

JUDICIAL INDEPENDENCE SELECTED DEFINITIONS AND WRITINGS

“Judicial Independence – Freedom from direction, control, or interference in the operation or exercise of judicial powers by either the legislative or executive arms of government.”

-Excerpt from: *Legal Words Dictionary*, Reed International Books.

<http://www.butterworths.com.au/legalwords/html/000801.htm>

“A truly independent judiciary is one that issues decisions and makes judgments which are respected and enforced by the legislative and executive branches; that receives an adequate appropriation from Congress; and that is not compromised by politically inspired attempts to undermine its impartiality.... Judicial independence includes the independence of an individual judge as well as that of the judiciary as a branch of government. Individual independence (otherwise known as decisional independence) is both substantive, in that it allows judges to perform the judicial function subject to no authority but the law, and personal, in the sense that it guarantees judges job tenure, adequate compensation and security.”

- Excerpt from: *An Independent Judiciary: Report of the Commission on Separation of Powers and Judicial Independence*. Chicago: American Bar Association, 1997 (pp. ii-iii).

“Judicial independence is the freedom we give judges to act as principled decision-makers. The independence is intended to allow judges to consider the facts and the law of each case with an open mind and unbiased judgment. When truly independent, judges are not influenced by personal interests or relationships, the identity or status of the parties to a case, or external economic or political pressures.”

-Excerpt from: *Brennan Center for Justice Resources: Questions and Answers about Judicial Independence*.

http://www.brennancenter.org/resources/resources_jiqanda.html 2001.

“Judicial independence is the freedom that a judge should have to decide a case in front of her based on the facts and law, free from outside pressures or special interests.”

-Excerpt from: *League of Women Voters: Creating A Just Society: Judicial Independence*. <http://www.lwv.org/join/judicial/> 2001.

“Judicial independence is widely considered to be a foundation for the rule of law.... [M]ost agree that a truly independent judiciary has three characteristics. First, it is impartial. Judicial decisions are not influenced by a judge’s personal interest in the outcome of the case... Second, judicial decisions, once rendered, are respected... The third characteristic of judicial independence is that the judiciary is free from interference. Parties to a case, or others with an interest in its outcome, cannot influence the judge’s decision.”

-Excerpt from: *The World Bank Group – Legal Institutions of the Market Economy*. Judicial Independence: What It Is, How It Can Be Measured, Why It Occurs. <http://www1.worldbank.org/publicsector/legal/judicialindependence.htm> 2001.

“Judicial independence is a concept that expresses the ideal state of the judicial branch of government. The concept encompasses the idea that individual judges and the judicial branch as a whole should work free of ideological influence.”

-Excerpt from: American Judicature Society: Center for Judicial Independence. *What is Judicial Independence?* <http://www.ajs.org/cjiJI.html> 2001.

“The Judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without and restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.”

-Excerpt from: United Nations Office of the High Commissioner for Human Rights. *Basic Principles on the Independence of the Judiciary*. (Endorsed by UN General Assembly 1985.) http://www.unhcr.ch/html/menu3/b/h_comp50.htm

“Judicial independence refers to the insulation of the judiciary from the influence of other political institutions, interest groups, and the general public.”

-Excerpt from: G. Alan Tarr. “Judicial Independence and State Judiciaries,” in *Judicial Independence: Essays, Bibliography, and Discussion Guide* (Teaching Resource Bulletin #6). Chicago: American Bar Association Division for Public Education, 1999.

“If, then, the courts of justice are to be considered as the bulwarks of a limited Constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty.”

-Excerpt from: James Madison. *The Federalist No. 78*, at 469.

“We must keep in mind that judicial independence is a means toward a strong judicial institution. The strong judicial institution is a means toward securing the basic goals of people: human liberty and a reasonable level of prosperity.”

-Excerpt from: Honorable Stephen G. Breyer. “Comment: Liberty, Prosperity, and a Strong Judicial Institution,” in *Judicial Independence and Accountability, Law and Contemporary Problems*, Volume 61, Number 3 (Summer 1998).

“Judicial Independence in the United States strengthens ordered liberty, domestic tranquility, the rule of law, and democratic ideals. At least in our political culture, it has proven superior to any alternative form of discharging the judicial function that has ever been tried or conceived. It would be folly to squander this priceless constitutional gift to placate the clamors of benighted political partisans.”

Bruce Fein and Burt Neuborne, “Why Should We Care About Independent and Accountable Judges,” *Judicature*, Volume 84, No. 2 (Sept-Oct 2000).

“The law makes a promise—neutrality. If the promise gets broken, the law as we know it ceases to exist. All that’s left is the dictate of a tyrant, or perhaps a mob.”

-Excerpt from: Honorable Anthony M. Kennedy. Address to American Bar Association symposium, *Bulwarks of the Republic: Judicial Independence and Accountability in the American System of Justice*, held December 4-5, 1998, Philadelphia, Pennsylvania.

“The independence of all those who try causes between man and man, and between man and his government, can be maintained only by the tenure of their office. I have always thought, from my earliest youth till now that the greatest scourge an angry Heaven ever inflicted upon an ungrateful and sinning people, was an ignorant, a corrupt, or a dependent Judiciary.”

- Excerpt from: John Marshall, address to the Virginia State Convention of 1829-30. Proceedings and Debates of the Virginia State Convention of 1829-30 at 616 (1830).

“Chief Justice Rehnquist has stated that the independent judiciary is one of the ‘crown jewels’ of the nation’s system of government. Certainly, judicial independence is an essential ingredient of the protection of individual liberty and equality in our constitutional system. Moreover, the independent judiciary checks the legislative and executive branches of the federal government, thereby helping to maintain our constitutional commitments both to separation of powers at the national level and to federalism in nation-state relations.”

-Excerpt from: “Report of the Task Force on Federal Judicial Selection,” in *Uncertain Justice: Politics and America’s Courts*. Reports of the Task Forces of Citizens for Independent Courts. New York: The Century Foundation Press, 2000 (p. 13).

“The legitimacy of the Judicial Branch ultimately depends on its reputation for impartiality and nonpartisanship.”

-Mistretta v. United States, 488 U.S. 361, 407 (1989)