

Judicial Independence-Breaking Down What Matters

1. Elements of Judicial Independence
 - A. Decisional Independence-Freedom from Pressure/Influence in Making Decision-Bribery or Pressure
 - B. Institutional Independence-Freedom from Other Branch Interference-Coercion from Co-Equal Branches-Judicial Threats-Personal Safety
 - C. Tenure Independence—Freedom from Loss of Position/Salary-Political Pressure and Financial Influence
2. Independence From Whom?
 - A. Deciding Disputes Involving Potential or Actual Powerful Entities
 - B. The greater the power of the parties, the more consequential the entities, the greater the risk of corrupting influence or pressure.
3. Protection Tools for Enhancing Judicial Independence
 - A. Limiting Vulnerabilities—Term Duration
 - B. Setting Conditions for Removal-Recall, Confirmation Elections, Good Cause
 - C. Structural Protection of Salaries to Avoid Decisional Coercion
 - D. Setting Jurisdictional Scope
4. Independence for What Purpose?
 - A. Safeguard decisional independence-Impartial Adjudication--Judging As Part of Social Fabric-Civil Rights-KKK Crimes
 - B. Decisional Independence-Impartiality and Fairness, Political Consideration or Improper Influence
 - C. Protecting Rights-Personal Bias, Objective Justice based on law and facts v. External Influence
 - D. Federalist 78

Alexander Hamilton, a framer of the U.S. Constitution, offered justification for an independent judiciary in the 78th paper of “The Federalist.” He wrote, **“The complete independence of the courts of justice is peculiarly essential in a limited Constitution.”** Hamilton claimed that only an independent judicial branch of government would be able to impartially check an excessive exercise of power by the other branches of government. Thus, the judiciary guards the rule of law in a constitutional democracy.

