



An Independent Judiciary

Independent and professional judges are the foundation of a fair, impartial, and constitutionally guaranteed system of courts of law known as the judiciary. This independence does not imply judges can make decisions based on personal preferences but rather that they are free to make lawful decisions — even if those decisions contradict the government or powerful parties involved in a case.

↔ In democracies, independence from political pressures of elected officials and legislatures guarantees the impartiality of judges. Judicial rulings should be impartial, based on the facts of a case, individual merits and legal arguments, and relevant laws, without any restrictions or improper influence by interested parties. These principles ensure equal legal protection for all.

↔ The power of judges to review public laws and declare them in violation of the nation's constitution serves as a fundamental check on potential government abuse of power — even if the government is elected by a popular majority. This power, however, requires that the courts be seen as independent and able to rest their decisions upon the law, not political considerations.

↔ Whether elected or appointed, judges must have job security or tenure, guaranteed by law, in order that they can make decisions without concern for pressure or attack by those in positions of authority. A civil society recognizes the importance of professional judges by providing them with adequate training and remuneration.

↔ Trust in the court system's impartiality — in its being seen as the "non-political" branch of government — is a principal source of its strength and legitimacy.

↔ A nation's courts, however, are no more immune from public commentary, scrutiny, and criticism than other institutions. Freedom of speech belongs to all: judges and their critics alike.

↔ To ensure their impartiality, judicial ethics require judges to step aside (or "recuse" themselves) from deciding cases in which they have a conflict of interest.

↔ Judges in a democracy cannot be removed for minor complaints, or in response to political criticism. Instead, they can be removed only for serious crimes or infractions through the lengthy and difficult procedure of impeachment (bringing charges) and trial — either in the legislature or before a separate court panel.

↔ An independent judiciary assures people that court decisions will be based on the nation's laws and constitution, not on shifting political power or the pressures of a temporary majority. Endowed with this independence, the judicial system in a democracy serves as a safeguard of the people's rights and freedoms.