

INDIAN JUSTICE SYSTEM: IMPEACHMENT, INQUIRIES, AND POLITICAL INFLUENCE

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ABSTRACT

The lack of strong mechanisms to ensure judicial accountability has raised worries about corruption, political meddling, and diminishing public confidence. This concern has been central to legal discussions, with multiple reform efforts made, yet finding the proper equilibrium between autonomy and responsibility continues to be a significant challenge. The present state of judicial accountability in India is riddled with challenges, ranging from political interference in impeachment processes to insufficient transparency in investigations of judicial misconduct. The greater issue is not judicial overreach but the judiciary's growing hesitance to confront executive intrusions. This scenario endangers the fundamental nature of the judiciary's responsibility as a defender of citizens' rights and a steward of the Constitution. This analysis examines the intricacies of this matter, investigating the necessity for reform and the significance of preserving the integrity of India's judicial system.

This study examines the challenges of reconciling judicial independence with accountability measures in India, intending to investigate how reforms and public involvement can improve transparency, integrity, and confidence in the judiciary. The primary research inquiries aim to identify ways to improve the equilibrium between judicial independence and accountability, tackle deficiencies in judicial oversight and the process of judge removal, and examine how open justice practices, like live-streaming court sessions, can bolster transparency.

GRASP - EDUCATE - EVOLVE

INTRODUCTION

A just society must be built, and the cry for justice is a basic human need for accountability and fairness. To guarantee that everyone may access the rule of law⁹³². Judicial independence and accountability aim to guarantee equal access to impartial, competent judicial institutions, protecting the judiciary and personnel from any potential influences that could undermine their impartiality.⁹³³ Judicial behaviour and oversight have been major issues in India for years. In 2010, “a former Union Law Minister claimed that eight out of the last sixteen Chief Justices of India were involved in corrupt activities”.⁹³⁴ Since then, “Claims of corruption and unethical behaviour by judges have escalated Four of the five most recent Chief Justices—Khehar,⁹³⁵ Misra⁹³⁶, Gogoi⁹³⁷, and Ramana⁹³⁸— Endured harsh allegations”.⁹³⁹ In April 2019, a Supreme Court staff member accused Chief Justice Gogoi of sexual harassment.⁹⁴⁰ Chief Justice Ramana also faced significant corruption claims.⁹⁴¹ However, these allegations were not thoroughly

investigated, and inquiries into Justice Khehar, Gogoi, and Ramana were abruptly stopped.⁹⁴² Attempts to remove Justice Misra failed due to political issues.⁹⁴³ This situation highlights a significant accountability gap in the judiciary. Nevertheless, neither the judiciary nor Parliament has established effective regulations to address these problems, resisting external oversight and reform efforts aimed at ensuring judicial accountability.⁹⁴⁴

The Indian judiciary plays a vital role in upholding the Constitution and ensuring justice but faces complex challenges in balancing judicial independence with accountability. While independence is crucial for fair judgments, the lack of effective accountability mechanisms has led to concerns about corruption, political interference, and declining public trust. Despite several reform attempts, achieving the right balance remains difficult. Current issues include political influence in judicial impeachment and limited transparency in addressing misconduct. The core problem lies not in judicial overreach but in the judiciary's reluctance to challenge executive overreach, threatening its constitutional role. This analysis highlights the urgent need for reforms to maintain the judiciary's integrity and public confidence.

THE IMPEACHMENT: POLITICAL LOBBYING COULD SAVE JUDGES

Impeachment serves as a constitutional remedy against significant offenses within the government system, initiating the process of removing a public official from office and potentially disqualifying them from future positions. In common law, it refers to proceedings by a legislative body addressing serious misconduct by an official. This involves formally charging an official with misconduct related to their role, raising doubts about their

⁹³² Noor, Noor. (2016). Rule Of Law: Its Impact On Quality Of Life. *European Journal Of Interdisciplinary Studies*. 4. 143. 10.26417/Ejis.V4i1.P143-152.

⁹³³ Ibid

⁹³⁴ Shanti Bhushan, 'Eight Of The Last Sixteen Chief Justices Of India Were Definitely Corrupt' *Outlook*, Available At: <https://www.outlookindia.com/National/Eight-Of-The-Last-Sixteen-Chief-Justices-Of-India-Were-Definitely-Corrupt-News-267128#:~:Text=Home%20national,'Eight%20of%20the%20last%20sixteen%20chief%20justices%20of%20india%20were,Affidavit%20to%20the%20supreme%20court>. Accessed: 18/03/2025.

⁹³⁵ [Rajeev Dhavan](#), 'Why Js Khehar Was Arguably One Of The Worst Chief Justices Of India' *Dailyo*, Aug 21, 2017, Available At: <https://www.dailyo.in/Politics/Chief-Justice-Of-India-Js-Khehar-Dipak-Mishra-Supreme-Court-Prashant-Bhushan/Story/1/19081.html> Accessed: 18/03/2025.

⁹³⁶ [Apuva Vishwanath](#) '5 Reasons Behind The Historic Impeachment Motion Moved Against Cji Dipak Misra By Congress', *The Print*, 20 April, 2018 01:52 Pm Ist, Available At: <https://theprint.in/India/Governance/5-Reasons-Historic-Impeachment-Motion-Cji-Dipak-Misra-By-Congress/51244/> Accessed: 17/03/2025.

⁹³⁷ [Jeffrey Gettleman](#), 'India's Chief Justice Is Accused Of Sexual Harassment, The New York Times', April 20, 2019. Available At: <https://www.nytimes.com/2019/04/20/world/asia/india-chief-justice-sexual-harassment.html> Accessed: 18/03/2025.

⁹³⁸ [Rekha Sharma](#), 'Andhra Cm's Allegations Against A Sc Judge Must Not Be Swept Under The Carpet'. *The Indian Express*, Oct 26, 2020, Available At: <https://indianexpress.com/Article/Opinion/Columns/Jagan-Mohan-Reddy-Andhra-Pradesh-Justice-N-V-Ramana-Corruption-Supreme-Court-6883221/> Accessed: 18/03/2025.

⁹³⁹ Huchhanavar, S. S. (2020). Regulatory Mechanisms Combating Judicial Corruption And Misconduct In India: A Critical Analysis. *Indian Law Review*, 4(1), 47–84. <https://doi.org/10.1080/24730580.2020.1711498> Accessed: 19/03/2025.

⁹⁴⁰ Supra Note 10.

⁹⁴¹ Supra Note 11.

⁹⁴² Supra Note 6

⁹⁴³ Ashok K Singh, 'The Politics Behind Move To Impeach Chief Justice Of India Dipak Misra'. *Dailyo*, April 21, 2018. Available At: <https://www.dailyo.in/Politics/Cji-Impeachment-Dipak-Misra-Opinion-Parties-Congress-Bjp-Elections-23625> Accessed: 19/03/2025.

⁹⁴⁴ Supra Note 6

credibility. While "impeaching" often implies a call for removal from office, the legal definition focuses on charging misconduct before a competent tribunal. Despite the public's common association of impeachment with removal, explicit examples of "impeach" being used solely to mean "remove" are rare, as contexts often maintain ambiguity. Nevertheless, the goal of impeachment remains clear: to achieve the removal of an official, particularly in discussions regarding presidents, governors, or judges.⁹⁴⁵

The method was first utilized by the English "good parliament" in the case of William Latimer, 4th Baron Latimer, in the second half of the 14th century.⁹⁴⁶ Many common and civil state have adopted the impeachment process for the accountability of governmental organisation. Impeachment is provided for in the constitutional laws of many countries including Brazil, France, India, Ireland, the Philippines, Russia, South Korea, and the United States.⁹⁴⁷

The Constitution does not use the word "impeachment," but it allows for the removal of a Supreme Court Judge by the President of India, following a motion from Parliament. A Judge can only be removed for "proved misbehaviour or incapacity". The process for removal involves both the legislature and judiciary and requires majority support from elected representatives, with the judiciary determining guilt.⁹⁴⁸

The impeachment motion can be initiated in either Lok Sabha or Rajya Sabha and requires presiding officer approval. A three-member committee is constituted to investigate, consisting of a Supreme Court judge, a Chief Justice of a High Court, and an eminent jurist.⁹⁴⁹

For successful impeachment, a two-thirds majority is needed. If found guilty, the judge is removed; if they resign during proceedings, the investigation halts, retaining benefits, highlighting a noted loophole. The removal of judges in India is governed by Articles 124(4), (5), 217, and 218 of the Constitution, along with the Judges (Inquiry) Act, 1968.⁹⁵⁰ Although the Constitution does not explicitly mention the term 'impeachment,' it is commonly used to describe the process outlined in Article 124 (4), Article 217 (1) (b) and Article 218. The term impeachment, as officially used under Article 61 of the Indian Constitution, applies exclusively to the removal of the President of India.⁹⁵¹

Article 124(4) requires established misconduct or inability as grounds for the dismissal of a judge and stipulates that the committee's conclusions must be voted upon by Parliament. The basis for removal includes proven unethical behaviour or incapacity, necessitating a formal resolution addressed to the President. This resolution must be approved by both Houses of Parliament during the same legislative session. The approval must consist of either a majority of the total members or a two-thirds majority of members present and voting. To be valid, both chambers must adopt the motion with the required threshold in the same session. Once passed, the President is compelled to dismiss the judge.⁹⁵² Impeachment proceedings were initiated against a Supreme Court or High Court Judge 4 times in the history of the Supreme Court of India.⁹⁵³

⁹⁴⁵"Impeach." Merriam-Webster.Com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/impeach>. Accessed 9 Mar. 2025.

⁹⁴⁶Impeachment, <https://en.wikipedia.org/wiki/Impeachment>

⁹⁴⁷Cheryl Saunders, *Comparative Constitutional Law*, in *The Oxford Handbook of Comparative Constitutional Law* 69, 86–88 (Michel Rosenfeld & Andrés Sajó eds., 2012).

⁹⁴⁸ Judicial Independence In India: Tipping The Scale, International Commission Of Jurists, Published In January 2025. Available At: <https://www.icj.org/wp-content/uploads/2025/02/Judicial-Independence-In-India.Pdf>. Accessed 9 Mar. 2025.

⁹⁴⁹ The Judges (Inquiry) Act, No. 51 of 1968, India Code (1968)

⁹⁵⁰ India Const. arts. 124(4)– (5), 217(1)(b), 218; The Judges (Inquiry) Act, No. 51 of 1968, India Code (1968); *see also* India Const. art. 61 (providing for impeachment of the President).

⁹⁵¹ Kunal Shankar, The Challenge Of Holding Judges Accountable, *The Hindu*, December 30, 2024 08:30 Am Ist, Available At: <https://www.thehindu.com/news/national/the-challenge-of-holding-judges-accountable/article69039810.ece> Accessed: 19/02/2025.

⁹⁵² The Constitution Of India, 1950, Art.124(4).

⁹⁵³ Number Of Times Impeachment Proceedings Were Initiated Against A Sc Or Hc Judge, [Sco Team](https://www.scobserver.in/journal/number-of-times-impeachment-proceedings-were-initiated-against-a-supreme-court-or-high-court-judge/) | 28th Mar 2018, Available At: <https://www.scobserver.in/journal/number-of-times-impeachment-proceedings-were-initiated-against-a-supreme-court-or-high-court-judge/> Accessed: 19/02/2025

Process of impeachment

the Constitution allows the Parliament to determine how this procedure will be executed, and that's where The Judges (Inquiry) Act, 1968, is relevant. This legislation fundamentally oversees the process for examining and demonstrating the misbehaviour or incapacity of a judge of the Supreme Court or a High Court.

According to the section 3 of judges (inquiry) act, 1968, the in house inquire should be following⁹⁵⁴:

- Step 1: A motion to remove a judge must be supported by at least 100 members of the Lok Sabha or 50 members of the Rajya Sabha. The Speaker or Chairman then decides on its admissibility after reviewing the motion and consulting relevant parties.
- Step 2: If a removal motion against a judge is accepted, the Speaker or Chairman holds it in abeyance and forms a three-member investigation committee. This committee includes a Supreme Court judge, a Chief Justice of a High Court, and an eminent jurist appointed by the Speaker or Chairman. If identical motions are submitted in both Houses on the same day, the committee is formed only if both are admitted. If the motions are submitted on different days, the second one is dismissed.
- Step 3: The Committee will specify particular allegations against the Judge. These allegations, along with the justifications for them, will be communicated to the Judge, who will have the opportunity to respond in writing within a designated timeframe.
- Step 4: If it is asserted that the Judge is unable to perform their duties due to a physical or mental condition and this is contested by the Judge, the Committee may arrange for a medical examination by a board appointed for this purpose. The Judge is required to undergo this examination within the allocated timeframe.
- Step 5: The Medical Board will evaluate the Judge and furnish a report indicating whether the Judge's condition renders them unfit for their position. If the Judge declines to participate in the mandated medical assessments, the Board will notify the Committee of this refusal, and the Committee may assume that the alleged incapacity is substantiated.
- Step 6: After considering the Judge's written defence and any medical evaluations, the Committee may amend the charges if deemed necessary. In such instances, the Judge will be granted another chance to submit a new written defence. Furthermore, if requested by the Speaker or Chairman, the Central Government may assign a lawyer to present the case against the Judge.
- Step 7: According to the Committee on Judge Removal's report, if it finds no misconduct or incapacity, no further action is taken by either House of Parliament. However, if misconduct or incapacity is confirmed, the pending resolution

⁹⁵⁴ The Judges (Inquiry) Act, 1968 (No. 51 Of 1968), S.3, Available At: <https://www.Indiacode.Nic.In/Bitstream/123456789/1539/2/A1968-51.Pdf>

in Parliament is considered along with the report. If both Houses pass the motion as per Article 124(4) or Article 218 of the Constitution, the judge's misconduct or incapacity is deemed proven. Parliament then submits an address to the President requesting the judge's removal.⁹⁵⁵

Case summary

- Justice V. Ramaswami was the first Supreme Court justice to face impeachment due to high spending on official housing.⁹⁵⁶ He controversially acquired seven maces and transported them by cargo plane.⁹⁵⁷ Despite being declared guilty, impeachment failed in Lok Sabha due to Congress abstentions.⁹⁵⁸ He continued to enjoy his perks until retirement.⁹⁵⁹
- Justice Soumitra Sen of the Calcutta High Court faced allegations of misappropriating funds. Internal proceedings commenced in 2007, yet he declined to step down after being deemed guilty. In 2008, Chief Justice KG Balakrishnan suggested his impeachment to Prime Minister Manmohan Singh. An impeachment motion was approved in the Rajya Sabha in

2009, but Sen resigned prior to the Lok Sabha's voting.⁹⁶⁰

- Justice S. K. Gangele (2015) faced sexual harassment accusations, prompting a committee to investigate. He was later cleared of any misconduct, marking a rare impeachment case linked to such allegations.⁹⁶¹
- Justice C. V. Nagarjuna (2017) faced allegations of victimizing a Dalit judge and financial improprieties. An impeachment motion was introduced in Parliament but failed as many MPs withdrew their support, highlighting challenges in such actions.⁹⁶²
- The Justice Dipak Misra Case in 2018 involved the Chief Justice of India and created significant political implications. The Rajya Sabha Chairman dismissed the impeachment motion early on, sparking discussions about judicial independence and the impeachment process. This was the first time an impeachment motion was filed against a Chief Justice in India.⁹⁶³ "The motion for impeachment targeting Chief Justice Dipak Misra contains five charges: Firstly, there is evidence indicating his participation in the Prasad Educational Trust matter, which may require scrutiny for unlawful benefits. Secondly, he

⁹⁵⁵ Ibid, Sec.6

⁹⁵⁶ [Tribune News Service](https://www.tribuneindia.com/news/india/ex-sc-judge-v-ramaswami-first-judge-to-face-removal-proceedings-in-independent-india-passes-away/?utm_source=chatgpt.com), Ex-SC judge V Ramaswami, first judge to face removal proceedings in independent India, passes away, the tribune, New Delhi, Updated At : 09:50 PM Mar 08, 2025, available at: https://www.tribuneindia.com/news/india/ex-sc-judge-v-ramaswami-first-judge-to-face-removal-proceedings-in-independent-india-passes-away/?utm_source=chatgpt.com

⁹⁵⁷ [Kunal Shankar](https://www.thehindu.com/news/national/the-challenge-of-holding-judges-accountable/article69039810.ece), The challenge of holding judges accountable, The Hindu, Published - December 30, 2024 08:30 am IST. Available at: <https://www.thehindu.com/news/national/the-challenge-of-holding-judges-accountable/article69039810.ece>

⁹⁵⁸ [Granville Austin](https://www.oxfordunivpress.com/9780195111111), *Working a Democratic Constitution: The Indian Experience* 281–84 (Oxford Univ. Press 1999)

⁹⁵⁹ [T. Ramakrishnan](https://www.thehindu.com/news/national/tamil-nadu/justice-v-ramaswami-the-first-judge-of-supreme-court-to-face-impeachment-proceedings/article69317021.ece) 'Justice Ramaswami: The First Judge Of The Supreme Court To Face Impeachment Proceedings', The Hindu. Available At: <https://www.thehindu.com/news/national/tamil-nadu/justice-v-ramaswami-the-first-judge-of-supreme-court-to-face-impeachment-proceedings/article69317021.ece> Accessed: 16/03/2025.

⁹⁶⁰Supra Note 7.

⁹⁶¹ Report Of The Judges Inquiry Committee, In The Matter Of-Motion For Removal Of Justice S.K. Gangele, Judge, Madhya Pradesh High Court, Available At: https://cms.rajyasabha.nic.in/Documents/1631892021869.03_jic_gangele_Report.Pdf Accessed: 16/03/2025.

⁹⁶² Impeachment Motion Against Justice C.V. Nagarjuna Reddy Fails as MPs Withdraw Support, *The Hindu* (Dec. 6, 2017), <https://www.thehindu.com/news/national/impeachment-motion-against-justice-cv-nagarjuna-reddy-fails/article21279191.ece>.

⁹⁶³ [Sruthi Radhakrishnan](https://www.thehindu.com/news/national/the-hindu-explains-how-is-the-chief-justice-of-india-impeached/article61838685.ece), 'The Hindu Explains: How Is The Chief Justice Of India Impeached?', The Hindu, December 01, 2021. <https://www.thehindu.com/news/national/the-hindu-explains-how-is-the-chief-justice-of-india-impeached/article61838685.ece> Accessed: 18/03/2025.

managed a writ petition associated with a case he ruled on, breaching standards of judicial conduct. Thirdly, Misra faces allegations of modifying an administrative order from November 6, 2017, which amounts to forgery. Fourthly, he supposedly obtained land via a fraudulent affidavit and postponed its return until 2012, even though it had been cancelling earlier in 1985. Finally, he faces allegations of abusing his power to allocate important cases to judges in order to secure desired results in politically sensitive matters⁹⁶⁴

- Justice P. D. Dinakaran was accused of 16 serious charges, including unlawfully occupying over 300 acres of land belonging to farmers in Tamil Nadu. He stepped down on the very first day of proceedings by a three-member inquiry panel, which effectively halted the investigation. This incident illustrated how judges might escape accountability by choosing to resign. Through RTI applications filed by a former legal affairs editor of *Frontline*, correspondence between the inquiry committee and the Chairperson of the Rajya Sabha was brought to light. The responses revealed that jurist Mohan Gopal and committee chairman Justice Aftab Alam were in favor of continuing the inquiry, despite Dinakaran's resignation. In a letter dated

August 15, 2011, Gopal cautioned that allowing resignation to terminate investigations would enable judges to sidestep consequences, leading to what he called an "absurd situation."⁹⁶⁵ While Justice Aftab Alam supported ongoing efforts, Rajya Sabha Chairman Hamid Ansari declined, citing flaws in the accountability structure, underscoring the need for judicial system reforms.⁹⁶⁶

- Justice Shekhar Kumar Yadav recently gave a controversial speech that showed clear support for the Muslim community during a Vishwa Hindu Parishad event at the court. This has sparked a debate about accountability in the higher judiciary. Opposition Members of Parliament moved to impeach Justice Yadav. On December 17, 2024, he was told by the Supreme Court Collegium that his comments were "avoidable." Despite this, Justice Yadav maintained his stance in a response sent a month later. On February 1, 2025, after his retirement, Justice Hrishikesh Roy confirmed that Chief Justice Sanjiv Khanna had begun an inquiry into Justice Yadav, marking the first known case of an Indian judge facing disciplinary action for hate speech.⁹⁶⁷

⁹⁶⁴ Apurva Vishwanath '5 Reasons Behind The Historic Impeachment Motion Moved Against Cji Dipak Misra By Congress', *The Print*, 20 April, 2018 01:52 Pm Ist, Available At: <https://Theprint.in/India/Governance/5-Reasons-Historic-Impeachment-Motion-Cji-Dipak-Misra-By-Congress/51244/>. Accessed: 17/03/2025.

⁹⁶⁵V. Venkatesan, *Letting Judges Off the Hook*, *Frontline* (Oct. 7, 2011), <https://frontline.thehindu.com/cover-story/letting-judges-off-the-hook/article60794269.ece>

⁹⁶⁶J. Venkatesan, 'Justice Dinakaran Faced Serious Charges', *The Hindu*, November 17, 2021, Available At: <https://www.thehindu.com/news/justice-dinakaran-faced-serious-charges/article2306214.ece>. Accessed 27 Mar. 2025.

⁹⁶⁷ Sushovan Patnaik And Aijtesh Singh, 'Justice Yadav 'Hate Speech' Case: An Acid Test For The Supreme Court' *Sco*, 12th Feb 2025. Available At: <https://www.scoobserver.in/journal/justice-yadav-hate-speech-case-an-acid-test-for-the-supreme-court/>. Accessed: 17/03/2025.

Limitations: Political Engagement

In India, the impeachment process necessitates considerable political engagement, rendering it an inadequate safeguard for judicial independence. Judges may encounter political pressures, and the possibility of their resignation during impeachment proceedings undermines accountability, creating considerable gaps in the system.

Justice V. Ramaswami Case: Utilizing the Lok Sabha's Local Biases

Justice V. Ramaswami, the Chief Justice of the Punjab and Haryana High Court⁹⁶⁸, faced an impeachment motion in the early 1990s for extravagant spending. The motion was supported by 196 out of 401 members present, but 205 abstained. If the Lok Sabha had adopted the Opposition-sponsored motion, Ramaswami would have been the first Supreme Court judge to be removed from office. Despite calls for his resignation, he retired in February 1994.⁹⁶⁹ In 1990, Chief Justice Sabyasachi Mukherjee declared that the Chief Justice of India had no right to investigate the conduct of a sitting Supreme Court Judge.⁹⁷⁰ He advised Ramaswami to refrain from discharging judicial functions until investigations were completed and his name was cleared.⁹⁷¹ This convention has now been reversed by the current CJI, Ranjan Gogoi, as he finds himself an accused before an in-house committee.⁹⁷² An internal inquiry committee was formed, headed by Justice BC Ray. The B.C. Ray Committee gave a clean chit to V. Ramaswami, and Mukherjee's

successor, Chief Justice Ranganath Mishra, attempted to restore judicial duties to V. Ramaswami.⁹⁷³

After forming a minority government led by India's first South Indian Prime Minister, Pamulaparathi Venkata Narasimha Rao, the Congress party took the position that the impeachment motion from the 9th Lok Sabha had expired. Consequently, the government declined to activate the inquiry committee. However, a Constitution Bench of the Supreme Court later ruled that the committee would remain valid despite the dissolution of the Lok Sabha.⁹⁷⁴

On May 10, 1993, the removal motion was taken up in the Lok Sabha, with Kapil Sibal defending V.R. for five hours. The decision was officially reversed at Prime Minister Rao's instance, as the Congress chose to leave it to the conscience of its members.⁹⁷⁵

According to the Indian Constitution, a majority of the 545-member house can impeach a justice. Despite this, there were 196 votes in favour of the resolution and none against. The ruling Congress party of Prime Minister P.V. Narasimha Rao came under fire from opposition leaders for supporting the divisive judge. The Congress party demanded a "conscience vote" on the issue, but after Rao met with legislators in secret, the decision was overturned. On behalf of opposition parties, Marxist lawmaker Somnath Chatterjee filed the impeachment motion, denouncing the ruling party for encouraging judicial corruption.⁹⁷⁶

Ranjan Gogoi Case: Judgment Win Rajya Sabha Seats.

Ranjan Gogoi, who held the position of the 46th Chief Justice of India (CJI) from October 2018 to

⁹⁶⁸ Justice V. Ramaswami, Supreme Court Of India, Available At: <https://www.Sci.Gov.In/Judge/Justice-V-Ramaswami/> Accessed: 16/03/25.

⁹⁶⁹ Supra Note 12.

⁹⁷⁰ In re Justice V. Ramaswami, (1990) (statement by CJI Sabyasachi Mukherjee, cited in *The Hindu*, available at <https://indiankanoon.org/doc/60630796/>.

⁹⁷¹ Chief Justice Of India's Statement To The Supreme Court Bar Seeking Justice V. Ramaswami To Proceed On Leave; Until He Is Cleared Of Allegations, Available At: <https://jailcorrupt867judges.Wordpress.Com/2012/08/06/Chief-Justice-Of-Indias-Statement-To-The-Supreme-Court-Bar-Seeking-Justice-V-Ramaswami-To-Proceed-On-Leaveuntil-He-Is-Cleared-Of-Allegations/> Accessed: 16/03/2025.

⁹⁷² Murali Krishnan, *CJI Ranjan Gogoi Allegations: Why Can't the In-House Committee Report Be Published?*, *Bar & Bench* (May 9, 2019), <https://www.barandbench.com/columns/cji-ranjan-gogoi-allegations-why-cant-in-house-committee-report-published>.

⁹⁷³ Murali Krishnan, *Carpets, Bedsheets, Towels and Intrigue: The Story of Justice V. Ramaswami*, *The Wire* (Apr. 7, 2019), <https://thewire.in/law/justice-v-ramaswami-impeachment-lok-sabha-kapil-sibal-supreme-court>

⁹⁷⁴ Sub-Committee on Judicial Accountability v. Union of India, (1991) 4 SCC 699.

⁹⁷⁵ Supra Note 10.

⁹⁷⁶ Brahma Chellaney, 'Congress Party Saves Senior Indian Justice From Impeachment', May 11, 1993. [Upi Archives](https://www.Upi.Com/Archives/1993/05/11/Congress-Party-Saves-Senior-Indian-Justice-From-Impeachment/1009737092800/). Available At: <https://www.Upi.Com/Archives/1993/05/11/Congress-Party-Saves-Senior-Indian-Justice-From-Impeachment/1009737092800/> Accessed: 16/03/2025.

November 2019,⁹⁷⁷ became a polarizing figure due to his unexpected appointment and the subsequent actions that raised questions about his leadership. Before assuming the role of CJ, Gogoi was part of a group of four Supreme Court judges—along with Jasti Chelameswar, Madan Lokur, and Kurian Joseph—who held a landmark press conference in January 2018.⁹⁷⁸ During this press briefing, they highlighted serious concerns about the judicial system, including allegations of biased case distribution, judicial interference, and the risks to democratic foundations.⁹⁷⁹ Their protest was triggered by the controversial handling of the investigation into Judge Loya's death, which was tied to a high-profile case involving Home Minister Amit Shah.⁹⁸⁰

Despite being one of the most vocal critics of the judiciary's functioning, Gogoi's tenure as CJ saw him seemingly deviate from his previous stance. He became involved in prioritizing certain cases, allegedly neglecting his constitutional responsibilities, and handpicking judges to secure favourable rulings for the Modi government. This led to accusations of unethical behaviour during his time in office. His actions were seen as a stark departure from the very issues he had once raised, ultimately making his tenure defined by significant disputes and widespread criticism.⁹⁸¹

A case contesting the Rafale aircraft agreement between France and India was considered by the Supreme Court in September 2018.⁹⁸² The petition claimed corruption, overpricing, and partiality towards Anil Ambani's defence firm. Despite a secrecy clause, Chief Justice Ranjan Gogoi directed the Modi administration to

reveal price data in a sealed envelope. Gogoi denied the appeal, claiming that Anil Ambani's allotment of offset business was free of pricing inconsistencies and misconduct.⁹⁸³ But in a different ruling, Justice KM Joseph permitted the Central Bureau of Investigation to look into the petitioner's claims.⁹⁸⁴ Since the public should be allowed to examine the supporting documentation for court rulings, Gogoi's dependence on sealed covers created questions regarding open justice and transparency.

In the Ram Janmabhoomi–Babri Masjid case⁹⁸⁵, former Chief Justice Ranjan Gogoi rendered a contentious ruling about the ownership of contested land. To determine whether the land would belong to the Sunni Waqf Board, the Nirmohi Akhara, or the deity Ram Lalla, the Supreme Court held a hearing that lasted forty days. Ram Lalla won the case, and Muslims were given a five-acre plot of land to build a mosque on. Gogoi also gave the Modi administration permission to set up a trust so that the temple could be constructed.⁹⁸⁶ Gogoi declined to get involved in habeas corpus cases pertaining to the shutdown and mass arrests in Kashmir in spite of the ruling.⁹⁸⁷ While voicing worries about potential abuses of individual rights, he nevertheless backed the National Register of Citizens (NRC) process.⁹⁸⁸

Ranjan Gogoi, the retired Chief Justice of India, faced public backlash after being nominated to the Rajya Sabha by President Ram Nath Kovind in 2020. His swearing-in was marred by boos, and opposition members boycotted the event,

⁹⁷⁷ "Hon'ble Mr. Justice Ranjan Gogoi". *Supreme Court Of India*. Archived From [The Original](#) On 18/03/2025.

⁹⁷⁸ "Supreme Court Crisis: All Not Okay, Democracy At Stake, Say Four Senior-Most Judges". 12 January 2018.

⁹⁷⁹ Ibid

⁹⁸⁰ "Loya Case The Tipping Point, Four Sc Judges Say Democracy Is In Danger". *The Wire*.

⁹⁸¹ Vrinda Gopinath, 'His Eminence' Ranjan Gogoi And A Legacy Of Deliberate Omissions And Commissions'. *Newslandary*, 20 Mar, 2020 Available At: <https://www.newslandary.com/2020/03/20/His-Eminence-Ranjan-Gogoi-And-A-Legacy-Of-Deliberate-Omissions-And-Commissions> Accessed: 19/03/2025.

⁹⁸² Manohar Lal Sharma V Narendra Damodardas Modi Aironline 2018 Sc 1376, Wp (CrL) 225/2018; Rp (CrL) 46/2019

⁹⁸³ Ibid

⁹⁸⁴ [Krishnadas Rajagopa](#), Cbi Can Probe Rafale Deal: Justice Joseph, *The Hindu*, November 28, 2021 11:11 Am Ist - New Delhi. Available At: <https://www.thehindu.com/news/national/cbi-can-probe-rafale-deal-judge/article61619360.ece> Accessed: 18/03/2025.

⁹⁸⁵ M Siddiq (D) Thr Lrs Vs Mahant Suresh Das & Ors Aironline 2019 Sc 1420.

⁹⁸⁶ Supra Note 52.

⁹⁸⁷ [A.G. Noorani](#), Habeas Corpus Law: A Sorry Decline, *Frontline*, Published: Oct 11, 2019 07:00 Ist. Available At: <https://frontline.thehindu.com/cover-story/a-sorry-decline/article29604480.ece> Accessed: 24/03/2025.

⁹⁸⁸ [Anesha Mathur](#), Nrc Base Document For Future, Was Needed: Cji Ranjan Gogoi, *India Today*, Mar 25, 2022 16:53 Ist. Available At: <https://www.indiatoday.in/Mail-Today/Story/Nrc-Base-Documents-Future-Was-Needed-Cji-Ranjan-Gogoi-1615416-2019-11-04> Accessed: 24/03/2025.

alleging a deal with the Modi government regarding his judgments in significant cases.⁹⁸⁹ Despite this, Gogoi claimed he would eventually gain acceptance. In his autobiography, "Justice for the Judge"⁹⁹⁰, he justified his nomination, stating it offered a platform to tackle judicial and regional issues in Assam. However, his attendance has been poor, below 10%, which he attributed to pandemic-related concerns. He rejected allegations of a "quid pro quo," arguing his judgments stemmed from a bench decision, not solely his. Gogoi maintained a clear conscience and considered a potential second term in the Rajya Sabha.⁹⁹¹

However, Former Chief Justice of India Ranjan Gogoi was appointed to the Rajya Sabha by President Ram Nath Kovind, just four months after his retirement.⁹⁹² During his tenure at the Supreme Court, Gogoi contributed to several rulings that were perceived to have benefited the Modi Government in one way or another. His decisions in key cases raised questions about the impartiality of his judgments, with many viewing them as favourable to the Modi administration. The timing of his Rajya Sabha nomination fuel further controversy, with critics suggesting it could be seen as a reward for these decisions.

However, the current situation more problematic "The Chief Justice of India has constituted a three- member Committee on date 22.03.2025, for conducting an inquiry into the allegations against Mr. Justice Yashwant Varma, a sitting Judge of the High Court of Delhi. The Chief Justice of the High Court of Delhi for the time being has been asked not to assign any judicial work to Mr. Justice Yashwant

Varma"⁹⁹³ The Justice Dipak Misra Case in 2018 involved the Chief Justice of India and created significant political implications. The Rajya Sabha Chairman dismissed the impeachment motion early on, sparking discussions about judicial independence and the impeachment process. This was the first time an impeachment motion was filed against a Chief Justice in India.⁹⁹⁴

Criticism

Modern analysts observed Team V.R.'s achievement in utilizing the Lok Sabha's local biases, redefining judicial corruption as a north-south divide matter and depicting a South Indian judge as a casualty of northern agendas. Justice Sawant pointed out the impractical nature of the judge removal process, emphasizing its reliance on political motivation. Prashant Bhushan considered it obsolete and advocated for a new framework to enhance judicial accountability. Journalist Manoj Mitta indicated that V.R.'s dismissal might undermine Congress(I)'s credibility, considering his past involvement in combating terrorism and ties to the party, such as his son being a Congress MLA and receiving legal support from member Kapil Sibal.⁹⁹⁵

Senior lawyer Raju Ramachandran noted that impeachment is unlikely in coalition politics, driven by regional interests. He recalled Congress MPs' unanimous abstention during the impeachment motion against Justice Ramaswami. Justice PB Sawant expresses concerns that political lobbying could save judges from impeachment, citing past instances as a reason for uncertainty in the current situation. Impeachment in Parliament is politicised, ineffective, and flawed; it cannot succeed as currently structured.⁹⁹⁶

⁹⁸⁹ Sreenivasan Jain, 5-Star Meal, Wine, Not Celebration Of Ayodhya Order: Justice Gogoi To Ndtv, [India News](https://www.ndtv.com/india-news/why-i-judged-my-own-sexual-harassment-case-justice-gogoi-to-ndtv-2644366) Dec 10, 2021. <https://www.ndtv.com/india-news/why-i-judged-my-own-sexual-harassment-case-justice-gogoi-to-ndtv-2644366>

⁹⁹⁰ Swapnil Tripathi, [Book Review] Justice Ranjan Gogoi's 'Justice For The Judge'. Bar And Bench, Published On: 19 Dec 2021. Available At: <https://www.barandbench.com/columns/book-review-justice-gogoi-justice-for-the-judge> Accessed: 24/03/2025.

⁹⁹¹ Supra Note 56.

⁹⁹² "Former CJI Ranjan Gogoi Appointed to Rajya Sabha Four Months After Retirement," *The Indian Express* (Apr. 15, 2020), <https://indianexpress.com/article/india/former-cji-ranjan-gogoi-appointed-to-rajya-sabha-6448447/>

⁹⁹³ "CJI forms team to probe 'cash at residence' of Delhi HC judge" [Express News Service](https://www.expressnews.com) New Delhi | Updated: March 23, 2025 02:07 IST available at: <https://indianexpress.com/article/india/delhi-hc-judge-cash-recovery-inquiry-cji-constitute-committee/>

⁹⁹⁴ Supra Note 14.

⁹⁹⁵ Supra Note 10.

⁹⁹⁶ Nagendar Sharma And Satya Prakash, 'Who's Afraid Of Impeachment?', *Hindustan Times*, New Delhi, Sep 12, 2008. Available At:

According to Sanjay R Hegde⁹⁹⁷ “the 1991 impeachment attempt against Justice V Ramaswami caused a major dilemma for the Supreme Court. The case was handled in Chandigarh by J S Kehar, who later became Chief Justice of India, and in Delhi by Ranjit Kumar, who eventually became Solicitor General of India. His attorney before the Supreme Court and Lok Sabha was Kapil Sibal. The lawyers' stature was elevated during the impeachment process, but the judge's reputation was not restored. Congress's abstention from the final vote in May 1993 meant that the motion to impeach Ramaswami was unsuccessful. South Indian MPs nearly revolted to get the abstention because they thought a South Indian judge was being impeached for minor infractions that were not included in other cases. The situation's politics prevailed in Parliament over the fine points of law and fact that would have won in a courtroom.”⁹⁹⁸

IN-HOUSE INQUIRY: IT AS A “SUPERFICIAL TASK

The Supreme Court offered an option in *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee*⁹⁹⁹: “an internal peer review system. With this strategy, the judiciary was able to deal with wrongdoing without resorting to the risky impeachment procedure. It acknowledged that certain cases, despite their seriousness, still needed corrective action but did not justify dismissal.”

Judicial misconduct encompasses more than merely making incorrect decisions; it pertains to the conduct of judges towards others, including litigants, attorneys, and court personnel, as well as violations of their professional responsibilities. The Judicial Complaints

<https://www.hindustantimes.com/India/Who-S-Afraid-Of-Impeachment/Story-Abyvuxwr9he1okeqbxtrxp.html> Accessed: 16/03/2025

⁹⁹⁷ Sanjay R Hegde Is A Senior Advocate In The Supreme Court, <https://indianexpress.com/Profile/Columnist/Sanjay-R-Hegde/>

⁹⁹⁸ Sanjay R Hegde, ‘Remedy For Impeaching Cji Can't Be Worse Than Disease’, The Indian Express, Published On April 22, 2018. Available At: <https://indianexpress.com/Article/Opinion/Remedy-For-Impeaching-Cji-Dipak-Misra-Cant-Be-Worse-Than-Disease-5146974/> Accessed: 16/03/2025.

⁹⁹⁹ C. Ravichandran Iyer V. Justice A.M. Bhattacharjee 1995 (5) Scc 457 Available At: <https://www.lc2.du.ac.in/Data/C.%20ravichnadrn%20iyer%20v.%20iustice%20a.M%20bhattacharjee.pdf> Accessed:

Investigations Office enumerates various actions that may result in investigations, such as bullying, harassment, employing offensive language, being disrespectful or aggressive, abusing their judicial authority for personal benefit, and inappropriate use of social media. Judgment delays, dozing off in court, and neglecting to disclose legal entanglements are also deemed misconduct. Nevertheless, the decisions, biases, and mistakes made by judges in legal cases do not constitute misconduct. Criminal actions should be reported to law enforcement authorities, rather than simply regarded as misconduct.¹⁰⁰⁰

Under Article 11 of the United Nations Convention Against Corruption, to which India is a signatory, countries are obliged to adopt measures to combat corruption and maintain the integrity of judges, in accordance with the principles of judicial independence.¹⁰⁰¹ Bangalore Principles of Judicial Conduct¹⁰⁰² provide that “Judicial independence is vital for the rule of law and ensures fair trials. Judges must show this independence personally and institutionally. Objectivity affects their decisions and the decision-making process. Honesty is key, as judges should act properly and appear to do so. They must treat everyone fairly and be skilled and responsible in their duties.”¹⁰⁰³ According to Brutus¹⁰⁰⁴ “The Supreme Court has the authority to establish a construction for the Constitution and its components without relying on the legislature, without allowing for alteration. This system often leads individuals to realize they are not dependent on heaven.”

¹⁰⁰⁰ Complaining About Personal Conduct Of Judicial Office-Holders, House Of Common Library, Published Sunday, 05 March, 2023, Available At: <https://commonslibrary.parliament.uk/complaining-about-personal-conduct-of-judicial-office-holders/> Accessed: 09/03/2025.

¹⁰⁰¹ United Nations Convention Against Corruption 2003, United Nations, *Treaty Series*, Vol. 2349, P. 41; [Doc. A/58/422](https://www.unodc.org/pdf/crime/corruption/judicial_group/bangalore_principles.pdf)

¹⁰⁰² The Bangalore Principles Of Judicial Conduct 2002, At The Hague, November 25-26, 2002, Available At: https://www.unodc.org/pdf/crime/corruption/judicial_group/bangalore_principles.pdf Accessed: 09/03/2025

¹⁰⁰³ The Bangalore Principles Of Judicial Conduct 2002, At The Hague, November 25-26, 2002, Available At: https://www.unodc.org/pdf/crime/corruption/judicial_group/bangalore_principles.pdf Accessed: 09/03/2025.

¹⁰⁰⁴ Essays Of Brutus (No. Xv), *Reprinted In* The Anti-Federalist 185 (Herbert J. Storing & Murray Dry Eds., 1985). Available At: <https://harvardlawreview.org/wp-content/uploads/2024/04/137-Harv.-L.-Rev.-1677.pdf> Accessed: 12/03/2025.

In-house inquiry processes

Parliamentary action is required to remove a higher judiciary judge, but the judiciary can start the process itself. In 1999, the Supreme Court created guidelines for an “in-house procedure,” which were publicly released in 2014, to prevent impeachment embarrassment. The Supreme Court clarified that it never shares information related to “in-house” inquiries and maintains the confidentiality of the inquiry process.¹⁰⁰⁵ In-house inquiry processes is a process in which a complaint against a High Court judge are made to the Chief Justice of the High Court or the Chief Justice of India or the president. According to the in-house procedure¹⁰⁰⁶¹⁰⁰⁷:

- If a grievance is submitted against a High Court judge, the Chief Justice of the High Court must initially determine whether the grievance is serious or not. If it is deemed serious, they will record the grievance, request the judge’s perspective, and decide if any action is required based on the judge’s reply. The Chief Justice is also required to notify the Chief Justice of India (CJI) about the grievance and their conclusions.
- If a complaint is directed to the President of India, it will be passed along to the Chief Justice of India. The CJI will then review the complaint’s merits and, if it is found valid,

forward it to the relevant High Court Chief Justice to take the appropriate next steps.¹⁰⁰⁸

- If the complaint warrants further inquiry, a three-member committee is formed by CJI, consisting of two High Court Chief Justices and one High Court judge.¹⁰⁰⁹
- The committee may determine the complaint is baseless, merits removal proceedings, or requires less stringent action.¹⁰¹⁰
- A copy of the report is given to the judge. If the committee finds the claims valid, the CJI may suggest the judge resign or retire voluntarily.¹⁰¹¹
- If the judge refuses, the Chief Justice of the High Court should not give the judge any duties, and the President and Prime Minister will be informed.¹⁰¹²
- If dismissal is not warranted, the CJI will counsel the judge and may formally file the committee’s report.¹⁰¹³
- In 2013, the Parliament passed the Sexual Harassment of Women at Workplace Act to safeguard women in the workforce. Subsequently, the Supreme Court set forth regulations¹⁰¹⁴ for this protection, mandating

¹⁰⁰⁵ ‘In-House Procedure’ Inquiries Confidential: Supreme Court, By: [Express News Service](https://www.indianexpress.com/article/india/in-house-procedure-inquiries-confidential-supreme-court-7137549/), New Delhi | January 8, 2021 01:01 Ist, Available At: <https://www.indianexpress.com/article/india/in-house-procedure-inquiries-confidential-supreme-court-7137549/>. Accessed: 25/02/2025.

¹⁰⁰⁶ Additional District And Sessions Judge ‘X’ V. Registrar General High Court Of Madhya Pradesh Air 2015 Sc (Civil) 427

¹⁰⁰⁷ [Sushovan Patnaik](https://www.scobserver.in/journal/justice-yadav-hate-speech-case-an-acid-test-for-the-supreme-court/#:~:Text=Under%20this%20procedure%2c%20complaints%20against,Is%20given%20to%20the%20judge.) And [Ajitesh Singh](https://www.scobserver.in/journal/justice-yadav-hate-speech-case-an-acid-test-for-the-supreme-court/#:~:Text=Under%20this%20procedure%2c%20complaints%20against,Is%20given%20to%20the%20judge.), ‘Justice Yadav ‘Hate Speech’ Case: An Acid Test For The Supreme Court’, Sco | 12th Feb 2025, Available At: <https://www.scobserver.in/journal/justice-yadav-hate-speech-case-an-acid-test-for-the-supreme-court/#:~:Text=Under%20this%20procedure%2c%20complaints%20against,Is%20given%20to%20the%20judge.> Accessed: 25/02/2025.

¹⁰⁰⁸ [Rangarajan R.](https://www.thehindu.com/news/national/how-is-an-in-house-inquiry-conducted-explained/article69373009.ecce), How is an in-house inquiry conducted? | Explained, The Hindu, Published - March 26, 2025 08:30 am IST available at: <https://www.thehindu.com/news/national/how-is-an-in-house-inquiry-conducted-explained/article69373009.ecce>

¹⁰⁰⁹ Ibid

¹⁰¹⁰ Supra note 65.

¹⁰¹¹ Supra note 65.

¹⁰¹² Supra note 65.

¹⁰¹³ Supra note 65.

¹⁰¹⁴ Gender Sensitisation And Sexual Harassment Of Women At The Supreme Court Of India (Prevention, Prohibition And Redressal) Regulations, 2013. Available At: [https://thc.nic.in/Central%20governmental%20regulations/Gender%20sensitisation%20and%20sexual%20harassment%20of%20women%20at%20the%20supreme%20court%20of%20india%20\(Prevention,%20prohibition%20and%20redressal\)%20regulations.2013.Pdf](https://thc.nic.in/Central%20governmental%20regulations/Gender%20sensitisation%20and%20sexual%20harassment%20of%20women%20at%20the%20supreme%20court%20of%20india%20(Prevention,%20prohibition%20and%20redressal)%20regulations.2013.Pdf) Accessed: 03/02/2025.

the Chief Justice of India (CJI) to establish a Gender Sensitisation and Internal Complaints Committee (GSICC)¹⁰¹⁵. This committee should consist of 7-13 members, which include one or two Supreme Court judges and a maximum of two external members with pertinent experience, all appointed by the CJI. The majority of the GSICC members are required to be women. By 2018, the GSICC had processed 13 complaints, of which 10 were resolved.¹⁰¹⁶

Report Of the Committee

In the 1990s, Three Supreme Court judges¹⁰¹⁷ and two senior Chief Justices of High Courts¹⁰¹⁸ formed a committee in the 1990s to create a "in-house procedure" for corrective action against judges who do not uphold the recognized values of judicial life, such as those outlined in the Restatement of Values of Judicial Life¹⁰¹⁹. The committee's report was turned in on 31.10.1997, and on 15.12.1999, the Full Court Meeting adopted it with revisions the committee's report on internal procedures.¹⁰²⁰ Committee report provide further on following:

¹⁰¹⁵Gender-Sensitization-And-Internal-Complaints-Committee. Available At: <https://www.sci.gov.in/Gender-Sensitization-And-Internal-Complaints-Committee/> Accessed: 22/02/2025.

¹⁰¹⁶ Roshni Sinha, 'Explainer: Mechanisms To Investigate Charges Against A Supreme Court Judge', Prs Legislative Research, April 25, 2019, Available At: <https://prsindia.org/theprsblog/explainer-mechanisms-to-investigate-charges-against-a-supreme-court-judge?Page=357&Per-Page=1> Accessed: 15/03/2025.

¹⁰¹⁷ Namely, Justice S.C. Agrawal, Justice A.S. Anand, And Justice S.P. Bharucha,

¹⁰¹⁸ Namely, Justice P.S. Misra Of The Andhra Pradesh High Court And Justice D.P. Mohapatra Of The Allahabad High Court.

¹⁰¹⁹ Restatement Of Values Of Judicial Life [As Adopted By Full Court Meeting Of The Supreme Court Of India On 7 Th May, 1997]. Available At: <https://www.scobserver.in/wp-content/uploads/2024/11/Restatement-Of-Values-Of-Judicial-Life.Pdf>, Accessed: 25/02/2025.

¹⁰²⁰ Dr. Ashok Dharmija 'In-House Procedure For Inquiry Into Complaints Against Supreme Court And High Court Judges', Tilakmarg, Dec 28, 2014. Available At: <https://tilakmarg.com/opinion/in-house-procedure-for-inquiry-into-complaints-against-supreme-court-and-high-court-judges/#:~:Text=It%20may%20be%20recalled%20that,Committee%20on%20in%20house%20procedure> Accessed: 25/02/2025.

In-House Procedure

In order to handle complaints against judges who do not uphold the widely recognized principles of judicial life, such as those found in "the Restatement of Values of Judicial Life", the Committee seeks to create an internal procedure. The judge's judicial duties or extrajudicial behaviour are frequently the subject of complaints. Parties to the proceedings who are unhappy with the judge's unfavourable ruling or who have personal grievances against the judge frequently file these complaints. The majority of complaints are determined to be baseless and unfounded, however some could need more thorough examination. A complaint that compromises the independence and integrity of a judge can harm the higher judiciary's reputation.¹⁰²¹

High Court Judge

Either the Chief Justice of that High Court or the Chief Justice of India (CJI) receives a complaint against a High Court judge.¹⁰²² The President of India is occasionally the target of such a complaint. The CJI often receives the complaints that the President of India receives. The Committee recommends the following process to handle these kinds of complaints:

When a complaint is filed against a judge, the Chief Justice of the High Court first assesses its validity. If the complaint is baseless or irrelevant, it is dismissed, and the Chief Justice of India (CJI) is notified. For serious allegations involving misconduct, the Chief Justice seeks the judge's response and may forward the case to the CJI if further inquiry is deemed necessary. If the CJI agrees, a three-member committee—comprising a High Court judge and two Chief

¹⁰²¹ Ibid.

¹⁰²² Supra Note 77.

Justices from other High Courts—is formed to investigate. This committee conducts a fact-finding inquiry, not a full-fledged court trial, while ensuring natural justice principles are followed. The committee submits its findings to the CJI, indicating whether the complaint is unfounded, warrants removal, or involves minor misconduct.

If the allegations are unsubstantiated, the case is closed. For serious but credible accusations, the CJI may advise the judge to resign or retire; if refused, the judge may be removed from duties, and the findings are sent to the President and Prime Minister. Lesser misconduct results in advisory action, with the process ensuring fairness and preserving judicial integrity.¹⁰²³

Chief Justice of the High Court

When the Chief Justice of India (CJI) receives a complaint—either directly or via the President—against a High Court Chief Justice, it is first evaluated. If the complaint is deemed trivial, related only to judicial decisions, or lacking serious misconduct allegations, it is dismissed. For serious complaints, the CJI seeks a response from the concerned Chief Justice. If the explanation is satisfactory, no further action is taken. If further inquiry is warranted, the CJI forms a three-member committee (one Supreme Court Judge and two Chief Justices from other High Courts) to investigate, following the same procedure used for High Court judges. The CJI then proceeds based on the committee's findings, maintaining standard protocols.¹⁰²⁴

Judge Of Supreme Court

When a complaint is received from the President or directly by the Chief Justice of India (CJI), the CJI first evaluates its seriousness. If it lacks merit or doesn't involve substantial misconduct, it is dismissed. For significant complaints involving misconduct, the CJI seeks the judge's response. If satisfied with the explanation, the matter is closed. Otherwise, the CJI forms a three-judge Supreme Court committee to investigate further, following procedures similar to those for High Court judges.¹⁰²⁵

Limitations

In India, the inquiry process for judges at the High Court and Supreme Court levels includes receiving complaints, investigating them, and sometimes advising judges to resign or retire. This procedure allows judges to defend themselves, but it faces challenges to judicial independence.

The Chief Justice plays a key role in handling complaints and starting inquiries, which can lead to bias if they have too much power over the judge being investigated. This influences the perception of fairness. The inquiry process is kept confidential to protect judges' dignity, but this lack of transparency can reduce accountability and public trust. Additionally, the rules for removing a judge for misconduct are often vague, which can pressure judges to resign without just cause, further threatening judicial independence.

One of the example is Justice PD Dinakaran case¹⁰²⁶, who had resigned citing bias and harassment because he belonged to the "Dalit" community. He stated that "He stepped down because he believed he would not receive a fair opportunity to defend himself, even though there were no corruption allegations against him. He asserts that this worry is backed by the

¹⁰²³ In-House Procedure' Inquiries Confidential: Supreme Court, By: Express News Service, New Delhi | January 8, 2021 01:01 Ist, Available At: <https://indianexpress.com/article/india/in-house-procedure-inquiries-confidential-supreme-court-7137549/> Accessed: 25/02/2025.

¹⁰²⁴ Ibid ; *In-House Procedure*, Supreme Court of India (1997), <https://latestlaws.com/wp-content/uploads/2019/05/Supreme-Court-In-House-Procedure.pdf>.

¹⁰²⁵ In-House Procedure' Inquiries Confidential: Supreme Court, By: Express News Service, New Delhi | January 8, 2021 01:01 Ist, Available At: <https://indianexpress.com/article/india/in-house-procedure-inquiries-confidential-supreme-court-7137549/> Accessed: 25/02/2025.

¹⁰²⁶ Supra Note 15.

behaviour of committee officers who made several calls, urging tax and bank officials to perform specific actions. Justice Dinakaran indicated that these actions demonstrate a prejudiced investigation. He resigned on July 28, which culminated a two-year effort to remove him over corruption claims in the Rajya Sabha. His advancement to the Supreme Court was hindered in 2009 due to allegations of corruption and land grabbing, which resulted in his reassignment to the Sikkim High Court.¹⁰²⁷

Former Chief Justice of India V.N. Khare, who facilitated the resignations of Justice Shamit Mukherjee from the Delhi High Court (for corruption) and Justice Arun Madan from the Rajasthan High Court (for misconduct), remarked that both the impeachment process and the judiciary's internal disciplinary mechanisms have been entirely ineffective. Describing the procedure as merely symbolic, he emphasized the urgent need for a legal framework to reinforce its effectiveness. Justices P.B. Sawant, R.C. Sinha, and V.R. Ramachandran jointly advocated for establishing a National Judicial Commission vested with the authority to appoint, transfer, and remove judges. They proposed that the commission include representatives from the judiciary, executive, legislature, and legal profession. Justice Sawant also criticized the current system for lacking the power to act against judges who disregard its directives.¹⁰²⁸

CONCLUSION: A SIGNIFICANT ACCOUNTABILITY GAP IN THE JUDICIARY.

The Indian court system has not significantly aimed to establish a code of judicial conduct for judges, despite significant efforts made by the judiciary in 1999 when the Conference of Chief Justices accepted "the Restatement of Values of Judicial Life."¹⁰²⁹ In an attempt to

discipline judges in accordance with professional ethics, the Parliamentary Standing Committee firmly backed the statutory status of judicial standards, acknowledging the tight connection between these standards and judicial tasks.¹⁰³⁰ The Parliamentary Standing Committee Report emphasized the need for a judicial standard. The current parliamentary process for removing a judge is arduous, politically influenced, and has seen only one unsuccessful impeachment attempt due to non-procedural reasons.¹⁰³¹

"Given the history of the Judges' Enquiry Act, 1968's shortcomings, the Indian government correctly noted the system's inadequacy and incapacity in the words that come after. The government has previously become aware of allegations of deviant behaviour, including acts of corruption and moral turpitude, against certain High Court judges; however, the government lacks the constitutional authority to establish a committee to investigate these claims. At most, the complaint is sent to the Chief Justice of India for whatever action he may think appropriate if a copy is not endorsed to him."¹⁰³²

The framework outlined in the constitution for the removal of judges on grounds of misbehaviour and incapacity is unfeasible, as underscored by Article 124 of constitution of India stipulation that 100 Lok Sabha MPs and 50 Rajya Sabha MPs must endorse an impeachment motion. Reaching agreement among parliamentarians to start this process is becoming less probable, due to the prevalence of regional parties and insufficient backing from national parties. The accountability system for dismissing judges must be assessed within the collaborative framework of judicial and political components as per the Constitution. This

¹⁰²⁷ Dhananjay Mahapatra, 'Panel Wants To Continue Probe Against Dinakaran', Times Of India / Tnn/. Available At: <https://timesofindia.indiatimes.com/India/Panel-Wants-To-Continue-Probe-Against-Dinakaran/Articleshow/9928534.cms> Accessed: 16/03/2025.

¹⁰²⁸ Nat'l Comm'n to Review the Working of the Const., A Consultation Paper on the Inquiry Into Misbehaviour or Incapacity of Judges of the Supreme Court and High Courts (2002), available at <https://legallaffairs.gov.in/>.

¹⁰²⁹ Canons Of Judicial Ethics, Available At: https://highcourtchd.Gov.In/Sub_Pages/Left_Menu/Publish/Articles/Art

[icles_Pdf/Canons.Pdf#:~:Text=On%20may%207%2c%201997%2c%20the%20supreme%20court,Indispensable%20in%20the%20impartial%20administration%20of%20justice.](#)

¹⁰³⁰ Parliamentary Standing Committee On Personnel, Public Grievances, Law And Justice (Pscr). (2007). 21st Report On The Judges (Enquiry) Bill, 2006. Rajya Sabha Secretariat. (P.16) Available At: https://prsindia.org/files/bills_acts/bills_parliament/2006/Scr11879450_81_Judges_Inquiry_Bill_0.Pdf Accessed: 20/02/2025

¹⁰³¹ Ibid At P.15

¹⁰³² Ibid At P.12

established authority highlights parliament's supreme role in fulfilling constitutional duties. Despite an inquiry panel's findings of misconduct or incapacity, it is ultimately parliament's responsibility to decide whether to propose an action to the president regarding the judge's dismissal.¹⁰³³ Judicial behaviour and oversight have been major issues in India for years. In 2010, a former Union Law Minister Shanti Bhushan gave the Supreme Court an affidavit claimed that eight out of the last sixteen Chief Justices of India were involved in corrupt activities.¹⁰³⁴

An analysis of Supreme Court judges in India who retired between 2000 and 2014 revealed a link between favourable rulings for the Union of India (UOI) in significant cases—those where senior government advocates appeared—and the likelihood of securing post-retirement positions from the government. The data indicated that each additional pro-government judgement in such cases raised the chances of receiving a government role after retirement by 13–15%. Although this trend might be driven by shared ideology rather than direct bias, the study also found that judges who retired well before upcoming elections—giving the ruling government time to offer appointments—were more inclined to rule in the government's favour and author these judgements. Overall, the findings point to the possibility that the incentive of post-retirement roles could shape judicial behaviour.¹⁰³⁵

Several reforms have been proposed to tackle the issue of post-retirement incentives potentially influencing judicial decisions. One approach is to entirely stop the appointment of retired judges to government roles, though this idea has little backing from either the judiciary or the government. Another commonly discussed reform is introducing a mandatory

cooling-off period before such appointments, aiming to diminish the connection between pre-retirement conduct and post-retirement benefits—a policy already in place for retired bureaucrats.¹⁰³⁶ Former Chief Justice R.M. Lodha has recommended continuing the salaries or providing equivalent pensions to retired judges to reduce the appeal of government positions.¹⁰³⁷ However, these roles often attract judges not just for financial reasons but also for the influence they offer.

¹⁰³³ The Constitution Of India 1950

¹⁰³⁴ Dhananjay Mahapatra, Eight Chief Justices Were Corrupt: Ex- Law Minister, Tnn, Times Of India, Sep 17,2010. Available At: <https://Timesofindia.Indiatimes.Com/India/Eight-Chief-Justices-Were-Corrupt-Ex-Law-Minister/Articleshow/6568723.Cms> Accessed: 20/02/2025.

¹⁰³⁵ Madhav Aney, The politics of post-retirement appointments: Corruption in the Supreme Court? Ideas for india , available at: https://ink.library.smu.edu.sg/soe_research/1928/

¹⁰³⁶ Ibid

¹⁰³⁷ Gaurav Pathak, 'there should be a cooling off period of 2 years for judges to accept any appointment after retirement; Justice Lodha', live law, 27 Sept 2014 12:07 AM. Available at: <http://www.livelaw.in/cooling-period-judges-opines-chief-justice-india-rm-lodha/>