

As it is excepted of  
every person

Literature



As far back in history we could go, ever since man decided that survival came best by coming together in groups, it was clear to them that some sort of governance was the way to ensure the longevity of their species. While some naturally assumed leadership positions, others followed, hoping as every individual did for stability and security, something that even today, we look for as subjects in our country of residence. So, for this need to be fulfilled, it required that certain basic rules were made, these rules become the law of the land, and in order for chaos to not ensue, it is excepted of every person to uphold that.

Therefore, it was seen, early on, that there ought to be some sort of institution that ensured that the law of the land be obeyed, resolved disputes and enforced the law in a fair and rational manner, making it befit for the symbol of justice to be a blindfolded figure with a set of scales (Canadian Superior Courts Judges Association, 2006). Hence, it seems fair to say that understanding the role of the welder of this above mentioned critical branch of government is paramount. However, we should not forget that as over the years, every species has changed and evolved, needs and wants of every individual changed and evolved. As the Former President of the Supreme Court of Israel, Aharon Barak (2002) said: Indeed, any perspective on the judicial role is a function of place and time. It is influenced by its environment. It is relative and incomplete. It changes periodically. Therefore, recognition and realization of the judicial role will vary with different democracies at different times.

(p. 25) Nonetheless, in order to fully perceive what the role of the judge would mean, would mean understanding what a constitutional democracy

means. A constitutional democracy in simple words is a democracy that regards the law of the land as being absolute, wherein a democracy is essentially a system of government that is governed by the people through an eligible elected person, in other words, a representative government. For some this means, majoritarianism. (Redish, 1995) For others, this view seems to be not only absurd but off course.

This is probably because, from their point of view, they believe some have the notion that pure democracy is being hindered when the law limits the power of the majority. (McLachlin, 2003) But, I believe either side can agree on one aspect, that all three branches of the government – the executive, the legislative and the judiciary plays a role in making sure.