

Attack on judges

September 9, 2021

The Supreme Court pulled up states for not filing reports on the status of security measures for judges. The Supreme Court was hearing the murder case of a Jharkhand district judge in July 2021. In this context, the issue of protection of judges becomes important for UPSC candidates.

In news: Jharkhand judge death: Need for something effective on ground to prevent attack on judges, says Supreme Court

Placing it in syllabus: Governance

Dimensions

- Various incidents
- Reasons for attacks
- SC Observations
- Stand of Government
- What can be done ?

Content:

Various incidents:

- **July 2021:** the murder of Dhanbad district and sessions judge Uttam Anand – The judge was jogging on one side of a fairly wide road at Randhir Verma Chowk when a heavy auto-rickshaw veered towards him, hit him from behind and fled the scene. Judge Anand had been handling many cases of mafia killings in Dhanbad town and had recently rejected the bail requests of two gangsters.
- **February 2021:** The Karnataka High Court gave a contempt notice to a 72-year-old who had written a threatening letter to the registry of the High Court on the claim that he had made the decision to murder 2 erring judges part of the “highly corrupt 28 Judges of this Court and the Apex Court along with two corrupt Advocates.”

- **2020:** The FIR (criminal defamation) was registered against some cadres of the ruling party (YSR Congress Party) for making offensive remarks against the judiciary.
- **2017:** The alleged intimidation of **additional district judge Virat Budhha in Gandhidham town of Kutch district** by Gandhidham A Division police inspector RG Parmar. The PI had allegedly gone to Gandhidham court with a stick and threatened the judge Budhha after the judicial officer reportedly refused to meet Parmar in his chamber on court premises.

Reasons for attacks:

- Many verbal and physical attacks on the judiciary are for the purpose of intimidation / coercion and tend to obstruct the administration of justice.
- Gangsters and mafia recurrently use fear of intimidation and bodily harm to obstruct the delivery of justice.
- The Supreme Court expressed concern over a dangerous trend where gangsters, high profile persons start maligning the image of judges when they do not get an order of their choice.
- Inadequate security arrangements for the judges, especially in the lower courts is sighted as another reason
- There is no uniformity in security details as well as dedicated force for protecting judges. It is the state governments' responsibility to provide security to judges and court premises as police and public order are state subjects.
- Delays in investigations are another reason. A bench led by the Chief Justice of India (CJI) NV Ramana regretted that judges are not a priority for the investigative authorities and that their complaints are ignored.

SC Observations:

- The mowing down of a Jharkhand additional sessions judge (ASJ) prompted the Supreme Court to take suo motu cognisance
- A bench of Chief Justice NV Ramana and Justice Surya Kant said besides CCTV, “there **needs to be something effective on ground**” to prevent “**terrorism and attack on judges**”.
- Chief Justice of India NV Ramana said that a **special protection force was needed to protect judges** “in the light of rising instances of attacks, threats and intimidation of members of the judiciary”.
- The bench **emphasized the state’s obligation to protect judges** to ensure they can perform their duties fearlessly
- Concerned that judges are being slandered and threatened for failing to issue favorable orders in “high profile cases”, the Supreme Court complained that the Intelligence Bureau (IB) and Central Bureau of Investigation (CBI) “do not do justice at all”.
- A bench led by the Chief Justice of India (CJI) NV Ramana **regretted that judges are not a priority for the investigative authorities** and that **their complaints are ignored**, despite the fact that specialized bodies such as the CBI are involved.
- Regarding a 2019 case related to the safety of judges and courthouses, the bench said the center and states have yet to submit their responses explaining how they will ensure security inside and outside the courthouse . It asked the AG to submit a proper affidavit from the Union government in this regard.
- In the Jharkhand case, the bench noted that the state was “negligent”.
- “Look at this unfortunate death of a young judge. You cannot ignore the negligence of the state. That is the failure of the state. There is a coal mafia in the area

and the judges' society and residences should have been kept safe. But nothing was done, "it commented.

Intimidation and Independence of Judiciary

- Indian Constituent Assembly was keen to ensure that the judiciary is independent of the executive. It is the basic structure of our Constitution.
- A consultation paper prepared by the "National Commission to review the working of the Constitution on financial autonomy of the Indian judiciary" in 2001 had quoted several Supreme Court judgments on this: SP Gupta vs Union of India & Another (1981); Union of India & Others vs Pratibha Bonnerjea & Another (1995).
- This cannot be achieved if the courts, including the higher courts, are forced to wait for the pleasure and mood of the executive, including the police to protect them and execute their decisions.

Stand of Government:

Union Government told the Supreme Court that:

- It is the **state governments' responsibility to provide security to judges and court premises as police and public order are state subjects** and it can just issue some guidelines which it has already done.
- Public order and police are **covered under List II of the Seventh Schedule** of the Constitution of India and, hence, security to the courts and the judges is within the purview of the States/UTs concerned.
- However, in order to strengthen the security arrangements in this regard, guidelines have been issued by the MHA for the security of the high courts and the district/ subordinate courts.
- The government said that it issued guidelines way back in 2007 as per which specialised unit/branch is required to be created by the states and UTs to look after the

security of judges/courts.

- The Centre, in its earlier affidavit, told the court that there was **no need to create a dedicated security force** for judiciary and contended that a special unit or branch should be formed within the state police for the purpose.

State Government's Response:

- Giving details of the steps taken in the last three years to provide protection to 24 district courts and sub-divisional courts within their jurisdiction, the state government said, "It is committed to provide the necessary security to members of the judiciary so that they may function independently without fear of intimidation. The state is duty bound to protect and provide for security and safety of domiciles of the state and also to members of the judiciary as per threat perception."
- The state government said it has undertaken steps for improving security , including:
 - raising the boundary wall,
 - installation of concertina wire,
 - security of lock-ups and
 - construction of guard room, watch towers and sentry posts in various court premises

What can be done?

- ***Establishing a Special Security Force:*** the Supreme Court should invoke its powers under Article 146 of the Constitution to form a specialised security force for the protection of judges and lawyers of the higher and subordinate courts.
- A special force on the line of Railway Protection Force could be set up **under the control of judiciary** for protection of judges and court premises
- ***Conducting a Security Audit:*** A security audit can

unearth the gaps in security in place and provide the actual picture regarding security.

- **Undertake periodic review of the security arrangements** for the high courts and the district/ subordinate courts as well as the judges

CASE: Protection of Judiciary in USA

- The importance of judicial protection was realised by the US Congress as early as September 24, 1789, by passing the **'Judiciary Act', creating the posts of 13 US Marshals.**
 - In 1870, the **Department of Justice was created when US Marshals became part of the department.**
 - From 1890 onwards, they started protecting the federal judges.
 - In 2021, **US Marshals provided security to 94 federal courts, 2,700 federal judges, 30,300 federal prosecutors and court officials** and handled investigations in 4,261 "threats and inappropriate communications"
 - US Marshals, in turn, have a staff of 5,600 court security officers to assist them in 94 federal courts for security screening through 110 security projects.
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- **They provide security to the witnesses, jurors, the visiting public, and transport prisoners to courts and back.**

The 'State Courts' in **50 US states are protected by local sheriffs or others under the supervision of Court Security Committees or Judicial Councils.**

Mould your thought: The judiciary cannot function independently, if they are forced to wait for the pleasure and mood of the executive to protect them from harm. Evaluate.

Approach to the answer:

- Introduction
- Discuss the constitutional intent behind independence of judiciary
- Give examples of intimidation of judiciary
- Discuss the dependence of judiciary on executive for its protection
- Suggest measures to correct the situation
- Conclusion