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The Evolution of Judicial Independence: Analyzing the Impact of the Magna Carta on Modern Legal Systems and Current Challenges to the Rule of Law

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ABSTRACT

This paper analyses the development of judicial independence, following its history through to the Magna Carta of 1215, and evaluates its influence on contemporary legal systems. The Magna Carta laid down fundamental principles of due process and reined in monarchical authority, significantly impacting the development of standard law systems worldwide. This paper examines how such precedents in the past have shaped contemporary legal frameworks of countries like the United States of America, Canada, Australia, and India and proves the age-old value of judicial independence in sustaining the rule of law. Political interference, corruption, and inadequate funding currently imperil the autonomy and impartiality of judiciaries across the globe. Through comparative assessment, the research compares various systems of law, deriving best practices and proposing what must be done to promote the independence of judiciaries, such as seeking to consolidate legal tools, increasing transparency in the judicial appointment process, fighting corruption, and allocating proper funding for judiciary institutions. Overall, this study highlights the crucial importance of judicial independence in upholding democratic values and providing equal and impartial justice to everyone.

Keywords: Magna Carta, Judicial Independence, Modern legal System, Rule of Law.

I. INTRODUCTION

Judicial independence is the mainstay of any functional legal system, and its definition focuses on the ability of judges or courts to act free from extraneous influence, especially from the executive and legislative arms of government. It is equally important for delivering impartial justice since courts can decide purely based on the law and evidence without such freedom from political reprisal or influence. Through this process, it is possible to keep the judges at a distance from political or personal bias that might shift individual rights and downgrade checks and

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balances in governance. This separation allows judicial authorities to remain neutral as a sort of referee, rendering an invaluable check upon the wings of government so that no one wing becomes overly powerful.

(A) Background of Judicial Independence

Judicial independence has a variant, "rule of law," which is a doctrine that asserts that everybody-lay and institutional-are equal subjects of the law, just like individuals in judicial independence. This aspect is critical because it guarantees predictability and responsibility for all individuals in society, demanding that nobody is above the law. Operating independently supports this principle of laws being uniformly applied and infringements on or abuse of rights being dealt with fairly. If courts fail to be independent, the rule of law would be compromised in that the judges could be influenced politically or by financial interests, preventing the public from trusting the legal process as fair or honest.

1. Rule of Law and Judicial Independence

This Magna Carta of 1215 established the basis for those principles in asserting that a lawful judgment was necessary and just, effectively opposing the absolute power of the monarch.³ It thus introduced ideas which, during its time, were revolutionary: rights to a fair trial and protections against arbitrary detention- both anchors of modern judicial independence. The Magna Carta assumed a precedent in codifying protections, which prefigures that the judiciary must be free from extraneous influences and grounded in law.⁴ In common law countries, it has shaped the course of the development of legal systems.⁵ These foundations have carried forward with judicial independence and rule of law being seminal precepts for justice as well as democracy in modern legal systems.

(B) Significance of the Magna Carta

The Magna Carta, signed in 1215, marks a very important point in the history of law and governance. It emerged from a time of extreme protest under the rule of King John of England, whose arbitrary rule, heavy taxation, and neglect of feudal rights had led the barons to rebel against his rule.⁶ These barons, wanting to safeguard themselves as well as their territories against the total monarchical power of the crown, compelled the king to agree to a charter that would finally determine the difference of limiting his power. In historical value then, the Magna

³ Shetreet, S., & Turenne, S. (2013). *Judges on Trial: The Independence and Accountability of the English Judiciary*. Cambridge University Press.

⁴ Davis, M. (2008). *The Rule of Law in Central America: Citizens' Reactions to Crime and Punishment*. Greenwood Publishing Group.

⁵ Bingham, T. (2010). *The Rule of Law*. Penguin UK.

⁶ Carpenter, D. (2015). *Magna Carta*. Penguin Random House UK.

Carta is relevant for the reason that it was one of the first documents which wrote about the notion of limited government and that even the monarch must operate under defined laws.⁷ This shift in the power equation was a landmark deviation from the absolute monarchy and sowed the seeds for constitutional authority.

1. Principles Established

Certain provisions of the Magna Carta dealt with some principles fundamental to the principle of judicial independence, which would later become tenets of modern democratic systems. These include rights enunciated in clauses 39 and 40 as constituting guarantees to a just process of litigation.⁸ Clause 39 states that no freeman shall be arrested, nor will a man's property shall be taken from him without due process, being lawful judgment passed by his equals, or by the law of the land; in this way, it indicates one right to due process, curbing the power of the monarch by detentions of their own discretion. Clause 40 feeds into the notion of seeing that justice is not delayed, denied, or sold. The citizen is thus protected against judicial corruption and the need for speedy and impartial trial before the judiciary.⁹ These provisions form the groundwork for the necessary legal doctrines guaranteeing that the judiciary could and should serve as an unbiased body completely beyond direct control by the sovereign or other authorities exercising governmental power.

Indeed, the Magna Carta has had such a long-standing influence on judicial independence and fair trial rights that today its principles are imprinted in a variety of legal jurisdictions. Some element of those principles forms the basis of common law judicicia, whether it is in the UK, USA, or other former British colonies. The Magna Carta by putting a framework restrained legal limits on state power and stretched rights to individuals against the state. Inspiring reforms in legislation and protection, the Magna Carta has developed into modern times with judicial independence and fair trial with their notions of impartial justice. In many ways, it can be termed as a Magna Carta, not only because it provides history but also because it serves as an enduring symbol for the struggle for accountability, fairness, and the rule of law.

II. HISTORICAL CONTEXT OF THE MAGNA CARTA

It is during the troubled reign of King John of England that to trace the origins of the Magna Carta is possible. The reign of the monarch was virtually famous for policies of arbitrary

⁷ Holt, J. C. (2015). *Magna Carta*. Cambridge University Press.

⁸ Shapiro, M. (1981). *Courts: A Comparative and Political Analysis*. University of Chicago Press.

⁹ McKechnie, W. S. (1914). *Magna Carta: A Commentary on the Great Charter of King John*. Cambridge University Press.

governance and heavy taxes.¹⁰ His efforts to get military financing forced him to manipulate feudal obligations and charge exorbitant taxes from his barons and subjects. Already strained relations with the nobility were driven to untenable levels. He ignored all the existing feudal regulations that comprised land laws and succession statutes, for which his barons were broadly unhappy with the measures of their monarch, perceiving it as the violation of their rights and privileges.¹¹ King John's administration declined further by some of his losses at the hands of the French as well as the further embarrassment when Normandy was lost, thereby deepening resentment by the barons. These grievances finally led to a baronial rebellion, and the result of these demands for protection against the exploitative practices of the monarch was the appearance of the Magna Carta, meant to formalize limits on the king's powers and secure feudal rights-the step into codification of governmental restraint.

(A) Clauses Related to Judicial Independence

The key clauses in the Magna Carta unabashedly detail the principles of judicial independence and procedure as well. For instance, Clause 39 said, "No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, except by the lawful judgment of his equals or by the law of the land."¹² Due process clause was meant to safeguard the person so that he is not punished without legal judgment and thus arbitrariness of a single unruly ruler was not allowed. Moreover, Clause 40 stipulates, "to no one will we sell, to no one deny or delay right or justice." This clause is based on the principles that justice must be available in a timely and uncompromising manner so that justice must be granted and must be fair, free from corruption as well as delays that may jeopardize the delivery of justice. Together, the provisions of clauses had succeeded in creating legal safeguards that placed heavy importance on the fact that judicial authority ought to be kept away from the influence of the king, creating precedents which subsequent principles of judicial independence would draw inspiration from.

Magna Carta and Content with Emphasis upon Constraining Monarchy's Power through Defined Legal Processes: The content of Magna Carta, its emphasis upon limiting the power of monarchy by defined legal processes continues to have a long-lasting effect on constitutional law. This put the king under some kind of accountability and created protection from arbitrary punishment; it thus formed a foundation for the notion that rulers have to rule under established laws. That is well beyond England's shores: Principles influenced legal thinking and inspired

¹⁰ **Carpenter, D.** (2015). *Magna Carta*. Penguin Random House UK.

¹¹ **Holt, J. C.** (2015). *Magna Carta*. Cambridge University Press.

¹² **Baker, J. H.** (2002). *An Introduction to English Legal History* (4th ed.). Oxford University Press.

subsequent documents, including the English Bill of Rights and many constitutional frameworks around the world.¹³ The judicial independence and procedural safeguards introduced by the Magna Carta became a prototype for later generations. Its legacy thereby concentrated on fair play, equality before the law, and above all, protecting individual rights from the overreaching powers of the state.¹⁴

(B) Immediate Impact on English Law

The immediate impact of the Magna Carta on the practice of law in England has been described as fundamentally transformative in challenging the notion of absolute monarchy. The requirement that the King accepted the written charter and by it be made subject to such constraints on his authority was indeed a turning point in the balance of power between the monarchy and the nobility.¹⁵ It founded the revolutionary idea that even the king was not above the law, an idea that would continue to dominate the annals of the legal history books. In essence, it set the legal precedent whereby rulers were accountable to established laws and consequently subjected the exercise of royal power to checks, eventually dampening the mythology of the infallible monarchy.¹⁶ This early statement of the rule of law laid down a pattern that would go on to animate centuries of legal and constitutional change in England, influencing later battles for parliamentary authority over monarchic control.

1. Challenge to Absolute Monarchy

In addition to its constraints upon royal power, Magna Carta played a fundamental part in the development of common-law principles that continue to inform legal systems today. The due process clause of the charter—a provision in which no man shall be punished without lawful judgment—"stiffened the notion that justice ought to be indifferent and founded upon law, rather than upon mere sovereign whim." Related provisions regarding property rights—instituting a degree of insulation between landholders and the crown's ability to seize such property at whim—presented one of the first cornerstones of private property rights within English law. Thus, in putting these ideals into practice, the Magna Carta contributed to the gradual development of a rule-of-law system in which rights were recognized and protected, indeed in some respects enforceable, and judicial power was founded to exercise its own authority independently of the crown.

¹³ **Bingham, T.** (2010). *The Rule of Law*. Penguin UK.

¹⁴ **Breay, C., & Harrison, J.** (2015). *Magna Carta: Law, Liberty, Legacy*. British Library Publishing.

¹⁵ **McKechnie, W. S.** (1914). *Magna Carta: A Commentary on the Great Charter of King John*. Cambridge University Press.

¹⁶ **Wormald, P.** (1999). *The Making of English Law: King Alfred to the Twelfth Century*. Blackwell Publishing.

2. Evolution of Common Law Principles

A separation of judicial and executive powers is a key feature of most modern legal systems, and it hails back to the Magna Carta. It was only in the Magna Carta that the judiciary came to be defined as an independent power when the king was prohibited from arbitrary interference with courts and judicial process and obliged to conduct justice in a predetermined, fair manner.¹⁷ Only through such separation of power could the courts protect rights and freedoms of the individual without royal retribution or interference.¹⁸ This separation would, over time, evolve into the more formal English checks and balances within governance, which further embeds the judiciary as an independent check on government. Consequence of this aspect was that the Magna Carta's impact for the law in England was to transcend its direct effect upon the rule of King John. It was fundamental to lasting principles that would impact the progression of legal norms and entrench the rule of law and judicial independence as core governance principles.

III. THE INFLUENCE OF THE MAGNA CARTA ON MODERN LEGAL SYSTEMS

It had a profound influence on the modern legal systems mainly in common law countries where its principles have shaped the foundation of judicial independence and the rule of law. When the English system was expanded through colonization, the essence of the Magna Carta found new expression in the United States, Canada, Australia, and India under the English legal frameworks.¹⁹ These countries, though inheriting the British law tradition, adopted from the Magna Carta principles of fair judicial procedures and put some limits on the power of government. In all the jurisdictions, it has ensured due process and rights to individuals. It has, in turn, impacted constitutions and the processes of their justice systems. Legal practices of the Magna Carta find themselves in these nations adhering to norms in law that perform the task of preventing liberties taken for abusing powers and keeping the judicial power unbiased.

(A) Spread to Common Law Countries

In the United States, also, it can be seen that the practice of the Magna Carta impacted the formation of the Constitution and Bill of Rights.²⁰ The Fifth Amendment ensuring a person's right of due process is a direct impact of the clauses of the Magna Carta regarding preventing arbitrary punishment and detention. Due process has become a principle of bedrock for American constitutional law, where the very fact of fair treatment would be made in the judicial

¹⁷ Tamanaha, B. Z. (2004). *On the Rule of Law: History, Politics, Theory*. Cambridge University Press.

¹⁸ Paul, J. (2011). *Fair and Equitable Treatment Standard in International Investment Law*. Oxford University Press.

¹⁹ Chesterman, S. (2008). "An International Rule of Law?" *American Journal of Comparative Law*, 56(2), 331-361.

²⁰ Holt, J. C. (2015). *Magna Carta*. Cambridge University Press.

system for persons. More than this, the Magna Carta approach to limit the power of the executives gave ideas to farmers of America to put the same checks and balances in the U.S. Constitution by dividing the power of government into three branches, which are the executive, legislative, and the judicial branches.²¹ Through these ideas, the United States further entrenched the role of its judiciary as an independent and co-equal branch of government with the power to enforce checks on other branches. It was revolutionary in nature and traceable directly to the basics established by the Magna Carta.

The Magna Carta's influence is enshrined in Canada's Canadian Charter of Rights and Freedoms, a document that resonates in its commitment to rights and rule of law as in the case of the Magna Carta. In Canada, the Charter guarantees rights to liberty, security, and protection from detention without cause, a legacy that traces back directly to those declared rights by Magna Carta against governmental abuse of individual freedoms.²² As in Canada, the judiciary also embraced principles of judicial independence and impartiality that found their origins within the Magna Carta and provided free courts of law untouched by political influence. The Canadian legal system had a strong emphasis placed on the rights to a fair trial and judicial review from the heavy weight of Magna Carta influence because courts were given the power to judge and nullify the government's action once deemed against the rights of individuals and thus, in the process, making justice as well as accountability true to this establishment for centuries.

The Australian legal system also shows a residue of the Magna Carta influence by embracing judicial review as well as due process. In that regard, the High Court of Australia which has the legal power to interpret the constitution, and review the legal competency of executive and legislative actions, exercises the spirit of the Magna Carta for limiting government power and upholding rights of individuals.²³ By such judgment, Australian courts uphold these principles through setting standards that make it comply with established legal standards in ruling on government actions thereby supporting the rule of law as the guiding principle of governance. The legacy of the Magna Carta is also visible in the concept of "natural justice" in Australia, whereby legal proceedings should be carried out fairly and that one should be heard properly, reflecting the emphasis on due process and fairness of the original document.

Principles of Magna Carta were adopted as part of India's legal framework after the country's

²¹ **Van Caenegem, R. C.** (1988). *The Birth of the English Common Law*. Cambridge University Press.

²² **Sharpe, R. J., & Roach, K.** (2003). *The Charter of Rights and Freedoms*. Irwin Law.

²³ **Kirby, M.** (2005). "Magna Carta and the Australian Constitution." *Journal of Commonwealth Law and Legal Education*, 3(1), 57-67.

colonial history under British rule.²⁴ They include elements of judicial independence, basic rights protection, and due process, which are deeply ingrained concepts found in the Magna Carta. As actualized through protecting fundamental rights against the reach of the states, India's judiciary's determination to uphold its Constitution actually brings out how powerful an influence the Magna Carta has been on the course of India's legal development.²⁵ Such a case in point is the repeated emphasis of the Supreme Court of India on judicial independence, which has played a very crucial role in preserving the rights of citizens, particularly through the concept known as "basic structure," which holds that some fundamental principles—the most obvious examples being judicial independence and the supremacy of constitutional law—even constitutional amendments cannot alter. This principle therefore marks one of the bright legacies of the Magna Carta in Indian law.

(B) Establishment of Judicial Independence

The principles of the Magna Carta have traversed national boundaries since they have been enshrined in certain international human rights instruments concerning judicial independence and rights to fair trial. The two documents include the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights share the principles of the Magna Carta in the sense that they protect people against arbitrary detention and afford them a right to a fair and just process. These documents have internationalized the values of the Magna Carta—that judicial independence and protection against governmental overreaching are their common rights for the rest of humanity.²⁶ The legacy of the Magna Carta in the conduct of international conventions is still contributing to forming standards in the interpretation of legal procedures everywhere; therefore, it leads this as the foundation set for both national and international efforts at hand to strive in securing justice and upholding human dignity.

IV. CURRENT CHALLENGES TO JUDICIAL INDEPENDENCE

Judicial independence is under immense pressure from political interference. In fact, government influence goes to the extreme of making judicial decisions either subject to the whims of the government or compromising impartiality and integrity of the judiciary. Actually, numerous cases around the globe can well prove this threat of government influence. Political interference arises when government officials or the concerned political parties try to influence the court's decisions mainly to attract rulings in their favor or other personal interests. This

²⁴ Austin, G. (2000). *Working a Democratic Constitution: The Indian Experience*. Oxford University Press.

²⁵ Singh, M. P. (2008). *V. N. Shukla's Constitution of India*. Eastern Book Company

²⁶ Steiner, H. J., Alston, P., & Goodman, R. (2008). *International Human Rights in Context: Law, Politics, Morals* (3rd ed.). Oxford University Press.

interference, therefore, hurts the very element of judicial independence, which is being made to depend on the decisions of the ruling authority rather than the law.²⁷ This kind of tendency is most frequently manifested in those countries where democratic institutions are weak, and dictatorial regimes perceive independent courts as barriers to the consolidation of power. Political interference in the judiciary causes a break in the balance of powers, weakens democratic institutions, and creates popular distrust in the legal system because citizens lose faith in courts that allegedly cannot deliver fair and balanced decisions.

(A) Political Interference

The recent cases of Turkey, Poland, and Hungary have become cases in point about how political interference may potentially impact judicial independence. There has been mounting pressure on the judiciary from the executive, particularly after the failed coup attempt in July 2016, under which the judiciary of Turkey has been operating. Subsequently, by enforcing it as one excuse, the government purged the judiciary of judges considered not loyal and thus in effect reshaped courts that are seen to favor the interests of the ruling party.²⁸ Likewise, the judicial reforms under the Polish's Law and Justice Party government have undermined judicial independence by increasing political influence over the process of choosing the judges and the disciplinary action used on them. The reforms have thus been heavily criticized not only domestically but also internationally because they erode judicial independence and weaken checks in the separation of powers. The Hungarian government's judicial reforms have centralized more authority within the executive as opposed to checks in government. These cases illustrate how political interference not only damages judicial independence but also undermines democratic governance because the courts stand as an instrument of state power rather than for individual rights and rule of law.

(B) Corruption and Lack of Resources

Apart from political interference, corruption in judicial systems is another well-known serious threat to both judicial independence and integrity. Judicial corruption can take many forms of bribery, cronyism, or even other aspects that relate to unethical practices and that primarily influence the law in the hands of judges. Prone-to-bribe judges or those easily swayed by external political factors are likely to be personal or subject to some form of interests, thus delivering biased or unjust rulings.²⁹ This loss of neutrality through corruption taints public

²⁷ Sadurski, W. (2019). *Poland's Constitutional Breakdown*. Oxford University Press.

²⁸ Bozóki, A., & Hegedűs, D. (2018). "An Externally Constrained Hybrid Regime: Hungary in the European Union." *Democratization*, 25(7), 1173-1189.

²⁹ Rose-Ackerman, S., & Palifka, B. J. (2016). *Corruption and Government: Causes, Consequences, and Reform* (2nd ed.). Cambridge University Press.

confidence since those concerned will view the judicial institution as a mere tool for the influential rather than a game of equality for all. Judicial corruption is most detrimental to developing countries where, although regulatory systems are more vulnerable, financial inducements are more potent. Corruption in the judiciary is found to uphold social and economic inequalities as it sustains a dual system of justice: rich or well-connected people get favorable outcomes, but ordinary people are liable to various kinds of injustices.

(C) Resource Constraints

Resource constraints also pose significant challenges to judicial independence and effectiveness, especially where the budget allocated to legal institutions is poor in a country. Of course, an efficiently and effectively operating judicial system requires good funding to make its courts efficient and effective so that cases can be dealt with in an expeditious manner and on merits.³⁰ There is an elementary infrastructure shortage without proper resources and the judiciary cannot run autonomously and efficiently if these events and under-staffing are to persist. For example, under-staffing leads to ineffective case processing, resulting in protracted delays whereby a person's speedy trial right is denied. Resources also make it challenging for courts to resist pressure as financially constrained judicial institutions tend to be more vulnerable to corruption and influence from the powerful political or economic actors. In addition, resource constraints can directly limit access to justice for less privileged communities as such communities may be hindered in finding means of access to a justice system that is incapacitated to accommodate their needs.

These alone reflect complex, interconnected challenges to judicial independence under different legal systems. All these factors affect each other and sustain each other to create a vicious cycle that degrades the courts and the rule of law.³¹ When politics gets an entry into a slight compromise, the independence of the judiciary becomes challenged. Compromised judicial independence from such instances is likely to lead to unethical practices from those who hold political power since political influence will open the door to further corruption in such instances. Underfunding of the courts and their inability to run their affairs may also make those courts vulnerable to bribery or political influence. The erosion of judicial independence through such challenges will, therefore, affect the rights of individuals but also undermine the stability of democratic governance as citizens lose confidence in the judicial system and the court as an impartial guardian of justice and accountability.

³⁰ **Buscaglia, E., & Dakolias, M.** (1999). *An Analysis of Judicial Reform in Latin America*. World Bank.

³¹ **Yildirim, A. K.** (2017). "Judicial Independence in Turkey: The Role of the Constitutional Court." *European Public Law*, 23(1), 95-115.

The solutions, therefore, lie in reforms that will make judicial independence and integrity robust and restive as part of reforms urged by governments, international organizations, and civil society.³² This could include increasing transparency and fairness over judicial appointments and ensuring that the judiciary is granted legal protection from political interference. Judges, themselves, can regain public trust in the judiciary through practices such as oversight bodies and promotion of ethical standards against corruption within the judiciary. Judicial systems also need more investment. Courts must be well funded to operate independently and effectively. With the management of factors like interference, corruption, and resource lack, legal systems will be able to exhibit the core principles of judicial independence, strengthening the rule of law further, and ensuring that courts continue to be an institution people can rely on for justice and accountability.

V. COMPARATIVE ANALYSIS

The comparative analysis reveals stark contrasts between judicial independence in countries where it enjoys strong protections and those with weaker or underdeveloped protection. For instance, strong judicial independence is sustained in nations like the United Kingdom, Canada, and the United States through a longstanding commitment to rule of law and a robust constitutional framework guaranteeing separation of powers.³³ For example, the judiciary in the United States is one of the three independent arms of government with sweeping judicial review powers that enable it to check both arms of government with tremendous effectiveness. Then, there is the Canadian legal system with its institutional framework being the Canadian Charter of Rights and Freedoms that ensures judiciary impartiality with an emphasis on a fair trial. In the UK, the independent judiciary stands at the heart of maintaining the balance of power, especially in a constitutional monarchy where the judiciary acts as a first check on government action. Such legal systems and traditions in these countries ensure the independence and efficiency of the judiciary.

Consequently, countries with less protection of judicial independence may face an uphill battle in their pursuit of the rule of law. When judicial institutions are prone to political manipulation or poorly protected by the legal system, court decisions often sacrifice judicial neutrality, favoring instead political elites or strong interest groups. For example, in Russia and Venezuela, the judiciary has been considered non-independent in terms of activities and functions. Courts

³² **Venice Commission** (2016). *Report on the Independence of the Judicial System Part I: The Independence of Judges*. Council of Europe.

³³ **Russell, P. H., & O'Brien, D. M.** (2001). *Judicial Independence in the Age of Democracy: Critical Perspectives from Around the World*. University of Virginia Press.

have usually been in line with the government's will, but it is uncommon for judges to establish judicial independence and impartiality from political pressures or even threats that they face up to the ruling.³⁴ These are places in which citizens are not likely to appeal to the judiciary as an independent arbiter and with whom they will treat less gently, thus compromising trust in the rule of law and deepening issues of inequality and injustice.

(A) Judicial Independence Across Different Legal Systems

A comparative review of international experiences further concludes that countries like Germany and Japan set good examples about how structural reforms may even make the independence of the judiciary stronger.³⁵ A strong constitutional framework enables the judiciary to have judicial review, whereby courts are empowered to police the actions of the government and to ensure its acts observe constitutional principles. Of notable importance is the German Federal Constitutional Court, with a reputation for impartiality and being able to serve as a model for other countries to strengthen judicial independence.³⁶ In Japan, likewise, there is a stringent separation of powers among its judicial system that keeps an independent judiciary which adheres to the rule of law and protection of rights for individuals. These nations have anchored the foundation of judicial independence into their legal culture, where structural reforms highlight the effectiveness of having a judiciary resistant to outside influence and able to enforce checks on governmental authority.

Securing judicial independence is an unusual issue in emerging democracies, as they often have limited resources and corruption, and past or political agendas against building a truly independent judiciary. Thus, the establishment of an independent judiciary follows a gradual process in these countries and requires a call for culture and institutional change besides constitutional protection. Even in the best of times and especially in developing countries, judicial independence is compromised by low salaries and insufficient legal protections for judges, making the judiciary less immune to corruption.³⁷ And political influence remains a problem because nascent democracies often have a weaker tradition of judicial independence and it is likely that leaders will view the judiciary as a tool of power consolidation rather than an independent entity. Converting this into the short run, targeted reforms that may include hiking judicial salaries, introducing some transparency measures and also establishing bodies that can monitor the conduct of members, build over time the culture of integrity to help bail

³⁴ **Hendley, K.** (2017). *Everyday Law in Russia*. Cornell University Press.

³⁵ **Kommers, D. P., & Miller, R. A.** (2012). *The Constitutional Jurisprudence of the Federal Republic of Germany* (3rd ed.). Duke University Press.

³⁶ **Foote, D. H.** (1991). *Law in Japan: A Turning Point*. University of Washington Press.

³⁷ **Transparency International** (2019). *Global Corruption Barometer: Latin America and the Caribbean*.

out some of these challenges.

(B) Lessons from Global Perspectives

The lessons drawn from those global perspectives underscore a multifaceted approach in strengthening judicial independence. Structural reforms alone, however, are insufficient without the fight against corruption, sufficient resources, and a culturally committed judiciary to impartiality and equity.³⁸ In fact, the way towards a strong judiciary lies in examples like Germany and Japan, where judicial independence has been fortified through structural reforms, as public trust in the legal system has been sustained. International organization and civil society support may further be helpful to newly democratized countries in resource, technical, and advocacy support towards reforms that make the judicial systems more neutral. Combination legal, institutional, and cultural reforms have helped countries build a more resilient legal system better able to support democracy, protect rights, and defend the rule of law.

VI. SUGGESTED SOLUTIONS & CONCLUSION

To overcome challenges to judicial independence effectively, several strategies are required. These include strengthening frameworks for ensuring judicial independence, not only through crucial impartiality protections but also through clear, merit-based judicial appointment processes to control executive influence and ensure that judges are chosen based on qualifications rather than loyalty to the appropriate political force.³⁹ Other components include the creation of robust ethics principles and arrangements for an independent oversight capacity as well as a fair and reasonable judicial remuneration level to safeguard against bribery and undue influence.

Thirdly, balanced judicial system funding, including towards developing countries, will be important to overcome resource-limited deficits and enhance effectiveness of the courts. Proper financial support has become an important aspect for minimizing delays, effective management of cases, and equality before the law in all citizens, with international cooperation toward organizations that contribute to judicial reform providing financial and technical support to nations to improve and upgrade their institutions. Ultimately, it will create a culture of judicial integrity whereby the judiciary is seen as a beacon for unwavering protection of the rule of law and fairness.

³⁸ **Council of Europe** (2018). *European Commission for Democracy through Law (Venice Commission): Report on Judicial Independence*.

³⁹ **Schmidt, P., & Halliday, T. C.** (2009). *Global Norms and Local Courts: Translating the Rule of Law in India, South Africa, and Beyond*. Ashgate Publishing.