



JUDICIAL ACCOUNTABILITY IN INDIA: BALANCING INDEPENDENCE AND RESPONSIBILITY

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ABSTRACT:

Judicial accountability constitutes one of the most critical pillars of constitutional democracy, ensuring that the judiciary, while remaining independent from executive or legislative interference, is also answerable for misconduct, inefficiency, corruption, and abuse of power. In India, the constitutional architecture grants substantial autonomy to the higher judiciary under Articles 124 to 147 and 214 to 231 of the Constitution, thereby preserving judicial independence as part of the basic structure doctrine. However, this autonomy has often generated concerns regarding opacity in appointments, lack of effective disciplinary mechanisms, allegations of corruption, and institutional resistance to external oversight. The tension between judicial independence and accountability has intensified in contemporary debates surrounding the collegium system, the National Judicial Appointments Commission (NJAC), judicial ethics, and public confidence in courts. This article critically examines the constitutional framework, statutory provisions, institutional safeguards, and judicial pronouncements relating to accountability of judges in India. It further explores comparative global practices and reform proposals aimed at achieving transparency without undermining decisional independence. The article argues that genuine judicial legitimacy depends not only on independence but also on robust accountability structures rooted in constitutionalism, transparency, and democratic values.



KEYWORDS: *Judicial Accountability, Judicial Independence, Collegium System, NJAC, Impeachment, Constitutional Law, Judicial Ethics, Rule of Law.*

I. INTRODUCTION

The judiciary in a constitutional democracy occupies a unique and indispensable role as the guardian of the Constitution, protector of fundamental

rights, and final arbiter of legal disputes. In India, the Supreme Court and High Courts have historically emerged as powerful institutions exercising judicial review, constitutional interpretation, and public interest jurisdiction. Judicial independence has therefore been zealously protected to prevent political interference and preserve rule of law.¹ However, independence

without accountability risks institutional insulation, creating possibilities for arbitrariness, abuse of power, and declining public confidence.²

Judicial accountability refers to mechanisms, standards, and institutional processes through which judges are held responsible for their conduct, integrity, competence, and adherence to

¹ M.P. Jain, *Indian Constitutional Law* 1680 (8th, Lexis Nexis 2018).

² Upendra Baxi, "The Avatars of Indian Judicial Activism: Explorations in the Geographies of [In] Justice," in S.K. Verma & Kusum (eds.), *Fifty Years of the Supreme Court of India* 156 (Oxford University Press 2000).

constitutional principles.³ Unlike executive accountability, judicial accountability must carefully avoid intrusions that compromise decisional autonomy. Thus, the challenge lies in striking an appropriate balance between freedom from external pressures and responsibility for judicial behaviour.

India's constitutional framework provides only limited formal mechanisms for judicial accountability, primarily through impeachment under Articles 124(4) and 217.⁴ Yet impeachment has proved politically cumbersome and rarely successfully, demonstrated by failed proceedings against Justice V. Ramaswami and controversies involving other members of the higher judiciary.⁵ Moreover, the collegium system of judicial appointments, while designed to secure independence, has been criticised for secrecy, nepotism, and lack of transparency.⁶

Recent developments, including the enactment and invalidation of the National Judicial Appointments Commission Act, 2014, have intensified the national debate on reforming judicial governance.⁷ Public concerns regarding delayed justice, ethical lapses, judicial overreach, and corruption allegations further underscore the urgency of institutional accountability.

This article examines the concept of judicial accountability within India's constitutional and democratic framework, tracing its historical evolution, legal foundations, and operational challenges. It seeks to evaluate whether existing structures adequately ensure integrity while preserving judicial independence, and propose reforms aimed at strengthening public trust in the justice delivery system.

II. CONSTITUTIONAL FOUNDATIONS OF JUDICIAL ACCOUNTABILITY IN INDIA

The Constitution of India establishes the judiciary as an independent organ of the State while simultaneously embedding certain safeguards intended to maintain judicial responsibility. The doctrine of separation of powers, though not expressly codified in absolute terms, forms an essential constitutional principle ensuring institutional autonomy.⁸ The framers deliberately insulated judges of the Supreme Court and High Courts from executive dominance through security of tenure, fixed service conditions, and protection against arbitrary removal.⁹ These guarantees were considered indispensable for impartial adjudication and preservation of constitutional supremacy.

A. Judicial Independence as a Constitutional Necessity

Judicial independence is protected through multiple constitutional provisions. Judges of the Supreme Court are appointed under Article 124, while High Court judges are appointed under Article 217.³ Their salaries and allowances are charged upon the Consolidated Fund of India, preventing legislative manipulation.¹⁰ Security of tenure is reinforced by stipulating that judges can only be removed through a rigorous parliamentary process on grounds of "proved misbehaviour or incapacity."¹¹ Additionally, Article 50 directs the State to separate the judiciary from the executive in public services, reflecting the constitutional commitment to impartial justice.¹²

The Supreme Court has repeatedly held judicial independence to be part of the Constitution's basic structure. In *S.P. Gupta v. Union of India*, the Court emphasized that judicial independence is central to rule

³ Justice J.S. Verma, *New Dimensions of Justice*.

⁴ INDIA CONST. arts. 124(4), 217.

⁵ Subash C. Kashyap, *Constitutional Law of India* 312 (Universal Law Publishing 2015).

⁶ Supreme Court Advocates-on-Record Assn. v. Union of India, (1993) 4 SCC 441.

⁷ Supreme Court Advocates-on-Record Assn. v. Union of India, (2016), 5 SCC 1.

⁸ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 164 (Oxford University Press 1966).

⁹ H.M. Seervai, *Constitutional Law of India* vol. 3, 2956 (4th edn., Universal Law Publishing 1996).

¹⁰ INDIA CONST. arts. 124, 217.

¹¹ INDIA CONST. art. 125.

¹² INDIA CONST. art. 124(4).

of law. This doctrine was further strengthened in the Second Judges Case, where primacy in judicial appointments shifted from the executive to the judiciary.¹³

B. Accountability Mechanisms under the Constitution

While independence is strongly protected, accountability mechanisms are comparatively narrow. Articles 124(4) and 124(5) prescribe impeachment as the principal constitutional mechanism for the removal of Supreme Court judges, requiring:

- * A motion supported by a specified number of Members of Parliament,
- * Investigation into allegations,
- * Special majority approval in both Houses,
- * Presidential order for removal.¹⁴

This procedure was operationalised through the Judges (Inquiry) Act, 1968.¹⁵ High Court judges are similarly governed under Article 217 read with Article 124(4). However, impeachment's complexity has rendered it largely ineffective as a practical accountability mechanism.

C. Limitations of Constitutional Design

The constitutional model prioritises institutional independence over disciplinary responsiveness. Unlike other democratic systems, India lacks:

- * A permanent judicial complaints commission,
- * Statutory ethical oversight body,
- * Transparent disciplinary framework short of impeachment.¹⁶

This has created what scholars describe as an "accountability deficit," where misconduct may persist without meaningful consequences unless it rises to the extreme threshold of parliamentary removal.¹⁷ Consequently, internal judicial procedures and public scrutiny have emerged as supplementary, though often inadequate, accountability tools.

D. Judicial Accountability as Part of Constitutional Morality

Constitutional morality requires that public institutions not only possess legal authority but also exercise it ethically, transparently, and responsibly.¹⁸ Judges, entrusted with constitutional guardianship, are expected to maintain high standards of integrity under the Restatement of Values of Judicial Life adopted by the Supreme Court in 1997.¹⁹ Yet such ethical norms largely remain self-regulatory.

Thus, India's constitutional framework creates a paradox: it establishes one of the world's most independent judiciaries, but offers limited enforceable accountability structures. This structural imbalance has become central to contemporary reform discourse.

III. JUDICIAL INDEPENDENCE VERSUS JUDICIAL ACCOUNTABILITY: THE CONSTITUTIONAL TENSION

The relationship between judicial independence and judicial accountability represents one of the most complex constitutional dilemmas in democratic governance. While judicial independence protects courts from external influence and political retaliation, accountability ensures that judges remain answerable for misconduct, corruption, incompetence, and abuse of authority.²⁰ In India, this duality has

¹³ INDIA CONST. art. 50.

¹⁴ S.P. Gupta v. Union of India, 1981 Supp SCC 87.

¹⁵ Supreme Court Advocates-on-Record Assn. v. Union of India, (1993) 4 SCC 441.

¹⁶ Judges (Inquiry) Act, No. 51 of 1968, § 3.

¹⁷ V.R. Krishna Iyer, Law and the People 214 (1980).

¹⁸ N.R. Madhava Menon, "Judicial Accountability and Independence," (2008) 50 JILI 247.

¹⁹ Manoj Narula v. Union of India, (2014) 9 SCC 1.

²⁰ Restatement of Values of Judicial Life, Supreme Court of India (1997).

generated significant constitutional and institutional debates, particularly because excessive insulation may lead to opacity, while excessive control may threaten impartiality.

A. Conceptual Distinction

Judicial independence primarily refers to freedom from interference by the executive, legislature, media, or private interests in judicial decision-making.²¹ It includes:

- * Institutional independence,
- * Decisional independence,
- * Financial autonomy,
- * Security of tenure.

Conversely, judicial accountability concerns answerability for conduct beyond adjudicative reasoning, such as:

- * Ethical standards,
- * Asset disclosure,
- * Appointment transparency,
- * Misconduct investigations,
- * Administrative efficiency.²²

Thus, accountability does not necessarily undermine independence; rather, it can strengthen judicial legitimacy by reinforcing public confidence.

B. The Indian Experience

In India, judicial independence has historically been prioritised due to colonial experiences and concerns regarding executive authoritarianism, especially during the Emergency (1975–77).²³ The supersession of judges in Kesavananda Bharati and ADM Jabalpur contexts heightened fears of political manipulation, leading the judiciary to assert institutional primacy through the Judges Cases.²⁴

The Second Judges Case (1993) and Third Judges Case (1998) established the collegium system, effectively transferring appointment powers to senior judges.²⁵ While this strengthened independence, critics argue it simultaneously weakened accountability by creating a self-selecting judicial oligarchy lacking external checks.²⁶

C. Risks of Over-Insulation

Overprotection of judicial independence may produce:

1. Lack of transparency in appointments,
2. Nepotism or favouritism,
3. Resistance to disciplinary scrutiny,
4. Weak responses to corruption allegations.²⁷

Former Law Commission reports and scholars have noted that the absence of independent oversight can diminish democratic accountability and erode public trust.²⁸ The judiciary's reluctance to fully disclose collegium deliberations historically intensified criticism.

²¹ Aharon Barak, *The Judge in a Democracy* 49 (Princeton University Press 2006).

²² Shimon Shetreet & Christopher Forsyth (eds.), *The Culture of Judicial Independence* 3 (Martinus Nijhoff 2011).

²³ Justice J.S. Verma, "Judicial Accountability and Court Administration," (2002) 44 JILI 223.

²⁴ H.R. Khanna, *Neither Roses Nor Thorns* 112 (Eastern Book Company 1985).

²⁵ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *ADM Jabalpur v. Shivkant Shukla*, (1976) 2 SCC 521.

²⁶ *In re Special Reference No. 1 of 1998*, (1998) 7 SCC 739.

²⁷ Fali S. Nariman, *Before Memory Fades* 312 (Hay House 2010).

²⁸ Law Commission of India, 230th Report on Reforms in the Judiciary (2009).

D. Risks of Excessive Accountability

Conversely, accountability measures controlled by political branches may endanger judicial neutrality. For example:

- * Executive control over appointments,
- * Political impeachment misuse,
- * Budgetary coercion,
- * Legislative retaliation.

The NJAC judgment illustrates the judiciary's concern that excessive executive participation in appointments may compromise constitutional independence.²⁹ Therefore, accountability structures must avoid enabling partisan influence.

E. The Doctrine of Balanced Constitutionalism

Modern constitutionalism requires harmonisation rather than opposition between these principles. Accountability should be structured through:

- * Independent oversight commissions,
 - * Transparent appointment criteria,
 - * Internal ethics committees,
 - * Public asset declarations,
 - * Performance standards,
- without undermining adjudicatory freedom.³⁰

As Justice J.S. Verma observed, "Independence and accountability are complementary, not contradictory."³¹ Judicial credibility ultimately depends not merely on freedom from interference, but on public confidence that judges exercise power responsibly.

Therefore, the central constitutional challenge in India is not whether judges should be accountable, but how accountability can be institutionalized without sacrificing independence.

IV. MECHANISMS OF JUDICIAL ACCOUNTABILITY IN INDIA: IMPEACHMENT, IN-HOUSE PROCEDURES, AND ETHICAL STANDARDS

India's judicial accountability framework is characterized by limited formal constitutional provisions supplemented by internal self-regulatory mechanisms. Although the Constitution provides for removal of judges through impeachment, practical and political realities have rendered this mechanism largely ineffective. Consequently, in-house procedures and ethical guidelines have emerged as alternative accountability tools, though these too suffer from structural limitations.³²

A. Impeachment under the Constitution

The principal constitutional mechanism for removing judges of the Supreme Court and High Courts is contained in Articles 124(4), 124(5), and 217.³³ A judge may be removed only on grounds of "proved misbehaviour or incapacity" through a highly rigorous process involving:

1. Motion by Members of Parliament,
2. Investigation by a judicial committee,
3. Approval by both Houses of Parliament through special majority,
4. Presidential order.³⁴

²⁹ Upendra Baxi, "The Crisis of the Indian Legal System" 198 (Vikas Publishing 1982).

³⁰ Supreme Court Advocates-on-Record Assn. v. Union of India, (2016) 5 SCC 1.

³¹ M. Cappelletti, "Who Watches the Watchmen?" (1983) 31 Am. J. Comp. L. 1.

³² J.S. Verma, New Dimensions of Justice 96 (Universal Law Publishing 2000).

³³ N.R. Madhava Menon, Judicial Reforms in India 145 (LexisNexis 2014).

³⁴ INDIA CONST. arts. 124(4), 124(5), 217.

The Judges (Inquiry) Act, 1968 regulates this process.³⁵ However, no judge of the Supreme Court has ever been successfully impeached. The most notable case, involving Justice V. Ramaswami in 1993, failed despite adverse findings due to political abstentions in Parliament.³⁶

This failure demonstrated that impeachment is more political than disciplinary, making it an unreliable accountability mechanism except in extraordinary circumstances.

B. In-House Procedure

Recognizing impeachment's limitations, the Supreme Court developed an "in-house procedure" in 1999 to address complaints against judges.³⁷ Under this mechanism:

- * Complaints are examined internally by senior judges,
- * Investigations remain confidential,
- * Recommendations may include resignation, voluntary retirement, or advisory measures.

Although this process allows institutional self-correction, it lacks statutory force, transparency, and public participation.³⁸ Critics argue that self-regulation can lead to institutional bias and insufficient deterrence.

C. Restatement of Values of Judicial Life (1997)

The judiciary adopted the Restatement of Values of Judicial Life in 1997, prescribing ethical norms such as:

- * Avoiding conflicts of interest,
- * Maintaining financial propriety,
- * Restricting public commentary,
- * Preserving impartiality.³⁹

These principles reflect moral accountability but are non-binding and unenforceable. Unlike enforceable judicial conduct codes in some jurisdictions, India's ethical framework remains largely aspirational.

D. Judicial Standards and Accountability Bill

To strengthen accountability, the Judicial Standards and Accountability Bill, 2010 proposed:

- * Mandatory asset declarations,
- * Public complaints mechanisms,
- * Judicial oversight committees,
- * Codified standards of conduct.⁴⁰

However, the Bill lapsed without enactment, leaving significant regulatory gaps.

E. Public Interest Litigation and Media Scrutiny

In recent decades, media investigations, civil society activism, and public interest litigation have increasingly exposed judicial controversies.⁴¹ While public scrutiny can enhance transparency, excessive sensationalism risks undermining institutional legitimacy without due process.

F. Structural Weaknesses

³⁵ Judges (Inquiry) Act, No. 51 of 1968, §§ 3–6.

³⁶ Subhash C. Kashyap, *Our Constitution* 221 (National Book Trust 2019).

³⁷ *K. Veeraswami v. Union of India*, (1991) 3 SCC 655.

³⁸ Justice V. Ramaswami Inquiry Committee Report, 1992.

³⁹ Supreme Court of India, *In-House Procedure* (1999).

⁴⁰ Indira Jaising, "Accountability of the Indian Judiciary," (2013) 5 SCC J-1.

⁴¹ Restatement of Values of Judicial Life, Supreme Court Resolution (1997).

Current accountability mechanisms face several deficiencies:

- * Overdependence on impeachment,
- * Confidentiality of internal inquiries,
- * Absence of independent oversight,
- * Weak enforceability of ethical standards,
- * Limited public trust in disciplinary processes.⁴²

Thus, India's accountability framework remains fragmented, heavily reliant on judicial self-regulation rather than robust institutional oversight.

A constitutional democracy requires judges to be both independent and answerable. Yet India's existing mechanisms reveal that while judicial autonomy is constitutionally entrenched, meaningful accountability structures continue to evolve inadequately.

V. JUDICIAL CORRUPTION, ETHICAL CONTROVERSIES, AND INSTITUTIONAL CREDIBILITY

Judicial accountability in India cannot be meaningfully discussed without confronting the issue of corruption, ethical misconduct, and controversies involving members of the judiciary. Although the Indian judiciary has often been regarded as one of the strongest democratic institutions, allegations of corruption and abuse of office have periodically raised serious concerns regarding institutional credibility.⁴³ Public trust in the judiciary depends not only on constitutional independence but also on the perceived integrity of judges.

A. Nature and Forms of Judicial Corruption

Judicial corruption may manifest in multiple forms, including:

- * Bribery or improper financial influence,
- * Nepotism in appointments,
- * Conflict of interest,
- * Post-retirement inducements,
- * Misuse of judicial office,
- * Case allocation manipulation.⁴⁴

Unlike ordinary public corruption, judicial corruption is particularly damaging because it undermines the rule of law itself. A compromised judiciary threatens constitutional governance by eroding citizens' faith in impartial justice.

B. Major Judicial Controversies in India

Several notable controversies have highlighted weaknesses in judicial accountability:

1. Justice V. Ramaswami Case

The first impeachment proceedings against a Supreme Court judge exposed financial irregularities and misuse of public funds.⁴⁵ Despite serious findings, parliamentary politics prevented removal.

2. Justice Soumitra Sen Case

⁴² Judicial Standards and Accountability Bill, 2010, Bill No. 136 of 2010.

⁴³ Prashant Bhushan, *The Case that Shook India* 198 (HarperCollins 2018).

⁴⁴ Law Commission of India, 245th Report on Arrears and Judicial Reforms (2014).

⁴⁵ Transparency International, *Global Corruption Report: Corruption and Judicial Systems* 27 (2007).

A Calcutta High Court judge was accused of misappropriating funds. Although the Rajya Sabha passed an impeachment motion, Justice Sen resigned before Lok Sabha proceedings concluded.⁴⁶

3. Justice P.D. Dinakaran Allegations

Charges involving land grabbing and judicial misconduct prompted resignation prior to completion of proceedings.⁴⁷

These instances reveal that resignation often substitutes for formal accountability, allowing avoidance of constitutional consequences.

C. Judicial Corruption and the “Uncle Judge Syndrome”

The phenomenon commonly referred to as the “Uncle Judge Syndrome” reflects favouritism, familial networks, and regional bias within appointments and judicial functioning.⁴⁸ Critics argue that opacity within the collegium system has exacerbated concerns regarding internal patronage.

D. Asset Disclosure and Transparency

Historically, judges resisted mandatory public asset disclosure, citing privacy and independence concerns. However, following public pressure and RTI-related controversies, the Supreme Court eventually recognised greater transparency obligations.⁴⁹

In *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*, the Court held that the office of the Chief Justice of India falls under the Right to Information Act, thereby reinforcing institutional openness.⁵⁰

E. Ethical Crisis and Public Confidence

Ethical controversies involving sexual harassment allegations, post-retirement political appointments, and administrative opacity have intensified debates over accountability.⁵¹ Such controversies create perceptions of selective standards, particularly when judges adjudicate politically sensitive matters.

F. Institutional Consequences

Persistent allegations of corruption can lead to:

- * Decline in legitimacy,
- * Reduced compliance with judicial decisions,
- * Weakening of constitutional morality,
- * Increased calls for executive intervention,
- * Democratic distrust.⁵²

Therefore, accountability is not merely punitive but essential for preserving judicial authority.

G. Need for Structural Integrity Measures

To strengthen credibility, scholars recommend:

- * Independent complaints commissions,
- * Mandatory disclosures,
- * Transparent appointments,
- * Stronger disciplinary codes,

⁴⁶ Justice J.S. Verma, *Judicial Ethics and Accountability* 113 (Universal Law Publishing 2004).

⁴⁷ Inquiry Committee Report Against Justice V. Ramaswami, 1992.

⁴⁸ Rajya Sabha Debates, Impeachment Proceedings Against Justice Soumitra Sen (2011).

⁴⁹ Legal Correspondent, “Justice Dinakaran Resigns,” *The Hindu*, 30 July 2011.

⁵⁰ Fali S. Nariman, *God Save the Hon’ble Supreme Court* 88 (Hay House 2018).

⁵¹ *Campaign for Judicial Accountability and Reforms v. Union of India*, (2018) 1 SCC 196.

⁵² *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*, (2020) 5 SCC 481.

- * Whistleblower protections,
- * Restrictions on immediate post-retirement appointments.⁵³

Judicial independence cannot serve as a shield against ethical scrutiny. Rather, integrity and transparency are indispensable to sustaining judicial legitimacy in a constitutional democracy.

VI. THE COLLEGIUM SYSTEM, NATIONAL JUDICIAL APPOINTMENTS COMMISSION (NJAC), AND THE DEBATE ON ACCOUNTABILITY

The process of judicial appointments lies at the heart of the accountability debate because control over appointments directly shapes judicial independence, transparency, and institutional legitimacy. In India, the evolution from executive primacy to judicial primacy through the collegium system has profoundly transformed constitutional governance. However, this transformation has also generated significant concerns regarding opacity and lack of accountability.⁵⁴

A. Evolution of Judicial Appointments in India

Initially, under Articles 124 and 217, judicial appointments were formally made by the President in consultation with the judiciary, with the executive retaining substantial influence.⁵⁵ However, fears of political interference, especially after supersession controversies during the 1970s, prompted judicial reinterpretation.

The Three Judges Cases:

1. First Judges Case (1981) – Executive primacy upheld.⁵⁶
2. Second Judges Case (1993) – Judicial primacy established through collegium.⁵⁷
3. Third Judges Case (1998) – Expanded collegium structure clarified.⁵⁸

The collegium now consists of the Chief Justice of India and senior Supreme Court judges responsible for recommending appointments and transfers.

B. Criticism of the Collegium System

Although designed to protect independence, the collegium system has faced extensive criticism for:

- * Lack of transparency,
- * Absence of formal criteria,
- * Secretive deliberations,
- * Nepotism,
- * Limited diversity,
- * No external accountability.⁵⁹

Former judges and scholars have described it as a “closed-door mechanism” inconsistent with democratic constitutionalism.⁶⁰

C. The National Judicial Appointments Commission (NJAC)

⁵³ Indira Jaising, “Judicial Accountability in India: Problems and Prospects,” (2019) 7 NUJS L. Rev. 41.

⁵⁴ Upendra Baxi, *The Indian Supreme Court and Politics* 267 (Eastern Book Co. 2016).

⁵⁵ Second Administrative Reforms Commission, *Fourth Report on Ethics in Governance* (2007).

⁵⁶ M.P. Jain, *Indian Constitutional Law* 1724 (8th edn., LexisNexis 2018).

⁵⁷ INDIA CONST. arts. 124, 217.

⁵⁸ *S.P. Gupta v. Union of India*, 1981 Supp SCC 87.

⁵⁹ *Supreme Court Advocates-on-Record Assn. v. Union of India*, (1993) 4 SCC 441.

⁶⁰ *In re Presidential Reference*, (1998) 7 SCC 739.

To address these concerns, Parliament enacted the Constitution (Ninety-Ninth Amendment) Act, 2014 and the NJAC Act, 2014.⁸ The NJAC proposed a six-member body comprising:

- * Chief Justice of India,
- * Two senior judges,
- * Law Minister,
- * Two eminent persons.

The objective was to balance judicial independence with democratic accountability.

D. Supreme Court's Invalidation of NJAC

In *Supreme Court Advocates-on-Record Association v. Union of India* (2015), the Supreme Court struck down the NJAC as unconstitutional, holding that judicial primacy in appointments forms part of the basic structure.⁶¹

The Court reasoned that executive participation and the veto power of non-judicial members could compromise judicial independence. While reaffirming the collegium, the Court acknowledged its deficiencies and invited procedural reforms.

E. Transparency Reforms Post-NJAC

Following criticism, the Supreme Court introduced limited reforms, including:

- * Publication of collegium resolutions,
- * Disclosure of recommendations,
- * Greater procedural clarity.⁶²

However, many observers argue that these reforms remain insufficient.

F. Constitutional Implications

The NJAC controversy highlights a broader constitutional question:

Can accountability in appointments be enhanced without undermining independence?

This remains unresolved. Excessive judicial control may foster opacity, while excessive executive influence risks politicisation.

G. The Continuing Reform Debate

Contemporary reform proposals include:

- * Independent appointments commissions,
- * Transparent eligibility criteria,
- * Parliamentary scrutiny,
- * Public consultation,
- * Diversity mandates,
- * Judicial ethics oversight.⁶³

The appointments debate demonstrates that judicial accountability begins not after appointment, but at the very process through which judges assume office.

Thus, while the collegium system succeeded in insulating the judiciary from overt political control, its democratic legitimacy remains contested due to insufficient transparency and accountability.

VII. LANDMARK JUDICIAL DECISIONS SHAPING JUDICIAL ACCOUNTABILITY IN INDIA

⁶¹ Law Commission of India, 214th Report on Proposal for Reconsideration of Judges Cases (2008).

⁶² Fali S. Nariman, *Before Memory Fades* 318 (Hay House 2010).

⁶³ Constitution (Ninety-Ninth Amendment) Act, 2014.

Judicial accountability in India has evolved not merely through constitutional text or legislative enactments, but significantly through judicial pronouncements. The Supreme Court, while often functioning as the guardian of judicial independence, has simultaneously shaped doctrines concerning transparency, ethics, appointments, and institutional responsibility. These landmark cases collectively define the contours of accountability in the Indian legal system.⁶⁴

A. S.P. Gupta v. Union of India (1981): The First Judges Case

The First Judges Case marked the judiciary's early engagement with questions of appointments and accountability.⁶⁵ The Court held that the executive retained primacy in judicial appointments, interpreting "consultation" with the Chief Justice as non-binding.

Although this decision favoured executive oversight, it also raised concerns that judicial independence could be undermined by political influence. This case laid the groundwork for later constitutional reinterpretations.

B. Supreme Court Advocates-on-Record Association v. Union of India (1993): The Second Judges Case

This landmark judgment dramatically altered judicial governance by establishing judicial primacy through the collegium system.⁶⁶ The Court held that the Chief Justice's opinion, formed collectively with senior judges, would have primacy over executive discretion.

While this enhanced independence, critics argued it reduced accountability by creating an internally controlled appointment mechanism with limited transparency.

C. In re Presidential Reference (1998): The Third Judges Case

The Third Judges Case clarified and expanded the collegium structure to include broader judicial consultation.⁴ This judgment institutionalised the collegium system and further insulated appointments from executive influence.

D. K. Veeraswami v. Union of India (1991)

This case addressed criminal accountability of judges, holding that judges of higher courts could be investigated for corruption, though only with prior sanction from the Chief Justice of India.⁶⁷

The decision recognised that judicial office does not grant absolute immunity from criminal law, while still preserving safeguards against frivolous prosecution.

E. Subhash Chandra Agarwal Case (2019)

In a major transparency ruling, the Supreme Court held that the office of the Chief Justice of India falls within the scope of the Right to Information Act.⁶⁸

This decision reinforced the principle that judicial institutions are subject to transparency obligations, subject to legitimate confidentiality concerns.

F. Supreme Court Advocates-on-Record Association v. Union of India (NJAC Case, 2015)

The NJAC judgment remains one of the most significant accountability-related constitutional decisions.⁶⁹ While the Court invalidated NJAC to preserve judicial independence, it acknowledged serious flaws in the collegium system and emphasised the need for procedural reforms.

G. Campaign for Judicial Accountability and Reforms v. Union of India (2018)

⁶⁴ National Judicial Appointments Commission Act, No. 62 of 2014.

⁶⁵ Supreme Court Advocates-on-Record Assn. v. Union of India, (2016) 5 SCC 1.

⁶⁶ Supreme Court Collegium Resolutions, available on Supreme Court of India official website.

⁶⁷ Justice Madan B. Lokur, "Judicial Appointments and Constitutional Balance," (2018) 6 SCC J-12.

⁶⁸ Justice Ruma Pal, "Judicial Independence and Accountability," (2007) 2 SCC J-9.

⁶⁹ S.P. Gupta v. Union of India, 1981 Supp SCC 87.

This case highlighted the judiciary's resistance to external investigative oversight while also exposing public concerns regarding allegations against sitting judges.⁷⁰

H. Judicial Ethics Jurisprudence

Various decisions concerning recusal, conflict of interest, and public confidence have progressively shaped norms of judicial propriety, though India still lacks a comprehensive statutory judicial conduct code.⁷¹

I. Overall Jurisprudential Impact

These judgments collectively reveal several trends:

- * Strong preference for institutional independence,
- * Gradual movement toward transparency,
- * Limited openness to external accountability,
- * Expansion of self-regulatory principles,
- * Preservation of constitutional autonomy.

J. Critical Evaluation

Indian judicial doctrine has largely treated accountability as subordinate to independence, often prioritising insulation over external scrutiny.⁷² While this approach may safeguard courts from political manipulation, it also risks creating democratic deficits.

Therefore, judicial precedents have simultaneously strengthened constitutionalism and exposed institutional vulnerabilities, making reform an ongoing necessity.

VIII. COMPARATIVE PERSPECTIVES ON JUDICIAL ACCOUNTABILITY: INTERNATIONAL MODELS AND LESSONS FOR INDIA

A comparative examination of judicial accountability frameworks across democratic jurisdictions reveals that while judicial independence is universally valued, many countries have developed more structured and transparent accountability systems than India. These systems demonstrate that independence and accountability can coexist through carefully designed institutions, ethical regulations, and appointment processes.⁷³ Comparative constitutional analysis, therefore, offers valuable lessons for Indian judicial reform.

A. United Kingdom

The United Kingdom has implemented a relatively balanced judicial accountability framework through statutory institutions such as the Judicial Appointments Commission (JAC) established under the Constitutional Reform Act, 2005.⁷⁴ The JAC is an independent body responsible for transparent merit-based appointments, reducing political patronage while avoiding judicial monopolization.

Additionally:

- * Judicial Conduct Investigations Office handles complaints,
- * Clear disciplinary procedures exist,
- * Public complaints mechanisms are institutionalised,
- * Removal procedures remain insulated from partisan misuse.⁷⁵

This model emphasises transparency and public confidence without undermining decisional autonomy.

⁷⁰ Supreme Court Advocates-on-Record Assn. v. Union of India, (1993) 4 SCC 441.

⁷¹ In re Presidential Reference, (1998) 7 SCC 739.

⁷² K. Veeraswami v. Union of India, (1991) 3 SCC 655.

⁷³ Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481.

⁷⁴ Supreme Court Advocates-on-Record Assn. v. Union of India, (2016) 5 SCC 1.

⁷⁵ Campaign for Judicial Accountability and Reforms v. Union of India, (2018) 1 SCC 196.

B. United States

In the United States, federal judges enjoy life tenure to preserve independence under Article III of the U.S. Constitution.⁷⁶ However, accountability is maintained through:

- * Senate confirmation hearings,
- * Congressional impeachment,
- * Judicial conduct review councils,
- * Mandatory financial disclosures,
- * Media and academic scrutiny.⁷⁷

While appointments may be politicised, public vetting through confirmation processes enhances democratic transparency.

C. Canada

Canada employs Judicial Councils for ethical oversight and misconduct review.⁷⁸ The Canadian Judicial Council investigates complaints against federally appointed judges and can recommend removal. This institutionalised disciplinary mechanism offers greater procedural regularity than India's impeachment-only model.

D. South Africa

South Africa's post-apartheid Constitution created the Judicial Service Commission (JSC), which includes judges, lawyers, legislators, and civil society representatives.⁷⁹ The JSC oversees appointments and disciplinary processes, aiming to ensure both democratic legitimacy and constitutional integrity.

E. International Ethical Standards

Global instruments such as the Bangalore Principles of Judicial Conduct (2002) establish universally recognised norms of:

- * Independence,
- * Impartiality,
- * Integrity,
- * Propriety,
- * Equality,
- * Competence.⁸⁰

India has endorsed many of these principles, but implementation remains largely self-regulatory.

F. Comparative Deficiencies in India

Compared to these jurisdictions, India's system demonstrates notable weaknesses:

- * Overreliance on impeachment,
- * Lack of independent complaints bodies,
- * Opaque appointment processes,
- * Weak public participation,
- * Limited statutory ethics enforcement.⁸¹

⁷⁶ Bangalore Principles of Judicial Conduct, 2002.

⁷⁷ Upendra Baxi, *Judicial Accountability: Realities and Challenges* 287 (Eastern Book Co. 2017).

⁷⁸ Shimon Shetreet & Sophie Turenne, *Judges on Trial: The Independence and Accountability of the English Judiciary* 45 (Cambridge University Press 2013).

⁷⁹ Constitutional Reform Act, 2005 (UK).

⁸⁰ Judicial Conduct Investigations.

⁸¹ U.S. CONST. art. III.

G. Lessons for Reform

Comparative models suggest several reforms suitable for India:

1. Independent judicial complaints commission,
2. Transparent appointments authority,
3. Publicly codified conduct standards,
4. Asset and conflict disclosures,
5. Broader stakeholder participation,
6. Institutionalised disciplinary procedures.⁸²

H. Constitutional Adaptation

While foreign systems cannot be transplanted mechanically due to India's unique constitutional culture, comparative practices demonstrate that robust accountability need not threaten judicial independence. Rather, institutional design can reconcile autonomy with democratic legitimacy.

I. Conclusion

The comparative experience underscores that judicial accountability is strongest when embedded within transparent, independent, and rule-based institutions. India's continued reliance on informal and fragmented mechanisms appears increasingly inadequate for a modern constitutional democracy. Global best practices, therefore, provide persuasive guidance for future reforms.

IX. REFORM PROPOSALS AND THE FUTURE OF JUDICIAL ACCOUNTABILITY IN INDIA

The increasing complexity of constitutional governance, rising public scrutiny, and recurring controversies surrounding appointments, ethics, and judicial conduct have intensified demands for comprehensive reform of India's judicial accountability framework. Existing constitutional and institutional mechanisms have proven insufficient in addressing contemporary expectations of transparency, integrity, and democratic legitimacy.⁸³ Therefore, the future of judicial accountability in India depends upon systemic reforms that preserve judicial independence while ensuring effective oversight.

A. Need for Structural Reform

India's current framework suffers from several deficiencies:

- * Impeachment is politically cumbersome and rarely effective,
- * In-house procedures lack transparency,
- * Ethical codes are largely non-binding,
- * Collegium appointments remain opaque,
- * Public trust is vulnerable to misconduct allegations.⁸⁴

These deficiencies necessitate reforms that institutionalise accountability without exposing the judiciary to partisan interference.

B. Establishment of an Independent Judicial Oversight Commission

One of the most widely supported reforms is the creation of an independent National Judicial Commission or Judicial Complaints Authority, empowered to:

- * Investigate misconduct,
- * Receive public complaints,
- * Monitor ethical compliance,
- * Recommend disciplinary measures,

⁸² Charles Gardner Geyh, *Judicial Conduct and Ethics* 119 (LexisNexis, 2014).

⁸³ Canadian Judicial Council, *Ethical Principles for Judges*.

⁸⁴ Constitution of South Africa, 1996, §§ 174–177.

* Enhance transparency.⁸⁵

Such a body should maintain judicial predominance while incorporating limited independent oversight to avoid political capture.

C. Reforming Judicial Appointments

A transparent appointments mechanism is crucial for accountability. Proposed reforms include:

1. Publicly declared eligibility criteria,
2. Transparent selection procedures,
3. Diversity considerations,
4. Institutionalised consultation,
5. Publication of appointment rationales.⁸⁶

Reforming the collegium system through procedural openness rather than complete structural replacement may offer a constitutionally acceptable path.

D. Mandatory Asset Disclosure and Conflict Transparency

Regular public declaration of judges' assets and financial interests can enhance public trust while minimising corruption risks.⁸⁷ Comparable practices in other democracies demonstrate that financial transparency need not undermine judicial independence.

E. Codified Judicial Conduct Standards

India requires enforceable statutory standards modelled on international best practices, incorporating:

- * Ethical obligations,
- * Conflict-of-interest rules,
- * Recusal protocols,
- * Post-retirement restrictions,
- * Complaint redressal mechanisms.⁸⁸

F. Regulating Post-Retirement Appointments

Frequent appointments of retired judges to political or quasi-governmental offices have raised concerns regarding impartiality.⁸⁹ Suggested reforms include:

- * Cooling-off periods,
- * Independent appointment oversight,
- * Restriction on politically sensitive roles.

⁸⁵ Bangalore Principles of Judicial Conduct, 2002.

⁸⁶ Law Commission of India, 230th Report on Judicial Reforms (2009).

⁸⁷ Aharon Barak, *The Judge in a Democracy* 287 (Princeton University Press 2006).

⁸⁸ Justice J. Chelameswar, "Judicial Reforms and Transparency," (2016).

⁸⁹ Law Commission of India, 245th Report on Judicial Arrears and Reforms (2014).

G. Use of Technology and Administrative Transparency

Digital reforms can improve accountability through:

- * Live-streaming constitutional proceedings,
- * Transparent case allocation systems,
- * Online publication of disciplinary frameworks,
- * Judicial performance metrics.⁹⁰

H. Balancing Reform with Constitutional Safeguards

Reforms must avoid undermining:

- * Basic structure doctrine,
- * Separation of powers,
- * Decisional independence,
- * Judicial review authority.⁹¹

Accordingly, accountability mechanisms should focus on conduct and governance rather than substantive judicial reasoning.

I. Public Confidence as the Ultimate Goal

Judicial accountability is not solely punitive; it serves broader democratic purposes:

- * Preserving legitimacy,
- * Strengthening constitutional morality,
- * Enhancing institutional trust,
- * Protecting rule of law.⁹²

The future of judicial accountability in India lies in carefully calibrated institutional reform. Independence must remain inviolable, but independence cannot be equated with unreviewable power. Transparent appointments, enforceable ethics, independent oversight, and democratic legitimacy are essential to sustaining the judiciary's constitutional role in the twenty-first century.

X. CONCLUSION

Judicial accountability is indispensable to the preservation of constitutional democracy, the rule of law, and public confidence in the administration of justice. In India, the judiciary occupies an exalted constitutional position as the guardian of fundamental rights, interpreter of the Constitution, and protector of democratic values. Judicial independence, therefore, has rightly been recognised as part of the Constitution's basic structure.⁹³ However, independence cannot be construed as institutional immunity from scrutiny, transparency, or ethical responsibility.

The Indian constitutional model has historically prioritised judicial autonomy in response to concerns over executive interference, particularly following experiences of political excess and constitutional crises.⁹⁴ This emphasis led to the evolution of a highly insulated judicial structure, especially through the collegium system. While this framework successfully reduced overt political influence, it also created serious accountability deficits, including appointment opacity, inadequate disciplinary mechanisms, ethical controversies, and public distrust.⁹⁵

⁹⁰ National Commission to Review the Working of the Constitution, Report (2002).

⁹¹ Justice M.N. Venkatachaliah, Constitutional Governance and Judicial Reform 198 (2004).

⁹² Subhash Chandra Agarwal v. Supreme Court of India, (2020) 5 SCC 481.

⁹³ Bangalore Principles of Judicial Conduct, 2002.

⁹⁴ Arun Jaitley, "Judicial Accountability Bill Debate," Rajya Sabha Parliamentary Debates (2012).

⁹⁵ Swapnil Tripathi v. Supreme Court of India, (2018) 10 SCC 639.

Existing accountability structures—principally impeachment, in-house procedures, and voluntary ethical codes—have proven fragmented and often ineffective. Impeachment remains politically impractical, internal disciplinary processes lack transparency, and ethical standards are insufficiently enforceable.⁹⁶ As a result, allegations of misconduct or corruption frequently expose systemic weaknesses without producing meaningful institutional reform.

Comparative international models demonstrate that judicial independence and accountability are not mutually exclusive. Democracies across the world have successfully developed appointment commissions, complaints authorities, conduct review systems, and transparent disciplinary mechanisms that preserve decisional freedom while ensuring institutional responsibility.⁹⁷ India can similarly adopt reforms tailored to its constitutional culture without compromising judicial autonomy.

The future of judicial accountability in India requires:

- * Transparent and merit-based appointments,
- * Independent oversight institutions,
- * Statutory ethical standards,
- * Asset disclosure norms,
- * Regulation of post-retirement appointments,
- * Publicly accessible disciplinary frameworks,
- * Enhanced technological transparency.⁹⁸

Such reforms would strengthen judicial legitimacy rather than diminish independence.

Ultimately, judicial accountability is not an external threat to the judiciary but an essential component of constitutional governance. A judiciary that is independent but unaccountable risks democratic alienation; a judiciary that is accountable but politically compromised risks constitutional collapse. Therefore, India's constitutional challenge lies in sustaining a judiciary that is simultaneously independent, transparent, ethical, and answerable.

As constitutional morality evolves, judicial accountability must become a foundational principle of democratic legitimacy. Only through balanced reform can the Indian judiciary continue to command public trust while fulfilling its constitutional mission as the sentinel on the *qui vive*.⁹⁹

⁹⁶ Keshavananda Bharati v. State of Kerala, (1973) 4 SCC 225.

⁹⁷ N.R. Madhava Menon, Good Governance through Judicial Reform 255 (LexisNexis 2018).

⁹⁸ Keshavananda Bharati v. State of Kerala, (1973) 4 SCC 225.

⁹⁹ H.R. Khanna, Neither Roses Nor Thorns 221 (Eastern Book Company 1985).