

JOURNAL FOR LAW STUDENTS AND RESEARCHERS**THE ROLE OF INDIAN JUDICIARY PROVIDING GOOD GOVERNANCE****By Dishita Khandelia**

The judiciary, from the nature of its functions, will always be at least dangerous to the political rights of the constitution; because it will be least in a capacity to annoy or injure them...the judiciary...has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgement; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgements.— Alexander Hamilton.¹

These are the famous words which can be used for describing the role of Indian judiciary in good governance . judiciary is a branch of government that administers justice by law. The term used in this refers broadly to the courts, the judges , magistrates , adjudicators and other supportive personnels that runs this system. The common law system is administered by the Indian judiciary where the legislations , customs and precedents where the law of land is codified.

The constitution of India describes the judicial system of India which consists of Supreme court , High court , District court or subordinate court. There is a separation of power in judiciary through which one can depict good governance as there is seperation of power between three branches of government which are : parliament , legislature and executive. The most important role that parliament has in the Indian Judiciary is to make laws for the country , after the laws is made it is carried out and enforced by the executives and when the law is fully prepared it is then used by the judiaciary in individual cases. These three branches remains independent from each other.

The judiciary of India assures to its best to minimize corruptions and while making decesions it ensures that the opinions and views of the unprotected are heard and kept in mind . the judiciary is also responsible for the present and future needs of the society. For the judiciary to provide adequate and acceptable governance we need to understand what good governance means good governance is an indeterminate term used in international development circles to describe how public institutions conduct public affairs and manage public

¹ Submitted to Seattle Preparatory high school by student.

resources² and the process of decision making and the process through which decisions are implemented or not are also involved in good governance as said by Kauffman “ The judicial system is the most expensive machine ever invented for finding out what happened and what to do about it “.

The other major role of judiciary in providing good governance in India are that firstly to provide justice to the people it is the first and foremost function of the judiciary to give justice to the people whenever, they approach it. It awards punishment to those who after trial are found guilty of violating the laws of the states or the rights of people. The aggrieved citizens can go to the courts for setting redress and compensation.³ In India our courts are mainly divided into three levels as per the judiciary system which are: 1. District court ; in this court most of the citizens comes if any dispute arises in their city or region . In India each state comprises of many district and has its own subordinate or district court. And, the district judge has the authority to guide the district. 2.High court ; each and every in India state has its own high court and high court is the highest judicial authority of the state. the original, civil and criminal jurisdiction exercised by the high court depends on the competency of the subordinate courts to high courts in the state. 3. Supreme court ; it is the highest court of our country , it safeguards our constitution and provide justice to the people in every possible way as it is the last body of the judiciary to find justice that is why the decisions made by the supreme court is final and interim , it is above all the all courts. The supreme court of India is located in Mardhi house , New Delhi.

Secondly , the Indian judiciary applies and elucidates roles in specific areas . Each and every law has a proper interpretation to be applied in specific areas. The judges perform this function meaning that whatever the judges will interpret it will mean. In providing good governance it is the responsibility of judiciary to protect the rights of the people. It is the right of the citizen to seek the shielding of the judiciary if his rights are being contravened or threatened to be contravened by any of the fellow citizen or any kind of private organizations or by any of the government. One of the major role of judiciary is that under this the court of law in India can initiate and enforce action for securing any significant public or general interest which is being adversely affected or is likely to be so by the action of any agency , public or private this system is known as public interest litigation system ⁴.

The importance of judiciary in providing good governance are that judiciary is a source of confidence and fearlessness . the common man depends upon the judiciary for getting justice . it enjoys a big important in the eyes of people because it acts as the dispenser of justice , protection of the rights of the people , guardian protector of constitution of state , guardian of rule of law and justice etc.

² Kothariionindia.blogspot.com

³ www.yourarticle.com

⁴ Submitted to University of Petroleum and Energy studies.

Besides the above major functions also performs several other functions in providing good governance. Some such functions are the appointment of certain local officials of the courts, choosing of clerical and other employees. Cases relating to grant of license , patents and copy right, appointments of guardians and trustees , the admission of wills etc. Through all the functions plays an important role in each state. It also pays a role in the evolution of constitution through the exercise of its right to interpret and safeguard it against all legislative and executive excesses.

The organization of judiciary is also one of the roes of judiciary in providing good governance it must have prevented the executive and legislature from committing excesses secondary the ability of the judiciary to maintain and independently run the judicial administration also the judiciary must ensure full , fair and less expensive opportunities to the people for defending their right and getting justice. There are many more function to which a well organized and independent judiciary can be secured.

Through this essay one thing we can surely say is the Indian judiciary ensures that the our country is provided with good governance through whatever means required. Together with the executive and the legislature , the judiciary acts as one of the three pillars that uphold democracy. A democratic government that is of the people , for the people , by the people needs a judiciary that is strong and independent so that the rights of the people do not get trampled upon by those in power. That is how judiciary becomes the most pillar of democracy . therefore, two concluded that the above mentioned points distress the role of judiciary in providing good governance in India. Also , that major role of Indian judiciary in providing good governance is that it is independent and democracy is inevitably doomed. As said by “ An independent judiciary does not mean judges independent of the constitution from which they derive their power or independent of the laws that they are sworn to uphold “.