

WHO WILL JUDGE THE JUDGES?- RETHINKING THE LEGISLATIVE JUDICIAL RESPONSIBILITY IN INDIA

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Abstract

Judicial service is not just a service towards the Judiciary but a noble service towards the society at large. The chair of the Judge is the most coveted position of power and authority in Indian Democracy. The conduct of a man is judged by God above, and by the Judges beneath. Therefore, a Judge is considered the embodiment of a person with the most crucial responsibility on whose judgment rests the fate of others. However, such power is not absolute. Whenever we get power, we tend to misuse it. So, there are several checks and balances to ensure that such power is not overused or misused. This paper critically examines the legislative and judicial trends in India through several statutory provisions and judgments to identify what the legislature has done in this regard. This paper also highlights the concept of Judicial Accountability in India and how far the judges are accountable in reality as compared to the theory. Therefore, as authors, it shall be our humble attempt to highlight the mechanism of Judicial accountability in India and its recent trends, addressing the key challenges and suggesting the way forward for a better, transparent and more accountable Judicial System.

Keywords- *Judicial Accountability, Independence, Transparency, Legislature, Conduct.*

A. Introduction:

“There is no liberty if the power of judging be not separated from the legislative and the executive”- (Montesquieu, 1748)². The Legislative, Executive and the Judiciary form the three pillars of the Government, each with a specified demarcated jurisdiction or function, where the Judiciary is made an independent wing. When one wing transgressed the other wing, we call it an interference with the judiciary which is strictly restricted by virtue of the Doctrine of Separation of Powers as enunciated by Montesquieu. J. Ventakachaliah had once remarked “Corruption is inevitable where power, money and dignity rests in one

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² Montesquieu, The Spirit of Laws (1748).

person”. Thus, it is human nature to misuse power whenever he acquires it. Therefore, to check these bottlenecks, Independence of Judiciary becomes the basic structure for the effective administration of justice. Democracy thrives in an Independent Judiciary and thus Judicial independence becomes a corollary to Judicial accountability.

Judicial Accountability- Meaning: The conduct of a man is judged by God in heaven and by the Judges on earth, it is often said. However, when the conduct of the institution of Judiciary is questioned, we call it judicial accountability. In simple words, when the Judges are made accountable or answerable for their own conduct by the virtue of their office, it is judicial accountability. Therefore, to have a feeling of transparency before the public, we have the concept of Judiciary accountability where, even the Judiciary can be made answerable for its conduct.

The avowed objective of Judicial accountability is rooted in the concept of ‘Swadharma’-one’s own duty. As illustrated in Ramayana (adopted versions in Ramakien, Kakawin Ramayana, Ramakavaca, etc), Lord Rama who served fourteen years of exile, even after withdrawal of a Boon given by his father King Dasharatha to Queen Kaikeyi, on the premise “Pran Jaye par Vachana na jaye” i.e. to keep the word even at the cost of life has set the ideal for honesty and integrity. Similarly, when Judges take their oath, they must ensure to abide by their oath to maintain honesty and integrity throughout their office as a Judge. The robe of a Judge turns an ordinary man into the embodiment of Justice whose sole duty is to render justice and be true to his responsibility.

This brings to us another question. ‘Before whom are the Judges accountable?’, ‘Who takes the responsibility of the Judges into account?’, ‘What is the redressal mechanism if the Judges are faulty?’. In common parlance, it is the duty of the Judges to render justice to the people which makes him accountable before the public at large. The generally accepted norm in India is that when a Judge of the lower Judiciary has erred, he is liable to the Judge of the High Court of that particular State. Similarly, the Judge of a High Court is liable to the Chief Justice of that High Court, the Chief Justice of the High Court and Judges of the Supreme Court are liable before the Chief Justice of the Country but before whom the Chief Justice of a country is accountable is nowhere mentioned. What remedy is available if the Chief Justice of the country has erred? The law in India is silent on that. This calls for an urgent needful Judicial Accountability in India.

B. Need for Judicial Accountability:

As a prelude to the concept of Judicial Accountability, Pandit Jawaharlal Nehru had forecasted in 1950 saying “The Judges of the Supreme Court sit on the ivory throne and are oblivious to the suffering of the common man”. Based on this premise, we have certain generally accepted principles as to why we need judicial accountability in India:

- To promote the Rule of Law and to deter any conduct which compromises judicial integrity, impartiality and independence. In simple words the fundamental aim of Judicial Accountability is to ensure the intent of law and not the intent of a man is carried out.
- To promote public confidence in the Judiciary- The institution of Judiciary holds much respect in the eyes of the people and therefore it becomes essential to keep the confidence of the public upon the coveted pillar of the Judiciary.
- To promote Judiciary as a responsive institution, so as to live up to the expectations of the common people. Therefore, to maintain the stature of the Judiciary, it is the duty of the Judges to respond to the needs of the people who knock at the doors of Justice.

Constitutional Mechanism: The Constitution of India is considered the mother of all Statutes. It provides certain checks and balances over the conduct of the Judges as enunciated in the following provisions. The basis for which is The Government of India Act 1935, where the Judges held their position either during the-

(a) Pleasure of His Majesty: Where the judges could hold their tenure as long as His Majesty pleased or desired and could also be removed upon the discretion of His Majesty without recording any reasons for removal i.e. When His Majesty was pleased to remove the Judge. This practice, (though not in vogue today) is enunciated in Article 311 of the Indian Constitution³.

(b) Good Behaviour: Where the Judge was appointed by his special virtue or by the dint of his extraordinary juristic skills. Thus, he could not be removed without giving justified reasons because he holds his office ‘fairly’. This became the basis for the present-day Judicial Accountability in India and we are still dependent on this principle. The following is a representation of the present-day Constitutional Mechanism for Judicial accountability.

Article 124(4)⁴: This provides for the appointment and removal of the Supreme Court Judge i.e. Impeachment of a Supreme Court Judge on grounds of ‘proven misconduct or incapacity’.

³ Constitution of India 1950, art 311.

⁴ Constitution of India 1950, art 124(4).

Article 217⁵: This provides for Impeachment for High Court Judges on grounds of ‘proven misconduct or incapacity’.

Article 235⁶: This empowers the High Court to exercise a power of supervision over the Subordinate judiciary, which acts as a mechanism for judicial accountability for the Subordinate judiciary.

Legislative Journey Till Date: Besides the Constitutional mechanism, the Legislature has also contributed towards judicial accountability in India. Here, we will discuss what the legislature has done in furtherance of the principles of judicial accountability in India. In this context, we have two Acts and three Bills. The following Acts and Bills as given hereinafter:

The Judges Protection Act, 1985: With an aim to protect the Judges and the judicial officers from unreasonable allegations, this Act also classified the Judges as Judicial servants. The essence of this Act is enunciated in **Sec.3** of this Act that provides no Judge can be held liable for any words, committed or omitted during the course of trial, however with an exception of an enquiry by the State Government and the Central Government⁷.

The Judges Inquiry Act 1968: The purpose of this Act is to address serious allegations and proven misconduct. The object of this Act is to inquire any complaint or misconduct or incapacity to hold the office as a Judge, by means of an internal investigating committee and thereafter tabled before both the Houses of the Parliament (100 votes in Rajya Sabha and 50 votes in Lok Sabha are required to pass the motion of impeachment on ground of such proven misconduct) which is finally approved by the President and the alleged Judge is impeached⁸.

Criticism: This law was entertaining only ‘serious allegations’ and overlooking the minor allegations where the Judges could easily get a clean chit under the category of ‘minor allegations’ being outside the overview of this Act. This is also a reason why even after the enactment of the statutes there is hardly any case of Judges impeachment except J. Ramaswamy’s Case where the Judge himself resigned to save his dignity after the proceedings of impeachment had started.

The Judges Inquiry Bill, 2005: This was proposed in the 195th Law Commissions Report but did not get assent to be passed⁹. The purpose of this Bill was to give recommendations as to the removal of Judges¹⁰.

⁵ Constitution of India 1950, art 217.

⁶ Constitution of India 1950, art 235.

⁷ Judges (Protection) Act 1985, s 3

⁸ Judges (Inquiry) Act 1968 (India) s 3(1)

⁹ Law Commission, The Judges (Inquiry) Bill (Law Com No 195, 2006) para 2.15

¹⁰ The Judges (Inquiry) Bill, 2005, cl 5(1)

Positive aspect: This Act proposed to address the ‘minor allegations’ that had been overlooked so far. It would also take into account the allegations of misconduct upon a High Court Judge or The Chief Justice even after being elevated to the position of a Supreme Court Judge or the Chief Justice of India. It would be treated at par with Art.124(4). However, it has no significance as it is just a Bill which was not passed.

The Judges (Disclosure of Assets and Liability) Bill, 2009: Though it was proposed with the objective to have transparency between the Judges and the common people as the Judges were required to disclose their assets¹¹. However, this Bill utterly failed as it held that then disclosures should not be made in public, thus defeating the purpose of this Bill.

The Judges (Standard and Accountability) Bill 2010: It resurfaced every aspect of the previous Bills. All the aspects of the former bills were taken up¹². The Bill was tabled in the Parliament in 2010 but not passed till date. This is the latest Bill in the development of Judicial accountability in India which stressed on the impeachment mode as highlighted in J. Ramaswamy’s Case in 1996. Again, it was reiterated in the Parliament but the situation is the same.

C. Considering different aspects of Judicial Accountability- Three aspects:

The idea of Judicial accountability in India is categorized into three aspects, namely- The Institutional, Behavioural and Decisional. This three-fold approach answers the question ‘Judicial Accountability means what?’ in three different ways.

- **The Institutional Accountability:** This addresses Judiciary as an Institution and how it can be made liable. It means the Bench itself. It primarily focuses on Appointment (Article 124 and 217) and Transfer of Judges (Article 222).

Background: Institutional Judiciary means how the Judiciary as an institution would be held liable. It is premised on the background that Judiciary forming a part of the Government but not on behalf of the Government. Now, it is settled canon of law that Judiciary is a State when performing non judicial functions as held in the case of **Naresh Shridhar Miramar V. State of Maharashtra 1966**¹³ and **AR. Antuley V. R.S Nayak, 1988**¹⁴.

Judicial Trend: (a) Appointment and Removal: In regards to the appointment and removal

¹¹ The Judges (Declaration of Assets and Liabilities) Bill 2009 (Bill No. IV of 2009)

¹² The Judicial Standards and Accountability Bill 2010 (Bill No. 136 of 2010)

¹³ (1967) AIR 1; (1966) 3 SCR 744; AIR 1967 SC 1

¹⁴ *AR Antulay v RS Nayak* (1988) 2 SCC 602

of the Judges under Article 124 and 217, we have a plethora of judgments, amongst which we have arrived at a few landmark cases that highlights ‘how the Judiciary has interpreted the appointment procedures.

S. P Gupta V. Union of India, 1982¹⁵: Also known as The First Judges Transfer Case, it was revisiting Article 124 that in the context of ‘Judicial Accountability, appointment and transfer’, held the procedure as President in Consultation with the CJI and any other senior Judge as he may deem fit’. So, it was held that there was an ‘Executive Interference ‘as the President had the final say. However, the Supreme Court after referring to the case of **Union of India V. Shankar Chand Himatlal Seth¹⁶**, held that here ‘consultation’ does not mean ‘concurrence. Thus, the President was not bound to abide by the decision of the CJI and the other senior judges. The foundation of the Collegium System was laid down in this case i.e. The Collegium and the Chief Justice of India along with four other Senior most Judges, make the recommendations for the appointment of the Judges. Thus, the development of the Collegium System forms the bedrock of S.P Gupta V. Union of India, 1982.

Supreme Court A.O.R Association V. Union of India, 1992¹⁷: This judgement overruled the decision of the S.P Gupta case. Where the former judgement held the word ‘consultation’ as enunciated in Article 124 of the Indian Constitution, as ‘discretion’ of the President, this case on the contrary held that the word ‘consultation’ should be interpreted as ‘mandatory’. This means that the decisions of the other Judges regarding the appointment and transfer of the other Judges, are mandatory to be considered by the President.

In Re. President’s References Case¹⁸: In the Third Judges Transfer case (AIR 1999 SC 1) the Supreme Court of India interpreted the word “consultation” as enunciated in Article 124 of the Constitution. The case arose from a reference (under Article 143 of the Constitution of India) made by President K.R. Narayanan in 1998. Here, reference was taken from the Second Judges Transfer case which was upheld by the nine-judge bench who unanimously held that the CJI should not only ‘consult’ but also take the opinion of ‘other senior most Judges’ of the Court for the appointment of a Judge.

(b) Transfer: With regards to the process of Transfer of Judges, as enunciated in Article 222 of the Indian Constitution, there are several landmark judgments that have verbosely

¹⁵ *S P Gupta v Union of India* (1981) Supp (1) SCC 87

¹⁶ (1977) 4 SCC 193.

¹⁷ (1993) 4 SCC 441, AIR (1994) SC 268

¹⁸ In re Special Reference No 1 of (1998), AIR (1999) SC 1

highlighted the public welfare aspect behind the process of Transfer of the Judges

M/S Kranti Association V. Masood Ahmed Khan¹⁹: In this case it was held that Transfer of the Judges are made for a public purpose which should be ensured in every Transfer process of the Judge

Suraz India Trust V. Union of India²⁰: In this case also the public purpose behind the Transfer of a Judge was emphasized. In this regard J. Bhagvati had remarked, “Appointment of the right kind of Judge goes a long way in the independence of Judiciary”.

To understand the meaning of Article 124, 217 and 235 of the Indian Constitution, we have highlighted a few case laws amidst the plethora of judgments. The inference from this can be drawn that the President’s discretion is still there. Otherwise, we would have many other cases of impeachment besides the J. Ramaswamy’s Case.

- **The Behavioural Aspect:** This means when a Judge can be held liable for his conduct or action or how he is supposed to conduct himself as a Judge. The constitutional mechanism by virtue of Article 124(4) provides for impeachment on grounds of ‘proved misbehaviour’ and ‘incapacity’.

Judicial Attitude: In this context we have certain decisions of the Court that have highlighted when a Judge can be made accountable for his behaviour as enunciated in Article 124(4).

Sub- Committee on Judicial Accountability V. Union of India 1991²¹: This case clarified the process of removal as enunciated in Article 124(4) of the Indian Constitution where primarily the motion of removal of the Judge is passed by 100 votes in Rajya Sabha and 50 votes in Lok Sabha and then tabled before the Parliament by a 2/3rd majority vote, followed by President’s assent and finally the removal order of the Judge is passed. It further clarified that: (a) Though we have a Parliamentary process of removal vide Article 124(4), the Court has the power to internally check the behavioural aspect of a Judge and (b) Under the Judges Inquiry Act 1968, the immediate authority for the removal of the Chief Justice of India is the President, for Supreme Court Judge- the Chief Justice of India and for a High Court Judge, the authority is the Chief Justice of the High Court.

This case states that whenever there is a complaint against any High Court or a Supreme Court Judge, we may take recourse to the internal process instead of the cumbersome Parliamentary process.

¹⁹ (2010) 9 SCC 496.

²⁰ *Suraz India Trust v Union of India & Anr* (2011) AIR SCW 2680

²¹ AIR 1991 SC 1598, (1991) 2 SCR 741, or (1991) 2 JT 493

Mrs. Sarojini Ramaswamy V. Union of India, 1992²²: A petition filed by the wife of J. Ramaswamy regarding the validity of the impeachment process initiated against him, established that though there is no power to challenge the findings of the Internal Committee, after the final Presidential order, we can challenge the order under Judicial Review.

Krishnaswamy V. Union of India, 1992²³: This case held that ‘not every act or conduct or even error of judgement or negligent act of Higher Judiciary, would amount to misbehaviour. Misbehaviour would include cases like wilful abuse of judicial office, wilful misconduct in the office, corruption, lack of integrity, persistent failure to perform judicial duties or any other offense including moral turpitude opposed to public interest’. It was noted that “the conduct of the Judge, should be one, that would operate as an impregnable fortress against surreptitious attempts to undermine the independence of the Judiciary”. This case clarified the meaning of proved misbehaviour. Thus, the significance of this case is that ‘proved misbehaviour was not defined anywhere but here it clarified what comes under proved misbehaviour’.

K. Veeraswamy V. Union of India, 1991²⁴: In this case a Judge was brought under the purview of Public Servant and was charged under the allegation of possessing undeciphered asset u/s 5(1)(a) and Sec. 6(1)(c) of The Prevention of Corruption Act 1988, whereby he was arrested by the C.B.I. Thus, this case suggests that Judges may be brought under the purview of a Public Servant.

E. Giri Yadav V. Union of India, 2012²⁵: In this case, Sec.3 of The Judges Protection Act 1968, was challenged on the ground that whether this Act can debar the Departmental Proceedings or any Central government or State Government for take any action against any Judge for allegations of misconduct. This decision justified that as a measure it can be justified and even the Judges Protection Act (which granted immunity to the Judges), cannot debar the Judges from coming under these Departmental proceedings or internal checks. This does not apply to protect the Judges from measures which come under the ‘internal check’.

C. Ravichandran Iyer V. J. A.M Mukherjee, 1995²⁶: J. C. Ravichandran being the Chief Justice of the Bombay High Court was alleged with prolonged complaints of ‘misconduct’. So, the State Bar Council of God and Maharashtra decided not to go for this Bench and issued a notice to the members prevention matters to be listed in this Court. It was held that –(a) The notification was violative of the Independence of Judiciary (the very basic structure of the

²² AIR (1992) SC 2219

²³ *M Krishna Swami v Union of India* (1992) 4 SCC 605

²⁴ 3 SCC 655: Volume 3 of the Supreme Court Cases (SCC), page 655.

²⁵ *E Giri Yadav v Union of India* (2012) 220 & 221 PIL (AP)

²⁶ *C Ravichandran Iyer v Justice AM Bhattacharjee* (1995) 5 SCC 457.

Indian Constitution) and (b) Such notification can be quashed and a Writ can be filed accordingly on the ground that otherwise it will undermine the independence of the Judiciary. These were some of the case laws that we have identified in the context of the Behavioural Aspect of Judicial accountability, which focuses on the behaviour or conduct of a Judge and prescribes how a Judge should conduct himself in this field.

- **The Decisional Aspect:** This aspect primarily focuses on appeal, review and revision, as a mechanism to check the decisions given by the Judges in the Court. The Judges should be made answerable for his decision or judgment. It means that the aggrieved party can go for appeal against the judgment delivered by the Judge.

Meaning: Decisional accountability holds the Judges answerable for their Judicial decisions. It implies that the Judges should make reasoned decisions, following the principles of Natural Justice, precedents laid down by the Higher Courts and the procedure established by law, as enunciated in Article 14, 19 and 21 of the Indian Constitution.

Judicial Trend: In this context, we have identified a few case laws that emphasize on the decisional aspect of judicial accountability where the Judges can be held liable for their decisions or judgments delivered.

In Re. Sanjiv Datta (1995)²⁷: The Supreme Court elucidated that, “The law, the jurisprudence and the precedents, the open public hearings, reasoned judgements, appeals, revisions, references and reviews constitute the internal checks, while objective critics debates and discussions of judgement outside the Courts and Legislative correctives, provide for external checks which together go along way to ensure judicial accountability.

E. Giri Yadav V. The Union of India: It was held that “Accountability is a norm built in all walks of Public Life, and the very functioning of Judiciary is such that accountability looms large in its process. Each reasoned decision rendered by the Judge based on a hearing, in an open Court, is subject to correction by a Higher Court, thereby ensuring decisional accountability.

Central Public Information Officer, Supreme Court of India V. Subhas Chandra Agarwal (2020)²⁸: It emphasized on the need to follow the procedures established by law and mentioned that, the importance of Judicial independence is the responsibility imposed on each Judge, to enable him/her to adjudicate a dispute honestly and impartially on the basis of law and evidence. The significance of this case is that it upheld the essence of the Judge’s

²⁷ *In re: Shri Sanjiv Datta* (1995) 3 SCC 619

²⁸ (2020) 5 SCC 481

responsibility to be aware of what is agile in a decision. The essence is how candid a role the Judge can play and reminds the Judge of its responsibility- as a part of the Judiciary that is Independent.

Siddharta Kumar V. The Upper Civil Judge, Ghazipur²⁹: In this case it was held that decisions behind a judgement are based on evidence and should not be held without a proper cause. A judgment without proper reasons is a judgment per in curium and is thus bad in law. Such kind of judgment that is delivered on mere conjectures and surmises must be refrained. So, it is incumbent on the Judges to apply their judicial mind while discharging the utmost duty to deliver justice.

- **Recent Instances:** The judiciary through certain judgement has upheld the dignity and stature of the Bench. Given below are a few cases of misconduct by the Judges:

J. Ramaswamy's Case³⁰: An impeachment motion was moved against him in the Lok Sabha for extravagant spending as the Chief Justice of the Punjab and Haryana High Court. On May 11, 1993, of the 401 members present, 196 backed the motion and 205 abstained from voting. However, he himself resigned before he could be impeached.

J. Prashant Bhushan's Case³¹: In August 2020 J. Prashant Bhushan was found guilty of criminal contempt of Court for his tweet on 'The CJI riding an expensive bike while the Court was on lockdown'. He was charged with Rs. 1 fine or three months imprisonment with fine and ban from practice for three years if the fine was not paid. Though J. Prashant Bhushan seems to have no regret as he refused to give an apology for his conduct, this case still sparks debate among the Judiciary.

J. P.D Dinakar V. The Judges Enquiry Committee and Ors.2011³²: Facing impeachment on charges of corruption and judicial misconduct, he resigned from the post of Sikkim high court Chief Justice on 29 July 2011 expressing "lack of faith and confidence" in the three-member inquiry Committee, against charges of tampering with evidence, judicial misconduct, etc. However, even in this case, it was a failure of the judicial mechanism as he could not be impeached despite the process of impeachment had already begun against him.

J. C.S Karnan V. The Hon'ble Supreme Court of India, 2017³³: In this case, Justice Karnan

²⁹ 1998(1)AWC593, (1998)1UPLBEC587

³⁰ "Carpets, Bedsheets, Towels and Intrigue: The Story of Justice V. Ramaswami's Impeachment" (The Wire 2020).

³¹ *In re Prashant Bhushan & Anr* (2020) SCM (CRL.) No. 000001-/2020 (SC) [1], [2]

³² *Justice P D Dinakaran v Hon'ble Judges Inquiry Committee & Ors* (2011) 8 SCC 380.

³³ *In re: Sri Justice C.S. Karnan*, 2017 INSC 455 (9 May 2017)

was charged with criminal contempt of court for his unbecoming remarks on the Judges of several High Court. In the legal history, he is the first sitting Judge of Calcutta High Court who was charged with contempt of Court. The significance of the case is that it questioned the independence of the Judiciary where even the Judge was not allowed to express his opinion in his judgment.

J. Soumitra Sen V. The Judges Enquiry Committee³⁴: J. Soumitra Sen was alleged of misappropriation of money and misrepresentation of facts in a judgement. Sen's indictment paved the way for Parliament to take up the impeachment of the judge who had been found guilty of collecting Rs. 33,22,800 from a purchaser of goods, keeping it in a savings bank account and misrepresenting facts to the high court.

- **Latest developments:** The year 2025 has also witnessed a few incidents of misconduct by a Judge where strict action had been initiated thus keeping the fabric of the Judiciary intact. Given below, are a few 2025 case studies:

J. Yashwant Verma V. The Judges Enquiry Committee, March 22, 2025³⁵: In this case J. Yashwant Verma was alleged of possession of an undeciphered amount of cash in his house which was revealed after a fire accident at his residence. Though the case is sub-judice at the Hon'ble Supreme Court, a transfer order to Allahabad High Court against this Delhi High Court Judge had been initiated, which was faced by a mass protest against the order.

Court on its own motion V. Debabrata Golder & Ors. March 27, 2025³⁶: A judgement by J. Debangshu Basak and J. Shabbar Rashidi in the Calcutta High Court upon the case instituted at Fast Track Court III, Bashirhat, North 24 Pargana made six advocates answerable for their misconduct that included the use of abusive language in the Court and evacuating the accused under the guise of protest. This case re-established the faith in the Judiciary in the eyes of the people.

- **Existing Challenges:** The Indian Judiciary is clogged with a few challenges or limitations that bar the effective administration of justice. Here are some of the identified issues:

Creamy layer of protection: Judges enjoy several statutory protections. So, it becomes difficult to percolate through these protections and make him accountable directly. This makes access to justice a far-fetched process. Therefore, the Judges enjoy a creamy layer of protection

³⁴ Rajya Sabha Debates, 17 August 2011, vol 123, cols 223–319

³⁵ (2025) INSC 943.

³⁶ CRLCP 8 of (2012).

from being accountable.

Out of the Public reach: It is a settled principle that the stature of a Judge must be made so high that it is beyond the reach of the Public, lest there shall be no nobility of the Chair. However, considering the present-day situation it becomes essential to make the Judges accountable directly to the public, whose trajectory is altered by the decision of the Judge.

Political influence: Judicial independence is the pivotal point of Indian democracy. However, Judicial independence cannot be achieved in reality until the day when these political interferences that catalyse and condition the decision of a Judge, are completely swept away. Though the framers of the Constitution aimed to make a Judicial System immune from these impurities like political interferences, the legislature has done little to implement 'Judicial independence' in real sense.

Lack of evidence: An in-depth study of the cases of Judicial accountability, brought before the Court will tell us that in most of the cases the Judges were not impeached because there was lack of evidence against him or the C.B.I could not probe in much evidence incriminating him.

Need of a stronger Investigation Agency: The Legislative makes the laws and the Executive wing implements the law. So, unless the Executive wing is made more stronger and is allowed to act without any fear, threat or coercion, the Executive wing also stands maimed. Therefore, the need of the hour is to separate the investigation wing from the implementation wing for a better, stronger Investigation and Implementation.

- **The way forward:** The life of a Judge is not away from public gaze. Therefore, he needs to exercise caution even in his personal life. When he holds the position of a Judge, he is perceived not as a human being but as an emissary of God on earth. Just as Lord Rama (in Ramakien, Kakawin Ramayana, Ramakavaca and several adaptations of Ramayana), was illustrated as an ideal King who had forsaken his wife Sita, upon demand from the Public, a Judge must be impartial and must hold his chair with utmost responsibility and honesty. In this light, here are a few suggestions for how the life of a Judge should be, as decided in Chief Justice's Conference, 1999, New Delhi:

Cautious conduct: The conduct of a Judge must be such as to reaffirm the faith of the people in the Judiciary. The Judges of the Higher Judiciary must be cautious to behave in a way that does not diminish the honour of the forum of Justice in the eyes of the people.

Not to contest election: Judges must not contest election or represent any political party in any vote or election, except in associations in connection with law.

Separation of personal life from professional life: It is prescribed for a Judge not to decide cases having connection with his family members or realities either by blood or affinity. This may be deciding cases where his family member is a party to the suit or where his family members would be affected by the decision of the case. The other aspect can be hearing appeals of a judgment passed by a Judge (of the lower Judiciary), who is related to him either by blood. Hearing of such cases must be strictly denied by the Judge in order to maintain the impartiality of the Bench.

This caution extends to restricting the usage of the Judge's official residence by his family member who is a member of the Bar if the Court in which the Judge presides. Such is the norm to maintain the confidentiality and integrity of the professional work done by the Judges in their Government allocated residence.

Not to face the media: A Judge must avoid indulging in public debates. He must always remind himself of his role as a Judge which is an imperative to stay impartial both socially and politically. Therefore, here must not speak either in favour or against any political party, religious group or community. Moreover, the Judgements are self explanatory and he must not explain the cause of his decision in any press media interview.

Not to engage in any other trade or business: A Judge must not speculate shares of any company for himself. He must not receive any financial gain or contribution from any trade or business. However, publication relating to any academic contribution shall not come within the purview of any other trade or businesses and such contribution shall be allowed. He must neither ask for any favours or benefits as a prerequisite in relation to discharging his professional responsibility. In case of any such discrepancies, the matter shall be clarified from the Chief Justice.

Therefore, we can aptly remark that the conduct of the Judge bears along with it the honour and dignity of the Judiciary, which should be displayed in such a way that it is worthy to be respected above all. Each Judge has his own way of displaying the towering stature of the Judiciary, safeguarding the honour of which is the utmost responsibility of the Judge. Thus, a Judge carries with him the dignity of the Judiciary which is reflected in him through his letter and spirit. The above prescribed way of a Judicial Life is premised upon Restatement of the values of Judicial Life as discussed in The Chief Justice's Conference 1999.

- **Suggestions for the road ahead:** *"He who does not desire power, is the best suited to possess it" -Plato.* In the recent searing ceremony of Hon'ble J. Sujoy Ghosh as the Chief Justice of the High Court at Calcutta, he sighted the instance of Hon'ble J. Bijon Mukherjee who refused to accept the power of the Chief Justice of India, respecting the

honour of the Judicial hierarchy. He drew reference to these wise words of Plato and expressed that the only power of the Judge should be to deliver justice. This suggests that a Judge should not be thirsty for power but thirsty to give every ounce of his effort to serve the ends of justice.

Through time we have witnessed the situation requiring Judicial Accountability in India and what we can infer is that despite several advances by the Indian Judiciary, there is limited progress in the Judicial mechanism. Therefore, here are a few suggestions for a better era:

Constituting separate dedicated bodies: Besides the traditional Enquiry Committee, there should be a speaker dedicated bodies which would deal with the grievances of the common people directly.

Access to Public: The common people should be given access to file cases of misconduct against the Judges because it is they who are the ultimate target of the judgement.

Implementation of strict norms: Though the Judicial Service is the most coveted service, there should be strict punitive norms even for the Judges against whom there is a 'proved misconduct'. Such norms would deter the Judges from committing any unbecoming action as a Judge.

Eradication of external influences: The Judiciary is regarded as the temple of justice from where the fruits of justice are supposed to reach the people. However certain external influences like political upsurge, faulty statutes and weak Executive wings tend to season the Judgement in its own flavour and the common people for whom the law is intended, are rendered injustice. Therefore, such hindrances that clog the way of justice must be strictly dealt with so that the fruits of justice percolate every lane of the society.

Strengthening the Executive wing: It is the Executive wing that is responsible for proper implementation of the laws, which often gets neglected to be developed. The present day demands law reforms and facilities, supporting the Police and the CBI so that they can function without any jargon in their way.

D. Conclusion:

"The place of justice is a hallowed place, and therefore not only the Bench, but also the foot space and precincts and purpose thereof ought to be preserved without scandal and corruption."

– Francis Bacon.

Thus, in the light of Judicial accountability in India, we have highlighted the three-fold approach of Judicial accountability, namely the Institutional, Behavioural and the Decisional. In this context, we have identified a few cases and how it reflects on the Judge's responsibility. This reminds us of the principle enunciated in Kautilya's Arthashastra

*"Kevala Shastra Ashrityaha Na Kartavyeo Vinirnaye
Yuktihino Vicharetu Dharmahani Prajayate"*

- By merely reading the text, it is impossible to determine one's duty. So, delivering judgment without a rationale, leads to gross miscarriage of justice for the public at large. Thus, we can infer and deduce that the person on whose judgment rests the skeleton of the society, he himself is also subjected to the judgment of law. However, it is also a fact that Judges are human beings too. They are neither infallible nor final. They are the embodiment of Justice vested with the power and responsibility to render justice and curb injustice in the society for a social cause. Though in India, the performance of a Judge is quantitatively measured by virtue of 'Annual Confidential Report', there is no yardstick to measure the accountability of the Judges in India. J. Ranganath Mishra (in a narrative titled 'The Upper Court') has remarked that though a criminal is acquitted or convicted on earth by the decision of human beings, fair justice is served by the Almighty in 'the upper Court'. Therefore, Judges who are the embodiment of the Divine, must hold their office with utmost honesty and principles to keep the edifice of Justice stand firm. However, we see these superior values fade through time and several malpractices cropping up despite several advances by the Legislature and the Judiciary. Though this aspect still continues to remain a 'grey area of law', still it is the doors of the Judiciary that are knocked to seek Justice. The need of the hour is to strike a balance between 'Judicial Accountability and Judicial Independence'. The motivation is to uphold 'The Rule of Law and not the Rule of Man'.
