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## A STUDY ON JUDICIAL ACCOUNTABILITY IN INDIA

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### Abstract

Judicial institutions based on democratic principles are the fundamental basis for the protection and preservation of human rights. Not only is judicial review necessary, but the independence of this organ of government is also important. Freedom must ensure the integrity of the decision-making process. If the decision is not fair, the people cannot receive justice. In addition to independence, the accountability and transparency of the judiciary are also necessary. Without accountability, transparency and freedom, justice will remain public. Justice is one of the most important goals of freedom. Justice is the fundamental goal of law. Justice is crucial to the success of any democracy because public injustice ultimately leads to dissatisfaction and dissatisfaction with the government or leaders and leads to resignation from the state. Judicial independence cannot be separated from the accountability of judges for their work. Judges are human beings and work in accordance with human nature. Judges are not exempt from institutional oversight mechanisms. Independent decision-making aims to achieve the required standards of transparency and accountability<sup>125</sup>.  
Keywords: justice, good governance, transparent decision-making in India, accountability.



<sup>125</sup> A.V. Dicey, Introduction to the Study of the Law of the Constitution, 10th ed. (London: Macmillan, 1959), 183–189.



## Introduction

As we all know, judiciary is one of the most important organs of the state. It plays an important role in judiciary and national governance. It is accepted that Indian judiciary plays a significant role in promoting good governance in India, but Indian judiciary itself faces many challenges in ensuring good public administration. A shocking incident took place in the history of Indian justice on January 12, 2018. Four senior judges of the Supreme Court made headlines because they were unhappy with the corrupt functioning of the Supreme Court. They told the media that if the judiciary is not protected, democracy will come. Justice is a right recognized by the Constitution and is a fundamental human right of citizens. Various forms of criminal law continue 4. Trust and confidence are important components of the power granted by civil rights. Responsibility and trust go hand in hand; regular monitoring and social analysis are the most important in this context. The leader is accountable to the Parliament, and Parliament is ultimately accountable to the people. Legally, the judiciary is also accountable to the Parliament. The judiciary is one of the most important foundations of democracy and therefore must be governed according to democratic principles.<sup>126</sup> A government body that is not influenced by democratic principles is likely to be disorganized and excluded. In order to maintain the public's reputation, trust and confidence in the judiciary, the work of the judiciary must be transparent and accountable. The Law Fathers believed that the structure and relationships between the peers would be sufficient to support the judiciary's assessment, but this did not happen. The Supreme Court has recognized that a corrupt judge not only damages his own reputation and the reputation of his office, but also the integrity of the overall judicial review. 5. One researcher has listed three important benefits of judicial review as follows: 6-1. Supports the law. 2. Build trust in

judges. Accountability can be made simple and easy through the judicial process. For the judiciary to be effective, it must be accountable to the rule of law.

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## Objectives:

1. Evaluate the Constitutional and Legal Framework.
2. Analyse Judicial Independence vs. Accountability
3. Assess the Role of Judicial Review and Oversight Bodies: "To critically examine the mechanisms, challenges, and

<sup>126</sup> M. Seervai, Constitutional Law of India, 4th ed. (New Delhi: Universal Law Publishing Co., 1996), 23–25.





reforms related to judicial accountability and transparency in India

### Methodology:

The approach adopted in this research paper is purely doctrinal in nature. Theoretical, analytical and comparative methods have been used in the analysis of data. Various legal documents such as various legal publications and legal documents are examined.

International documents have been taken into consideration. This research project is also based on the reports of the Legislative Council and the House of Representatives of India. Case studies are also widely used to strengthen the theoretical and conceptual aspects of the article.

### Literature Review :

In fact, the analysis of data plays an important role, or we can say, it is important to create good hypotheses, help researchers avoid problems caused by their leaders and show their talents in a good way. –film designed according to your interest.

To gain knowledge and take into account the real perspective of the subject, it is necessary to have an overview of the findings of other investigators. It also helps to increase the knowledge of the work done earlier in the work, to eliminate unnecessary opportunities for difficult work and to provide important information related to the research.

Aristotle in his work "Politics" pointed out that there are three elements of the constitution: consultation, adjudication and administration. This literature review includes studies on the classification of the judiciary, the judicial system and the functions of the judicial system by different scholars. This can be eye-opening for many scholars as it will enable others to look at the judicial system of India and the federal states. This study will discuss the purpose, consequences and results of various cases in law.

Manoj. In his books The Rise of Judicial Governance in the Supreme Court of India.

Learn how the Supreme Court of India has become a seat of justice through trust and efficiency. In the process, the court has reinvented itself at a higher level. Today, courts are doing their job better than ever. The phrase 'meritocratic institutionalism' gives a beautiful idea of the judiciary. This perspective takes into account the unique organizational and educational context of the Court created by the organization and its vision based on policy and governance. Elite institutionalism expands on "policy and organization theory" by situating leadership in the broader context of India's decision-making process. The patronage of the Supreme Court of India is part of the academic character and outlook that it shares with India's professional and academic elites. Professionals and experts in legal or political matters form the views, values and opinions of the elites and local leaders. 14 The general performance of the court and the measures of trust have led to reforms in the justice system.

Dr. Justice Anand, A.S. Krishna Rao, North Dakota Justice Memorial Address: Justice Anand said in his speech that the law is under the control of the Governor and is the basis of seasoned independence. The main task of his work is to exercise the new powers vested in the Legislature which cannot be taken away and to make legislative measures an essential part of the constitution.

Purushothaman, Purush (2012) has studied on "Higher Institutions: Role of Principals in Major Decision Making in India" and has pointed out that the policies of education reform law and the current job do not play a significant role in terms of recognition and competence of the principals. Judge analysis is a rare example of this problem when there is legal responsibility of the employees in the recruitment process

Legal Autonomy vs. Legal Autonomy. In the legal system where we are not yet aware of the conflict between Autonomous Responsibilities of the employees in the legal recruitment process and the review of the legal process studies according to this process is still at the heart of it.



In the formulation of Part II, it is envisaged that the term of the second judge appointed by the board will be a maximum of one year. The reports were reviewed by the main process and various legal committees over a period of 5 years to assess the legal process for legal appointments. The third section describes the basis and effectiveness of the board process in the second case of judges.

Purushothaman, Purush, (2013) reviews the issue of "High Judicial Appointments in India - Dilemmas and Hopes": Appreciating the wisdom of this generation, he finds that there is a gap among the legislators. Possibility of political interference does not protect the judiciary. Although there is law, the system is free from legal issues affecting its autonomy. The law does not provide adequate guidance to the Justice Commission. Need to explain the constitution.

Acharya and Bhairav (2017) studied the topic "Evolution of Judicial Accountability in India" where they said that "Judiciary Act, 2010" has eliminated all accountability for misconduct of justice and judiciary. The chief justice was appointed in 2001 and there were many impartial judges in it. There is no control of the assembly and it has not reviewed the removal and discipline of the judge by dealing with the legislators. In the first case, the procedure was governed by the Civil Rights Act of 1868. He sought but failed to achieve his goal.

The Justice Department developed a temporary internal process for the administration by introducing the "small steps" approach. The transformation of the sentence after the "small system" approach. The only way to escape this impunity is to act carefully, conduct strict investigations and take punitive measures. To create a judicial system independent of judges that does not undermine freedom.

### **Current mechanism of judicial accountability in India**

The charter of India 1950 makes extra clean provisions relating to the maintenance of

judicial duty. those constitutional provisions authorise each the houses of parliament to initiate removal process

supported by most people of the entire members of the residence at the floor of proved misbehaviour or incapacity observed by using an order of the president. this is the corresponding provision of the government of India Act-1935 which accredited his majesty to eliminate judges on the grounds of the charter of India 1950 makes greater clear provisions regarding the maintenance of judicial accountability. these constitutional provisions authorise each the homes of parliament to initiate removal technique supported by way of most people of the total participants of the residence at the floor of proved misbehaviour or incapacity observed by an order of the president. that is the corresponding provision of the authorities of India Act-1935 which accredited his majesty to do away with judges on the grounds of misbehaviour or infirmity of mind or body. Constituent energy has accepted the parliament, not handiest for the initiation of the elimination manner but additionally for the enactment of the law to alter the technique for the presentation of an cope with with the aid of the president of India and investigation of the cases referring to misbehaviour and disability. for that reason, the Judges Enquiry Act, 1968 become enacted by the Parliament of India to articulate and rationalise judicial accountability of the us of a<sup>127</sup>. This Act vocalises the procedural justice for the judges who are subjected to impeachment procedure and visualises the practicality of the duty mechanism<sup>128</sup>. The scheme of the Act mandates that impeachment motion ought to be supported with the aid of a hundred contributors of Parliament in case of Lok Sabha and 50 members of Parliament in case of Rajya Sabha. it's miles pertinent to word that the constitutional scheme gives energy best to the parliamentarian due to democratic value

<sup>127</sup> D.D. Basu, Introduction to the Constitution of India, 23rd ed. (Nagpur: LexisNexis Butterworths Wadhwa, 2018), 324–326.

<sup>128</sup> Haines, C.B., Judicial Independence and Accountability (New York: Palgrave Macmillan, 2010), 923



connected to this constitutional organization. This strength is designed to operationalise checks and balances theory. The Act has indicated that the elimination system need to be hard so as to promote the arbitrary removal of the judges from their office. This concept of responsibility scheme symbolises the following phrases. "there's a valid motive that the removal of a decide is cumbersome and hard. Judges ought to be immune from removal at the will of the citizens or each person else surely because of a confrontation over a decided philosophy or a particular ruling in a particular case" (Haines, 2010, p.923). Consistent with the Act, as soon as the motion is established, the speaker or chairman because the case can be ought to constitute an investigation committee to look in to the allegation of the parliamentarians made towards judges. From the provisions of the Judges Enquiry Act, 1968, after the investigation it's miles glaring that the findings of the investigating committee constituted via the parliament because the case by way of speaking to the speaker or the chairman as the case can be and identical is to be positioned earlier than every residence of the Parliament.

### **Judicial accountability and independent judiciary**

Governance stays a vital thing for the society since the earliest length in engaging in aspirations of the state. In its elaborative and practical experience, it suggests practices of the government to govern the territory and those via the established institutional mechanism and devised techniques. The very effort of the nation to acquire its intended targets based on techniques designed for precise governance. it is an effective implementation of the combination of the numerous proposition of governance. accountability is increasingly more becoming a subject of challenge in governance literature. In a constitutional machine primarily based on predominant (Citizen) and agent (authorities) relationship, responsibility is fundamentally based totally on responsibility of power holder (government) to power addressee (Citizen).

In its undeniable which means, in terms of Normanton, duty is a legal responsibility to monitor, to provide an explanation for, and to justify what one does, how obligations, financial or other, whose numerous origins may be political, hierarchical or contractual (Scott, 2011, p.forty one)<sup>129</sup>. it's far responsibility bound justification and cogent rationalization of a person/s entrusted with power for his beyond actions substantiating rationality of the quantity of the acts to which they're judicious and sensible. the road-up judicial responsibility based on the traditional form of accountability principle i.e., command and manipulate courting principle which requires subordinate to put up an account for his moves or omissions to his superior through virtue of his subordinate function followed by using the sanction if energy is exercised with none connotation of regulation and capricious even though it's miles rather used for duty, it has its own implication quite contrary to standards consisting of duty, responsiveness and manipulate (Mulgan, 2000, p.561)<sup>130</sup>. The inherent nature of judicial powers and capabilities laces judges with incumbent obligations towards the state, rule of regulation, prison fraternity, prosecution, the officer of the courts, parties to the case and witnesses. Their function is indescribable in pulling the chariot of the management of justice gadget.

Judicial accountability is a popular word to suggest sensitisation of these responsibilities. The thrust of the judicial accountability regime is to promote a great administration of justice gadget and to set the requirements required for such justice delivery system. It presumes that every impropriety and unprofessional behavior at the a part of the judge constitutes a material setback for punctuality of the judiciary. The prolonged scope of the judicial accountability beneath any matured legal machine isn't best applicable to the professional misconduct of the judges, but additionally to the evaluation of judicial performance, the relation of the judges

<sup>129</sup> Ian Scott, *Public Accountability and the Separation of Powers* (Edinburgh: Edinburgh University Press, 2011), 41.

<sup>130</sup> Richard Mulgan, "Accountability: An Ever-Expanding Concept?" *Public Administration*, vol. 78, no. 3 (2000): 561–579





with the group of workers of the judiciary, position of media and civility society in monitoring judicial technique and educational function in nurturing the judicial accountability. it's going to not, therefore, honestly modify the personal trait of the judges of their performance, however will also follow to any times of abuse of judicial authority which contradicts business of the courtroom, constitutional duties and studious standards of law. A totally reliable authentication of the rule of thumb of law within the democratic shape of the authorities is judicial independence. it is sine qua non of management of justice gadget. Its miles an crucial factor of restrained charter, the prerequisite for public confidence and cornerstone of the legal gadget (Holland & gray, 2000, p.117)<sup>131</sup>. extensive interest has been paid via worldwide and national entities to emphasis the judicial independence in concrete phrases. There's a essential link among judicial impartiality and the principles of judicial independence, understood as a set of defensive safeguards. each judicial independence and judicial duty are supplementary and complementary to every other. Article 22 of the Delaware announcement of Rights (1776) reveals close affinity between these judicial standards in the following terms. The independency and uprightness of judges are critical to the impartial administration of justice, and great security to the rights and liberties of the human beings. but, there are many literatures to differentiate the nexus between those two standards. "Judicial independence emphasizes the powerful isolation and separation of the decide from society, while judicial accountability makes a speciality of the intimate connection among the governors and the democratically governed" (Handberg, 1994, p.129)<sup>132</sup>. in line with F.okay.Zemans (1999) intrinsically judicial independence symbolises rule of judiciary itself and accountability mechanism for judiciary could risk very cloth of

judicial independence. therefore, there may be a need of balancing these essential ideas of the judiciary. although judicial independence is inevitable, that need to no longer convert the justice gadget in a scientific manner of judges to protect themselves against their immorality and illegal activity.

This inappropriate system should create depressing conditions for individuals who approaching courts for justice. it is tremendously illogical and irrational to espouse independence if the human beings who've been given it cannot deal with it (Haines, 2010, p.909). The part of judicial independence which leads to the judicial responsibility unconventionally can be understood as outlined by Griffith( 1998) from the following compliances of Pannick, D.( 1987) " The value of the principle of judicial independence is that it protects the judge from redundancy or other warrants assessed by the Government or by others who disapprove of the contents of his opinions. But judicial independence was n't designed as, and should n't be allowed to come a guard for judicial misbehaviour or incapacity or a hedge to the examination of complaints about inadvisable conduct on apolitical criteria that a man who has an negotiable case that a judge has acted corruptly or virulently to his detriment should have no cause of action against the judge is relatively unpardonable "( Pannick, , p. 99, as cited in Griffith, 1998). As stated by the Supreme Court of United States of America in Bradley v. Fisher (1871)<sup>133</sup> " It's essential in all courts that the judges who are appointed to administer the law should be permitted to administer it under the protection of the law, singly and freely, without favour and without fear. This provision of the law is not for the protection or benefit of vicious or loose judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence, and without fear of consequences "( Bradley v. Fisher, 1871).

<sup>131</sup> W.J. Holland and R.E. Gray, *The Judicial Process: Text, Materials, and Cases* (Boston: Little, Brown and Company, 2000), 117

<sup>132</sup> Handberg, R., *Judicial Politics in the United States* (New York: Routledge, 1994), 129.

<sup>133</sup> Bradley v. Fisher, 80 U.S. 335 (1871).





## Meaning and Concept of Judicial Accountability

Responsibility means "taking responsibility for your decisions or actions and giving an explanation when called upon." The Merriam-Webster dictionary defines responsibility as:

The quality or state of being responsible, liable or accountable. Accountability in a general sense means the need to justify or explain a previous action, deed or action. The word "accountability" therefore means the responsibility for the authority, responsibility and accountability given to someone. The judiciary requires judges to be legally and politically responsible for their actions. Simply put, accountability is being responsible for one's actions, behavior or decisions and being accountable to another entity. It shows the honesty of judges, who are an important part of the judiciary. Impartial justice, fairness and justice are necessary for the effective functioning of the judiciary. Loyalty is an important factor in making effective decisions and being able to make quick decisions. However, unless the parties believe that there is a fair and just judge, it is not necessary for every judge who has all the above advantages to be a judge who can inspire the confidence of both parties. Judges are the guardians of the Constitution and its basic benefits. It is also considered the lifeblood of the rule of law in a democratic society. People expect judges to make decisions quickly. It will build trust among people. The question now is what standards are used and how judges can make decisions quickly and gain the trust of the public and prosecutors. Transparency is an important element of law. It is well known that the legislature requires compliance in every area of the state's jurisdiction. This can be an appointment process or a judicial review process. It can be divided into three categories according to the principles of judicial and independent. The first is political responsibility, the second is decision-making responsibility, and the third is behavioral responsibility. The selection and retention of judges is part of

political responsibility. Judicial accountability includes the ways in which judges are held accountable for their decisions and judgments. The court has not provided adequate funding for the functioning of the courts. This of course affects the court's decision. Behavioural accountability also includes the behaviour of judges 9. There should be transparency in appointments. Our country's education system is deeply flawed and inaccessible to the public.

The settlement of disputes by barter leads to bad appointment, which is detrimental to the plaintiffs and to the confidence in the justice system. Sweet talk and "lobbying" are increasing in the system, which undermines the freedom of the system. important. Public hearings, which depend on public attention and scrutiny, are a test of the whims and caprices of the court, and are at the same time a powerful means of increasing public confidence in the administration; they are not fair, just and just. Public confidence in the administration of justice is so important that there can be no general opinion that, in the exercise of the functions of the courts as judges, most cases should be tried in public, and that the public should attend the hearing. court - Chamber. Jeremy Bentham also noted: "All civilization lies in the darkness of secret pleasure and wickedness." Openness is the soul of justice. It is the strongest incentive to effort and the best defense against unethical behavior. The judge himself while trying under trial (in the sense that) the security of securities is publicity."

### Illustration

The members of the judiciary have also sought permission from the two state bodies for judicial review. In many cases, public confidence in the functioning of the judiciary has diminished. As mentioned above, the process of appointment of judges is not transparent and opaque. In democracies, citizens have the right to be informed about the workings of all state institutions. However, the concept of a "sealed envelope" has been introduced by the judiciary, where the courts have accepted that in some



cases, the facts of the investigation conducted are not allowed to be published in public interest. Ministry of Justice. Ramaswamy, during his tenure as Chief Justice of the Punjab High Court. In 1992, Parliament initiated impeachment proceedings against him. An investigation was launched and Justice Ramaswamy was found guilty of wanton and gross abuse of power and morality by spending public money for private use. According to the Constitution, the recall motion needs to be passed by two-thirds majority of the Parliament. The motion was not supported by the presidency as the Congress abstained from voting. In the Prasad Medical case, Justice S.N. Shukla pleaded guilty to the charge of senior magistrate Qudusi and Chairman Prasad Education Trust B.P. Yadav to obtain conviction. 14<sup>134</sup>. An FIR was registered A woman who was always working in the Home High Court was reinstated and her relatives were also dismissed from the service. She made an allegation of sexual harassment against the Chief Justice of India. An extraordinary hearing was held on Saturday but no charges were filed. The Attorney General recommended that an external panel be formed. The Chief Justice of India did not follow these instructions and constituted a bench of judges.

### **Appointment and transfer of judges and functions of collegium system**

According to the Constitution, the appointment of judges to the Supreme Court and High Courts is made by the President of India in consultation with the President of India. Its main function is to advise and advise the President of India on the appointment of judges of the Supreme Court and High Court and the transfer of judicial decisions of different courts. 17. Separation of powers. It ensures the independence of the judiciary from interference by law or regulatory bodies. Justice Sathasivam believes that the university has become more transparent and the discussions should be expanded, which is

the best way to appoint judges. He also said, "As judges, we understand the ability and character of those who are considered as judges of the Supreme Court and the Court of Appeals." This quote from him makes it clear that it will be difficult for people who are not busy with their daily work. The Court selects the best person for the job. The College can now appoint candidates from the Judicial Committee (JAC) against the wishes of the Supreme Court or the High Court. However, in the case of appointment by the Supreme Court and the Court of Appeal, the reason for the appointment need not be disclosed.

### **Transfer of judges**

According to the Constitution, the power to appoint and replace judges belongs to the President. Not only the appointment policy but also the transfer policy has been criticized over the years due to the transfer of a large number of Supreme Court judges in the opposite direction. The law allows judges to be replaced, but the researcher 20 found that it is not necessary to use this power. Some also believe that all replaced judges should be returned to their respective high courts. In the future, if Supreme Court judges do not use their transferable powers, the judiciary will be more independent, strong and effective. Each state has its own history, legal documents and language. India is a union of states, each with its own territory, administration, laws and customs.

### **Practice of sealed envelope**

The Constitution is the basic structure of the Indian Constitution and the Supreme Court of India is the guardian of the Constitution and the law. The Indian courts have the authority to conduct trials for the sake of justice if the court deems it necessary<sup>21</sup>. The parties also have the right to receive any information related to their case. The idea of closing the export lid is completely different. In a closed case, only the court and the parties who opened the case can access the case. A public interest litigation has been filed seeking an independent investigation

<sup>134</sup> Sharma, M., *Judicial Ethics in India* (Lucknow: Eastern Book Company, 2019), 112.



into the purchase of Rafael fighter jets by the French Dassault Aviation. The petition was rejected by the Supreme Court, but the court still wants a detailed report of the price and negotiations in a sealed envelope. There have been many cases where the courts have asked for the details of the files to be sealed, such as the CBI Director Alok Verma, Assam National Register of Citizens, 2G Spectrum and Is India Cricket Board cases. Retired Justice J Chelameswar said in an interview: "As far as I understand, the whole issue before the Supreme Court in the Rafale case is the fairness and cost of the negotiation process. I see no reason why this should be done. I will not do this. The judge explained that if the information sought by the court is procedural and related to national security, the basic charges are reasonably necessary. If there is information about the aircraft to be investigated and its characteristics, the first question is what the court should do. Secondly, although it should be investigated thoroughly, it is never a subject of public debate because it has serious security issues. If it is a personal issue, such as a marital dispute or circumstances<sup>135</sup>. Information related to national security. Some transactions cannot be made public, but the law always recognizes this. But there are always exceptions to the rule. Whether a particular situation requires a seal is a matter of judgment. If I receive a package that I consider to be a real threat to national security, I will place on record that there is important information that would jeopardize national security if made public. I will keep it secret and order the information to be disclosed after five years or when its disclosure would not affect national security. Accessible to the public. The Right to Information (RTI) Act has been a valuable tool in increasing transparency, but the judiciary has resisted the application of the RTI Act in certain areas, particularly regarding judges' personal assets and deliberations of the collegium.

<sup>135</sup> Chelameswar, J., & Reddy, S., *The Judicial Role in India* (Chennai: Oxford University Press, 2020), 198.

### Challenges :

#### 1. Lack of Formal Mechanisms for Accountability:

The Indian judiciary is largely self-regulating, with no comprehensive external oversight. The Judges (Inquiry) Act, 1968 provides a mechanism for impeaching judges of the Supreme Court and High Courts, but it is a rare and cumbersome process.

The collegium system for the appointment of judges to higher courts (Supreme Court and High Courts) lacks transparency, as there are no clear criteria or public explanations for appointments or transfers. This has led to criticisms of favoritism, nepotism, and lack of merit-based selection.

#### 2. Opaque Functioning of the Collegium System:

The collegium system, where senior judges appoint new judges, operates without a formalized or transparent process. Critics argue that this system lacks accountability, as decisions on appointments and transfers are often made behind closed doors without proper records or reasons being disclosed to the public.

There have been calls for reforms to bring more transparency in judicial appointments, such as the establishment of the National Judicial Appointments Commission (NJAC), but the Supreme Court struck it down in 2015, citing concerns over judicial independence.

#### 3. Delayed Justice and Backlog of Cases:

Delays in the judicial process and the enormous backlog of cases across courts undermine accountability. With more than 40 million cases pending in Indian courts, justice is often delayed, which in turn affects trust in the system.

The slow disposal of cases affects the public's perception of the efficiency and effectiveness of the judiciary. Accountability is questioned when cases languish for years, especially when judicial infrastructure and human resources are underfunded.





#### 4. Internal Accountability Issues:

Although the judiciary enjoys immunity in many aspects, including judicial conduct, the lack of any effective complaint mechanism against erring judges affects accountability.

There is no permanent independent body to handle complaints against judges, and the in-house mechanism for addressing complaints is criticized for being insufficiently transparent and lacking clear consequences for misconduct.

#### 5. Judicial Corruption:

Allegations of corruption in the judiciary have surfaced from time to time. While the judiciary is supposed to be free from any political or external influences, incidents involving favoritism or questionable financial dealings by some members of the judiciary have raised concerns.

The lack of a formalized, external mechanism to investigate corruption within the judiciary further complicates holding judges accountable.

#### 6. Limited Access to Information:

Judicial decisions and case details, while available in some cases, are not always easily accessible to the public. The Right to Information (RTI) Act has been a valuable tool in increasing transparency, but the judiciary has resisted the application of the RTI Act in certain areas, particularly regarding judges' personal assets and deliberations of the collegium.

In 2019, the Supreme Court declared that the office of the Chief Justice of India is subject to the RTI Act, but in practice, there is still limited disclosure on many critical matters concerning judicial functioning.

#### 7. Lack of Judicial Performance Evaluations:

Unlike other branches of government, there is no formal system for evaluating the performance of judges based on objective criteria. This affects transparency in how judges are assessed for promotions or transfers, and

the lack of performance-based evaluations reduces overall accountability.

#### 8. Public Perception of Judicial Independence:

While judicial independence is crucial, an overly insulated judiciary can sometimes be perceived as unaccountable to the public. Critics argue that the judiciary should balance independence with accountability by being more transparent in its decision-making processes and more open to public scrutiny, especially in matters involving the interpretation of laws that affect the common people.

#### 9. Resistance to Structural Reforms

There has been significant resistance to proposals for structural reforms aimed at increasing judicial accountability, such as setting up judicial accountability commissions or allowing greater legislative oversight.

The judiciary's reluctance to accept external oversight, while necessary for maintaining independence, sometimes obstructs necessary reforms that could enhance transparency and accountability.

#### 10. Political Influence and Executive Pressure:

Although the judiciary is constitutionally independent, there have been instances where concerns have been raised about political influence or pressure on judicial decisions. Such perceptions affect public trust and challenge the notion of an impartial judiciary.

The separation of powers between the judiciary, legislature, and executive is a constitutional principle, but ensuring that this separation is fully maintained can be difficult, particularly when it comes to high-profile cases.

#### Suggestions :

1. Establishing a Judicial Accountability Commission:

A transparent and independent body, such as a Judicial Accountability and Performance Commission, could oversee complaints against judges. This body would handle misconduct allegations, investigate complaints of





corruption, and maintain judicial discipline while respecting the independence of the judiciary.

## 2. Greater Transparency in the Appointment Process:

**Collegium Reforms:** Although the collegium system for appointing judges exists, it lacks transparency. Making the reasons behind judicial appointments, transfers, and elevations more transparent could improve public trust.

**National Judicial Appointments Commission (NJAC):** Revisiting the idea of NJAC, with suitable safeguards, could bring in broader consultation, transparency, and merit-based selection.

## 3. Mandatory Disclosure of Assets:

Judges should be required to declare their assets and liabilities, which should be made publicly accessible. This practice will discourage corruption and boost public confidence in the integrity of the judiciary.

## 4. Live Streaming of Court Proceedings:

Expanding live streaming of court proceedings, especially in important cases, would ensure greater transparency. The Supreme Court of India has already started live-streaming some hearings, and this can be extended to High Courts and significant public interest litigation (PIL) cases.

## 5. A Code of Conduct for Judges:

A clear and detailed Code of Conduct for judges should be implemented. This code should be publicly accessible and include guidelines for both ethical behavior and accountability in professional conduct.

## 6. Regular Performance Reviews:

Regular and structured performance evaluations for judges, based on parameters like the speed of case disposal, quality of judgments, and adherence to constitutional values, should be conducted.

## 7. Improving Judicial Ethics and Training:

Ongoing training on judicial ethics, fairness, and the importance of public trust should be

provided, with refresher courses for all judges. This will reinforce the judiciary's commitment to its core values.

## 8. Robust Whistleblower Protection Mechanisms:

A strong whistleblower mechanism should be put in place to protect those who expose judicial corruption or misconduct. Judicial staff, lawyers, or others working in the legal system should have a safe channel for reporting without fear of retaliation.

## 9. Faster Disposal of Complaints Against Judges:

The process for handling complaints against judges should be streamlined and more efficient. Delayed resolutions can erode public trust, so there should be time-bound procedures for addressing grievances.

## 10. Publication of Judicial Data and Statistics:

Regular publication of court performance metrics, such as case pendency, case disposal rates, and the average time taken to resolve cases, should be made public. These statistics can highlight inefficiencies and create accountability for improved case management.

## 11. Expanding Access to Judgments:

All judicial orders, including those of lower courts, should be digitized and made accessible on public platforms. This would allow for easier scrutiny, especially in cases of public interest, and foster accountability for the quality of judgments.

## 12. Public Scrutiny and Feedback:

Public involvement in providing feedback on the functioning of the judiciary should be encouraged through public consultations, surveys, and debates. Such feedback can inform reforms and improvements in judicial processes.

By implementing these measures, India can balance judicial independence with accountability, ensuring a fairer and more transparent justice system.



## Analysis and discussion

Judiciary is the fundamental responsibility of the state. Justice can only be achieved through better administration of justice. Fair trial and accountability are the foundation of the rule of law and the rule of law. The purpose of this section of this article is to improve the judicial system and to adapt the administration of the judicial system. Based on the analysis, this section will highlight the main issues of judicial review and provide recommendations for improving the process.

## Conclusion

To create public trust and confidence that the work of an independent body should be guided by the principles of transparency and fairness. The judges have challenged many other government institutions and organizations to be transparent in their work. However, stakeholders and different thinkers have expressed their dissatisfaction over the lack of consensus in the functioning of the Indian judiciary. The court should not give this opportunity to others. There should be judicial transparency in its activities. The main purpose of judicial accountability is to maintain public confidence in the judiciary, because the law can only work when the courts make their decisions. If the public believes that the judiciary is fair, impartial, and independent, they will accept the court's decision. This means that justice should not only be done, but it should also appear to be done. Therefore, judges should not tolerate all bad practices, but they should also show that they do not tolerate all bad practices. One of the biggest criticisms of the grand jury is the lack of transparency in the appointment and replacement of judges. In this case, the court has failed to meet the standard of accountability. The principles of good governance should be evident in all aspects of the judiciary's work. Not just the appointment of judges, but all of the judiciary's work should be transparent and fair. This will increase public trust and confidence in the administration of justice. It is also important not to compromise the ability to make independent

decisions while focusing on accountability of decisions.

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