. Some lawmakers even suggested impeaching of judges can be taken place. Such actions raised serious concerns about protecting judicial independence from political influence and personal retaliation.

In June 2025, two federal judges appointed by Trump revealed that many of their colleagues had faced threats after striking down his policies. The tension escalated when Republican lawmakers in the House even pushed to impeach six judges for rulings against the administration. Chief Justice John Roberts strongly criticized such moves, stressing that disagreements with court decisions should be addressed through appeals, not personal attacks or impeachment threats. These events show how political battles are testing the long-held respect for judicial independence in America, raising concerns about the growing pressure judges face in carrying out their constitutional duties.

In recent years, several states like Texas and Florida have passed laws aimed at limiting the authority of courts that struck down measures such as bans or voting restrictions. The Brennan Centre notes a surge in bills designed to politicize how judges are chosen, weaken their independence, or restrict their work. In some states,

³⁵ Mira Gur-Arie and Russel Wheeler, "Judicial Independence in the United States: Current Issues and Relevant Background Information" *Law and Political Science* 133-146 (2003).

judges have even been impeached as punishment for unpopular rulings. These developments reveal a troubling pattern: while federal courts still enjoy strong structural protections, state-level judges often face direct political pressure, making them more vulnerable to retaliation when their decisions clash with powerful political interests.³⁶

Both India and the U.S. show how history and politics shape their courts today. In India, judges are chosen through the collegium system, which shows judicial independence, but the government has recently tried to challenge this process. In the U.S., judges enjoy life tenure to shield them from politics, yet fierce nomination battles and growing public criticism have tested that protection. Together, these trends reveal how both countries struggle to balance judicial independence with political pressures in modern times.

VII. COMPARATIVE ANALYSIS BETWEEN POLITICAL CHALLENGES IN INDIA AND UNITED STATE

As already suggested, Judicial independence is an essential part of democracy. Both India and the United States have constitutional protections for judges, but the way they protect their independence is very different. The following points compare the two systems on the basis of certain points:

A. Appointment of Judges

1. In the United States, the President appoints judges and the Senate confirms them. This process allows politics to play a major role because both branches are elected. Each appointment becomes a big political issue, especially for the Supreme Court, since judges serve for life.³⁷
2. On the other hand, In India, judges of the higher judiciary are appointed through the collegium system. This means senior judges recommend names and the government usually approves. Parliament tried to change this by creating the National Judicial Appointments Commission (NJAC) in 2014, but

³⁶ Alicia Bannon and Nathaniel Sobel, "Assaults on the Courts: A Legislative Round-Up" (2017).

³⁷ U.S. Constitution, Art. III, Cornell Law School, Legal Information Institute, "Article III," available at: <https://www.law.cornell.edu/constitution/articleiii> (last visited Sept. 13, 2025).

the Supreme Court struck it down in 2015 because it gave too much power to the executive and threatened judicial independence.³⁸

B. Tenure and Security

1. In the United States, judges under Article III of the Constitution serve for life, unless they resign, retire, or are removed by impeachment.³⁹ This protects them from political pressure, but it also makes every appointment extremely important, because one judge can influence the Court for decades.
2. In India, judges retire at age 65 in the Supreme Court and 62 in the High Courts.⁴⁰ This means there are more frequent appointments, but the collegium system is supposed to prevent political interference. However, critics say it lacks transparency.

C. Removal of Judges

1. In the United States, judges can only be removed through impeachment by the House of Representatives and conviction by a two-thirds majority in the Senate. This has rarely happened in history.⁴¹ Still, politicians sometimes threaten impeachment as a way of pressuring judges.⁴²
2. In India, Parliament can remove a judge for misbehaviour or incapacity through a very difficult process under the Judges Inquiry Act, 1968. This has also rarely been successful, but political debates around removal can affect judicial independence.⁴³

³⁸ Supreme Court Advocates-on-Record Association v. Union of India, Writ Petition (C) No. 13 of 2015 (NJAC Case).

³⁹ U.S. Constitution, Art. III, Cornell Law School, Legal Information Institute, "Article III," available at: <https://www.law.cornell.edu/constitution/articleiii> (last visited Sept. 13, 2025).

⁴⁰ Judicial System Unveiled: A Comparative Analysis of USA & India, SSRN (2024), available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4986401 (last visited Sept. 13, 2025).

⁴¹ Federal Judicial Center, "Impeachments of Federal Judges," available at: <https://www.fjc.gov/history/judges/impeachments-of-federal-judges> (last visited Sept. 13, 2025).

⁴² Associated Press, "A Look at the Judge Who Blocked Trump's Deportations and Is Now Facing Calls for Impeachment" (Mar. 18, 2025), available at: <https://apnews.com/article/cc7e61ccf8e8062d7075b617c87cdb5> (last visited Sept. 13, 2025).

⁴³ The Judges (Inquiry) Act, 1968 (Act 51 of 1968).

D. Judicial Powers

1. Both countries give their higher courts the power of judicial review. In the United States, the Supreme Court established this power in *Marbury v. Madison*⁴⁴ (1803), giving it authority to strike down laws.⁴⁵ This often brings the Court into conflict with elected branches.
2. In India, the Constitution provides for judicial review, and the Supreme Court has used it to expand rights under Article 21.⁴⁶ It has also developed the basic structure doctrine, which stops Parliament from amending the Constitution in a way that harms its fundamental features.⁴⁷

E. Political Pressure Today

In the United States, political pressure is seen during nomination hearings and also in public criticism of judges. Recently, some leaders have even suggested impeaching judges for their decisions, showing how political threats can challenge independence.⁴⁸

In India, the main issue is the appointment process. The government has often criticised the collegium system for being non-transparent, while the judiciary has defended it as necessary for independence.⁴⁹ To conclude, the two systems have different strengths and weaknesses. The U.S. model gives very strong protection through life tenure but makes appointments highly political. The Indian model spreads out appointments over time but faces debates about transparency and

⁴⁴ *Marbury v. Madison*, 5 US (1 Cranch) 137 (1803).

⁴⁵ *Ibid*.

⁴⁶ The Constitution of India, art. 21.

⁴⁷ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁴⁸ Politico, "Rule of Law Is 'Endangered,' Chief Justice Says" (12 May 2025), available at: <https://www.politico.com/news/2025/05/12/chief-justice-roberts-speech-georgetown-00343406> (last visited Sept. 13, 2025).

⁴⁹ The Hindu (via Civildaily), "The Collegium and Changes It May Still Be Early Days" (7 Jan. 2025), available at: <https://www.civildaily.com/7th-january-2025-the-hindu-op-ed-the-collegium-and-changes-it-may-still-be-early-days/> (last visited Sept. 13, 2025).

independence. In both countries, political actors still try to put pressure on the judiciary, but the constitutional systems continue to provide safeguards.

VIII. CONCLUSION

Judicial independence stands as the foundation of constitutional democracy. Both India and the United States have carefully crafted mechanisms to protect the judiciary from direct political interference, yet both systems are constantly tested by evolving political realities. The U.S. Constitution provides life tenure to federal judges, ensuring long-term insulation from external pressure, but this very safeguard has turned the appointment process into a highly partisan battleground. In contrast, India's collegium system distributes appointments across time and avoids concentrated political control, but its lack of transparency has invited criticism and frequent clashes with the executive.

The suggestions outlined below demonstrate that reforms are necessary not to undermine but to strengthen judicial independence while ensuring accountability. Reforming appointment mechanisms, whether through bipartisan commissions in the U.S. or transparent collegium procedures in India, can reduce executive dominance and restore public trust. Similarly, balancing tenure with accountability—through fixed but long judicial terms in the U.S. or post-retirement restrictions in India—can ensure judges remain impartial while avoiding overreach or undue influence. The creation of independent judicial ethics commissions in both countries would help depoliticize disciplinary proceedings, while enhanced transparency measures, such as live-streaming and financial disclosures, would bridge the gap between courts and citizens.

Most importantly, judicial independence is not a one-time constitutional guarantee but an ongoing process that requires cultural as well as structural safeguards. Political leaders must exercise restraint and respect judicial authority, while judges themselves must uphold the highest standards of integrity. Adoption of global best practices, such as the Bangalore Principles of Judicial Conduct, can provide a common ethical baseline. By combining institutional reforms with renewed respect for constitutional

values, both India and the United States can preserve the judiciary's role as a neutral arbiter and protector of fundamental rights.

In conclusion, judicial independence is best maintained when courts are not only free from political interference but are also seen as transparent, accountable, and trustworthy by the public. If both nations pursue reforms along these lines, their judiciaries will remain resilient guardians of democracy, capable of withstanding political pressure and upholding the constitutional promise of justice.

IX. SUGGESTIONS

After doing elaborative research on this topic, following suggestions have been made:

A. Reforming the Appointment Process:

In the United States, the heavy politicisation of judicial appointments can be reduced by creating a bipartisan or independent judicial appointments commission. Such a mechanism would still preserve the constitutional role of the President and Senate but limit purely partisan influence. In India, the collegium system could be reformed for greater transparency. Steps like publishing reasons for selection and rejection, allowing limited scrutiny by an independent body, and making background verification more structured could balance independence with accountability.

B. Balancing Tenure with Accountability:

The U.S. system of life tenure safeguards judges from political pressure but creates long-term ideological entrenchment. A fixed, non-renewable term (for example, 15–18 years) or an upper age limit, as adopted in other democracies, could balance stability and accountability. In India, where retirement ages are fixed, introducing a mandatory cooling-off period before retired judges accept government or political posts would help reduce perceptions of executive influence and preserve judicial neutrality.

C. Strengthening Removal Mechanisms:

Both India and the United States rely on impeachment, which is rare and politically influenced. Establishing an independent judicial ethics commission to deal with

misconduct—short of impeachment—would allow accountability without political manipulation.

D. Enhancing Transparency and Public Trust:

Judicial independence is closely tied to public confidence. Measures such as live streaming of important cases, simplified summaries of judgments for public understanding, and full disclosure of judges' financial interests can strengthen legitimacy. While India has taken steps by live-streaming Constitution Bench cases, the initiative should be extended to High Courts. In the U.S., stricter rules on financial disclosures and recusals can build confidence in judicial impartiality.

E. Safeguards Against Political Pressure

Political actors often use rhetoric or impeachment threats to pressure judges. Introducing formal codes of conduct for legislators and executives to regulate commentary on judges can help protect judicial integrity. Adoption and enforcement of international standards would provide a universal ethical framework. Judicial training on media relations and independence can further help judges withstand external pressures.

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