

To What Extent Is the UK Judiciary Independent? Is This Sufficient

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Introduction

The independence of the judiciary can be explained with three basic points. That is (i) sovereignty of the judges from the executive and the legislature, that are the other branches of government (ii) neutrality from political ideologies i.e., it should be free from the pressure of all the political parties, media and public (iii) self-sufficiency of each judge, i.e., every individual should be free from the pressure of his or her seniors so that he or she can easily make any judgement without any pressure and according to the requirement of law (Faúndez, 2016).

So basically, the independence of the judiciary system depends on such a system where a judge can freely make any decisions without the pressure of the public, media or any external power. An independent judiciary must be separated from the other two parts of the government, which are the executive and legislature. Baron de Montesquieu, a French philosopher, gave the idea of the separation of powers (Green, 2014). He presented the idea that one person should not be allowed to serve in more than one branch of the government as it will help us to maintain democracy; otherwise, we will have to face dictatorship.

In the United Kingdom, we do not have a systematic and organized constitution that positions the rule of law, and it does not clearly separate the power. However, this does not have a negative impact on the persuasion of the rule of law, and it does not mean that the judiciary of the UK is not independent.

Description

Judicial independence plays a vital role in the politics of the UK as it is rudimentary to the British Constitution. The citizens of the United Kingdom always bow their heads to the decisions that are made by the courts. It is crucial for all the judges who are serving the British judiciary to make decisions that benefit all the citizens of the country, not to make decisions that are in the interest of any one individual.

For the proper functioning of the judicial system and all of its organs, some boundaries have been set for all the judges working in the judiciary system of the United Kingdom, against which they will never participate in any case in which the judge has any kind of interest (Heywood, 2015). In the UK, judges are totally free from the pressure of the government and all the political parties because if they ever try for biasedness, they face a lot of pressure from the public and the public start protests against

them. In addition, this is in the unwritten law of the UK that if a judge sees that he has some kind of interest in the case presented before him or there is a possibility that he might get biased while giving the verdict, he calls the parties and present them the situation and asks for the permission from both the parties that whether they want him or her to listen to the case or they want him to pass this case to some other judge (Heywood, 2015).

In addition, we can also find out the level of independence in the UK judiciary system. There are many cases that have been made a part of history as per their ruling that even technicalities cannot stop the judges from giving fair rulings (Heywood, 2015). Nothing can stop the judges, not even the government or any other external pressure, from taking a fair trial and giving a fair ruling. Here are some examples that better explain the independence of the judiciary system in the UK.

Horncastle and hearsay evidence: The troublesome issue of evidence of “hearsay” was presented in the Supreme Court (Green, 2014). Hearsay evidence is the statements of the people who are becoming a witness in any case but are not present in the court. This evidence cannot be cross-examined and is not under oath. According to the Supreme Court judge, it was not an issue because sometimes it’s hard to present the witness for many reasons (Green, 2014). So, they decided that the hearsay evidence was valid. The same case was presented before the ECHR, which gave the verdict that “if a person is convicted on the basis of hearsay evidence, then their right for free trial has been violated”. The British government refused the verdict as they thought this verdict would be a serious threat to the judicial system, and the Supreme Court agreed to the government’s decision (Green, 2014).

The independence of the judiciary system is vital for the prosperity of a nation and to keep up the democracy. This independence means that all the judges working under the judiciary system should be free from personal bias and should be free from the influence of others. On these grounds, the UK judiciary system has come under a lot of criticism and is meant to be biased.

The main criticism of the UK judiciary is that the majority of the senior judges in the British judiciary system are middle-aged, predominantly white males who have taken all of their education in expensive private institutes (Fairclough, 2017). Whenever these judges have to make a verdict, they always show biasedness and always give rulings against minorities, either homosexuals, disabled or ethnic. Secondly, the lack of female judges in the judiciary system raises too many questions on the independence of this system. In the famous case of *Radmacher v Granatino* 2010, a ruling of 8 to 1 was made, and Lady Hale clearly said that the other eight judges did not see the case in the way she did because all those eight judges were gender biased. A big threat to the judiciary system (Green, 2014).

The British judiciary system, although working in very good condition, seems biased and does not look like an independent judiciary system. According to the claims, the judiciary system lacks independence. Some reforms are required for the improvement of the system so that the claims that are proving the lack of independence should be overcome.

Conclusion

Unlike most of the countries, the constitution of Great Britain is not codified and is not written in one piece. However, the UK judiciary system is still working in its best condition. The judiciary system of any country is considered to be independent if it is free from all kinds of biasedness and any type of external and internal pressure like political pressure, pressure from the media, and many other factors. A judicial system is said to be free if it is making decisions that are independent from the other two basic elements of the government, i.e., executive and legislature. It is a debatable topic whether the British judiciary system is independent or not. However, studies have shown that there is a need for reforms in England's judicial system. As of right now, there is a lack of judges from minority groups in England. In addition, female representation in the judicial system of England is negligible, which raises questions about the independence of this system. Therefore, to improve this system, reforms must be brought in in the above-mentioned areas.

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