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# The Need for Judicial Accountability in India: A Critical Study

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SHIVANI NAGAR<sup>1</sup> AND DR. ARADHANA PARMAR<sup>2</sup>

## ABSTRACT

*The idea of judicial responsibility must first be understood and accepted. To prevent judicial delinquency from spreading, accountability mainly entails creating a sense of openness in the legal system and putting it under intense public scrutiny. At the same time, the age-old debate about responsibility rages on. There is a problem with the judiciary's independence that has to be fixed. Yet, judicial independence cannot exist in a vacuum; there must also be judicial responsibility. The disagreement stems from the Constitution's architects' decision to exclude a specific accountability mechanism for the court. The same was done in order to avoid judicial independence from being violated, which is necessary to have a free and just judicial system. Moving forward, the objective is to foster responsibility through a self-regulation approach without endangering independence.*

**Keywords:** *Judicial accountability, Judicial independence, Judicial activism.*

## I. INTRODUCTION

The vital role that is to be done by the judiciary for the augmentation and articulation of values of the constitution like equality, justice and democratic principles are unavoidable. The complex among the sovereignty and liberty are the centric reasons for the contemporary politics over the world<sup>3</sup>. The country being a sovereign has a complete potential freedom to curtail and restrict the individual' liberty through righteous of its sovereign authority. Political ideologies and constitutional ideas have long sought to strike a compromise between these two extreme extremities. In reality, a State that can provide the essential legal order is the only place where man may find human liberty<sup>4</sup>. The civilised society has developed a number of measures to check the authority of the State and guarantee adequate protection for individual rights against the backdrop of expanding political theories and State activities. The intra-organ test, which refers to the control of the authority of one organ of the State by the other organ, is one of the tools used by States all over the world to organise and regularise the sovereign power.

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<sup>1</sup> Author is a Research Scholar at Maharishi Arvind University Jaipur, Rajasthan, India.

<sup>2</sup> Author is a Professor at Maharishi Arvind University Jaipur, India.

<sup>3</sup> JN Eule, *Judicial review of direct democracy*, 99 The Yale Law Journal, 1503, 1990

<sup>4</sup> M KOSKENNIEMI, *THE POLITICS OF INTERNATIONAL LAW* (Bloomsbury Publishing 2011)

The key tenet of the intra-organ theory of governmental authority is that the judiciary is an essential organ of the state<sup>5</sup>. This concept is needed by the court to grasp other state court responsible for grasping the individuals' freedom, liberty and basic rights. Given its unrestricted control over people and land, sovereignty has the potential to significantly erode personal freedoms<sup>6</sup>. It is necessary for a proper constitutional watchdog to be in place to prevent its functioning. In a constitutional sense, the judiciary is required to maintain the rule of law from a thick and thin viewpoint and to defend the individual against the material tyranny of the state. Under the constitutional system, the judiciary has taken on enormous importance in the framework of rule of law and human rights doctrine.

Each nation's legal system is an unbiased, autonomous institution designed to address injustice. As a result of the declaration that justice is blind, and the justice belongs to the judge and the judge is to decide how to manage it by keeping in the mind that all the individuals of the nation must get justice<sup>7</sup>. Thus, it becomes necessary to hold these judges responsible for their decisions, as the judgements defines the result of the participants involved in matter which is being recognised by the court of law.

A country with democracy is said to have responsibility to provide the rights given to their country's individuals and manage justice which tends to be same for everyone. It is exact to tell that the judiciary is a unique fortress with power in resolving issue by its own. But the decisions which are made creates an outcome among the public and so the judges are in need to have accountability on making their choices. So, the court should maintain a balance to sustain a control on the functions and to promote fairness between the judges during a pass in the judgement.

“The judge infuses life and blood into the dry skeleton provided by the legislature and creates a living organism appropriate and adequate to meet the needs of the society.” - Justice P.N. Bhagwati

Literally and generally speaking, the concept of responsibility refers to the idea of having someone answer to you<sup>8</sup>. Democracy is impossible without accountability. Transparency is beneficial to accountability. No public entity or employee is liable from accountability, even though the methods used to uphold accountability vary based on the position held and the duties performed by the office holder. One of India's three democratic foundations is the judiciary.

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<sup>5</sup> D Rangaswamy, *Judicial Accountability in India: Issues and Challenges*, 2020

<sup>6</sup> H Stacy, *Relational sovereignty*, Stanford Law Review, 2029, 2003

<sup>7</sup> PH Solomon Jr, *The accountability of judges in post-communist states: from bureaucratic to professional accountability*. Judicial independence in transition Berlin, Heidelberg: Springer Berlin Heidelberg, 909, 2012

<sup>8</sup> AA Priya & R Kumar, *Is Judiciary Accountable for Its Actions?* 1 Int'l JL Mgmt. & Human, 261, 2018

Nonetheless, the judiciary's accountability is different from that of the legislative or executive branches.

The court's independence and impartiality are one of the defining characteristics of democratic forms of government<sup>9</sup>. Only a fair and impartial court could uphold constitutional guarantees of justice for all citizens while administering justice fairly and without fear of vengeance.

According to P.N. Bhagwati, J. in the S.P. Gupta case, regarding the unique accountability direction of Indian Judges, it is crucial to have judges who are ready to create fresh strategies, methods, tools as well as new jurisprudence. Additionally, judges with above statement and who are judicial statesmen with vision on the society, innovative person and a person with above all these with a strong commitment towards the constitution with an approach of activism and obligation for the accountability.

Providing the importance of judiciary and its effects over the public, it is required in assessing the judges to safeguard it from judges misusing the authority given to them. The internal issues in the judiciary which have notable impact over to functions of judiciary are dangerous to the country. Great accountability on judiciary is needed considering the rise in these issues to assure that the deliverance of justice is not just jeopardised. The method of judicial accountability has two segments as follows:

1. In order to maintain decision-making transparency, judges must give justifications for their rulings.
2. The judges' tenure-related conditions that as well provide rise in the disciplinary actions which are to be taken by them.

## **II. JUDICIAL ACCOUNTABILITY**

According to the Oxford Dictionary, being "accountable" is being in charge of your own choices and expected to defend them if questioned. Democracy is predicated on accountability. Accountability is facilitated through transparency. No governmental entity or employee is free from responsibility, while the means of upholding accountability may differ based on the position held and the duties performed by the employee. The judiciary is a vital government branch as well as an answerable one towards the society. Yet, judicial responsibility is not comparable to that of the administration, the legislature, or any other public institution. India's political system is severely strained. The public's trust in the excellence, reliability, and

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<sup>9</sup> CM Larkins, *Judicial Independence and Democratization: A Theoretical and conceptual analysis* 44 Am. J. Comp. L., 605, 1996

effectiveness of governmental institutions is severely deteriorating.

Being accountable for choices or actions is the definition of accountability. In general, it refers to having obligations to any external entity<sup>10</sup>. Transparency in operational and decision-making procedures are essential for accountability. In simple words, this indicates that the judges are responsible for the judgements they provide. This also tailors that judges must response for their behaviours.

The judiciary is their final hope, so they resort to it. But lately, even here, things have been growing more and more unsettling, and it is regrettable that one can no longer claim that everything is well with the court. One of the distinguishing features of a democratic government is the judiciary' independence as well as judiciary's impartiality. Only a fair and an independent judiciary can uphold each person's rights and administer equitable justice without bias or fear. Numerous rights have been given by the Indian Constitution in order to maintain the court independence. One thing that even a novice would note is that "JUSTICE- Social, Economic and Political" has been listed before the other objectives the Constitution-makers aimed to provide for the population. When the formality of our Indian constitution is seen as the mirror image of our people' spirit and ambitious, then this is the case. "No one is above the law, no matter their status. Every institution, including the judicial system, is answerable. Provisions for appeal, reversal, and review of orders guarantee the judiciary's accountability for its judicial duties and rulings"<sup>11</sup>. What procedure is used to grasp judges responsible for grave judicial misconduct as well as to discipline them? Our Constitution of India allows for the judge removal from High Court and Supreme Court for the demonstrated bad behaviour or demonstrated incompetence through what is known as the procedure of impeachment, under which 2/3<sup>rd</sup> members of each Parliament House might vote to do so. There has only ever been one attempt to remove a Supreme Court justice from office. Congress chose not to participate in the vote, hence the majority of 2/3<sup>rd</sup> was not possible.

It is now widely acknowledged that the current impeachment procedure is onerous, drawn out, and prone to politicking. It desperately requires change.

Government's judicial branch is not subject to the similar accountability levels as its legislative or executive counterparts. This is true because it is believed that judicial independence and accountability are fundamentally at conflict with one another. It is believed that judicial independence is "a crucial cornerstone of liberty and the rule of law." So, it will affect the

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<sup>10</sup> R Gregory, *Accountability in modern government*, 2 The Sage handbook of public administration, 681, 2012

<sup>11</sup> G Jayasurya, *Indian Judiciary: From Activism to Restraint*. Available at SSRN 1601843, 2010

judiciary's independence if it is made answerable to the legislature or the executive<sup>12</sup>. Thus, specific rules have been established to guarantee judicial accountability.

Accountability is the state of accepting responsibility for one's actions and performances by either reasons or defying consequences. Only when a person has a clear commitment to someone then only can accountability arise. It is a phrase used to define a bond between two people. One of the key elements of accountability is that the person is said to be accountable for some performances that they have provided or are required to provide, often work or obligations that they are entitled to. The relationship in question has to do with a performance requirement, be it an actual performance requirement or a benchmark he must satisfy. It is crucial to remember that parties to an accountability relationship must provide, receive, and generate information with these qualities in mind. Because it is exempt from the 2002 Right to Information Act, which obfuscates openness, the judiciary is a glaring example of unaccountability.

The higher judiciary disregarded this important legislative amendment in *Manohar s/o Manik Rao Anchule v. State of Maharashtra and Anr.*<sup>24</sup>. This change was designed to promote transparency and accountability. According to the Supreme Court, accountability for authorities lowers the chance of errors and is certainly important, if not vital, to democracy. The bold and standalone judiciary is also responsible for maintaining the law rules in the nation, a responsibility that necessitates openness and constitutional rigour on the part of the court. The judges should make sure that they uphold their own moral standards while creating them for others to follow.

For instance, the Indian Judiciary has the authority to declare someone in contempt of the Court if what they say or do damages the image of the judiciary. The courts apply the criteria set in *New York v. Sullivan* when deciding libel claims. The US Supreme Court established this threshold in a decision that said a casual remark made against a well-known person is not offensive until done the same with “actual malice” and total disregard for the truth. The New York Times standard does not, however, apply to speech that criticises justices of the Indian Court. This criterion was applicable to everyone else, but when a judge is involved, the weapon of contempt of court is immediately used. One of the main threats to the judiciary's independence is the loss of credibility in the eyes of right-thinking people. In addition, it is regrettable when right-thinking individuals think the judiciary is prejudiced, as Lord Lanning

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<sup>12</sup> S Shetreet, *Judicial Independence, Liberty, Democracy and International Economy*. The Culture of Judicial Independence, 14, 2014

noted.

### III. THE NEED FOR JUDICIAL ACCOUNTABILITY

“All power is a trust – that we are accountable for its exercise – that from the people and for the people, all springs and all must exist”. The only way to keep any democratic system from imploding in a "democratic republic" is for those in the power positions to be held accountable for their actions. Politicians, bureaucrats, judges, and everyone else with access to authority must all be held fully accountable. Any person holding a public office should answer continually to the public, who hold the political sovereignty’ source, as well as power and position are seen as being accompanied with responsibility in democracies. The judicial system oversees justice’ execution with the use of courts as its conduit. The people who preside over the courts are known as judges. They are genuine flesh-and-blood representatives of courts, not just outward representations of those courts. The manner by which the judges carry the responsibility shows how better the court of laws are and how the legal system is trustful<sup>13</sup>. In India, judges have long been held in high regard and regarded as superhumans, but recent events in Bihar (such as the murder of a person who was being tried in court as well as the executing of suspect) show that people are gradually losing faith in the judiciary out of frustration with the slow delivery of justice and are turning to self-policing. This is quite regrettable. Keeping the judiciary accountable is unquestionably required since doing so would be far more detrimental to our constitution's protection than it would be to any other component of the government. Judges' accountability and judicial responsibility are not novel concepts. The constitutions of some countries already provide for the judiciary's accountability. This is particularly carried out to prevent the concentration of authority in the control of one governmental organ in countries where judicial activism competes with and occupies the jurisdiction of other organs. Yet, independence of judiciary is the requirement for every judge whose sole promise of office compels him to act impartially, maintain the nation's laws and constitution, and to do so without fear or favour<sup>14</sup>.

The Supreme Court had aptly affirmed that “A single dishonest judge not only dishonours himself and disgraces his office but jeopardizes the integrity of the entire judicial system”. Accountability and Reforms had mentioned, “The judicial system of the country far from being an instrument for protecting the rights of the weak and the oppressed has become an instrument of harassment of the common people of the country. The system remains dysfunctional for the

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<sup>13</sup> G Jayasurya, *Judicial Accountability and Judicial Transparency: Challenges to Indian Judiciary*, Available at SSRN 1601846, 2010

<sup>14</sup> A Chajlani, *Independence and Accountability of Judiciary*, 5 *Supremo Amicus*, 51, 2018

weak and the poor (and has been) displaying their elitist bias". The three promotions that are listed down are listed by Mona Shukla in Judicial Accountability<sup>15</sup>:

1. By discouraging behaviour that would jeopardise judicial independence, integrity, as well as impartiality, it advances the rule of law.

2. It increases public trust in the courts and judges.

3. By making the court responsive to the demands of the people it acts as a different arm of government, it promotes institutional accountability.

The means of accountability encourages transparency. It is best accomplished when one is held legally responsible. The current institutions of accountability are ineffective, and the escalating corruption is eroding this branch of democracy's foundations. The finest way to express this lack of responsibility was by Pt. Nehru, who said in a tirade that Supreme Court justices "sit on ivory towers far distant from common folk and know nothing about them." As judges are also people who may make mistakes and engage in vices, the demi god's appearance must be changed. What, however, went wrong? The article discusses the subject of holding the judiciary responsible, which will aid in our comprehension of the situation and our search for answers.

#### **(A) Objectives**

The present paper tends in achieving the following objectives.

1. To analyse the need for judicial accountability in India
2. To gain deep insights on judicial accountability

#### **(B) Methodology**

The current study paper's technique is entirely doctrinal in character. For the aim of data analysis, the theoretical, analytical, and comparative technique is used. Numerous legal resources, including laws and reports on the Constitution, have been examined. International tools have been taken into consideration. The research is also based on findings from the Parliamentary Standing Committee and the Law Commission of India. A lot of scholarly material has also been used to support the paper's theoretical and conceptual elements.

### **IV. REQUIREMENT OF JUDICIAL ACCOUNTABILITY IN INDIA**

India is a country of democracy, and the formalities of its Constitution uses the word "justice" to describe the guarantee of social, political, and economic fairness to all of its residents<sup>16</sup>. The

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<sup>15</sup> M Shukla, *Judicial Accountability: an aspect of judicial independence*, Judicial Accountability: Welfare and Globalization, 2010

<sup>16</sup> S Deva, *Public interest litigation in India: A critical review*, 28 Civil Justice Quarterly, 19, 2009



right to information is one of the many rights that the citizens of this democratic nation are entitled to. It is essential to hold individuals in positions of authority and dignity accountable in order to preserve democracy and stop it from crumbling. Every democracy requires that positions of authority come with duties; otherwise, the entire idea of a democracy would be violated. Judges represent persons who are subject to the law in courts as well as in the branch of legal system. So, these judges are ultimately responsible for the legitimacy of the legal system.

Recent events in India illustrate the public's irritation and grief with the courts as a result of several flaws and shortcomings in the legal system<sup>17</sup>. As judiciary is one of the most significant branches of the government, it should be maintained responsible for the developing negative ideals that are having a negative impact on both the nation and its citizens. As there are provisions for judicial accountability in many nations across the world, the idea of judicial answerability is not a novel one. Numerous eminent judges have argued that just as all profession has basic ethical standards to uphold, the judge's role must as well have morality standards which every judge is required to adhere to when doing their duties in court. The following is a list of some of these ethics:

1. **Honest decisions:** The influence and prejudices present in judicial pronouncements give birth to the entire issue of judicial accountability. A judge must be impartial in order to ensure that everyone receives justice. Any incorrect judgement issued by the judge in honesty, good faith, and fairness cannot continue to be incorrect.
2. **Respecting the concept of natural justice:** In every judgement, the judges should adhere to the two fundamental basics of natural justice, *Audi Alteram Partem* and *Nemo judex in causa sua*. In addition to being unbiased, this prevents any form of arbitrary and unreasonable behaviour on the part of the judges.
3. **Administration of justice:** To deliver just punishment without regard to anyone's fear or influence is one of the most well-known ethical obligations of judges. In a recent event that occurred in Bihar, the defendant was killed during court proceedings, and then a suspect in a robbery was lynched. This incidence illustrates that the justice' regulation and administration are not being done correctly, and that this has to be checked.

These codes assist in taking a step closer to achieving judicial accountability. A judge is as well advised to avoid socialising excessively since doing so prevents the judge from working freely and increases the judge's susceptibility to influence. The Supreme Court stated in the case of

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<sup>17</sup> S Yagyasen, *Judicial Accountability in India*, 3 International Journal of Recent Research Aspects, 78, 2016

Ram Pratap Sharma vs Dayanand as judges must turn down offers from any commercial firm, business, and political party in order to prevent being adversely affected in any way, though this must not be viewed as an ethical code which the judges must uphold. It is better to proceed with care in this situation.

Now, all of the senior Supreme Court justices serve on a collegium that selects judges for High Courts and Supreme Courts. The collegium system is one in which openness is completely lacking, despite the fact that there have been several arguments about this technique of choosing judges. Because the qualifications of the judges are not considered in this system, some people also refer to it as a biased system. As a result, compared to other courts throughout the globe, Indian courts are given an inordinate degree of unrestrained power. Judges may only be removed through the process of impeachment, which again requires a majority vote in both Houses of the Parliament.

As a result, there is a growing demand for greater judicial accountability on a daily basis. The media seldom ever reports complaints regarding judges who are supported by evidence as there is a chance of being held in contempt of court. The High Court judges and Supreme Court judges have authority in indicting anyone for criminal contempt of court as well as imprisonment as an outcome. Establishing judges' groups with a solid framework can aid judges in making decisions independently but with checks on them.

## **V. INDIA'S PRESENT JUDICIAL ACCOUNTABILITY FRAMEWORK**

The Indian Constitution allows for the judges' impeachment of Indian Supreme Court and High Courts for misconduct and incompetence. The Constitution's Articles 124(4) (for SC judges) and 217(1)(b) (for HC judges) both provide provisions for impeachment. Only one attempt at impeachment of a Supreme Court justice has been made thus far, and it was unsuccessful. A High Court judge has not yet been impeached, either.

The Judges (Inquiry) Act of 1968 was created to codify the inquiry process and to discover evidence of the incompetence and misconduct of Supreme Court and High Court judges.

According to Article 235 of the Constitution, the High Court has "control" over the inferior judiciary. It offers a powerful tool for holding the subordinate judges accountable.

In 1997, the Indian Supreme Court issued a charter known as the Restatement of Values of Judicial Life. It is a restatement of the already-existing, well recognised rules, principles, and customs followed by Judges. The nation's High Courts have all followed the same practise. The Judges' overall conduct is governed by the Charter. Yet, strictly speaking, it is not a tool for

judicial accountability.

According to a Supreme Court decision from December 1999, judges who violate the established norms of judicial life would be subject to “in-house procedure”.<sup>18</sup> The procedure enables the Chief Justice of that Court to convene an inquiry with a three-judge committee in the event of a complaint against a judge. If the accusations are severe, the committee could suggest starting the removal process.

#### **(A) Judicial Standard and Accountability Bill 2010**

Lok Sabha passed an amendment Judicial Standard and Accountability bill in the year 2010, which needs judges to declare their assets, provide judicial standards as well as this bill provides a process in removing judges from High Courts and Supreme Court. The bill provides a National Judicial Oversight Committee, investigation committee and Complaints Scrutiny Panel which enables a person to complaint against a judge for misbehaviour. This complaint can also be moved to Parliament for further enquiry. The committee might give warnings or advice to the judge and could as well suggest removal recommendation to President.

#### *Issues and Analysis*

Though the bill tends to maintain judicial accountability, there are some flaws. The balance among accountability and independence maintenance is a big question and the oversight committee has members who are not from judiciary that could impinge judiciary independence.

The bill penalise person who breaches complaint confidentiality and there is a question whether the penalty is for frivolous complaint which remains confidential.

The procedure of judgement is not an in-house judiciary procedure as the members of the committee are non-judiciary.

There is no mention in the bill about whether the judge has right in appealing in the Supreme Court in contrary to remove the issue that is issued by the President after Parliament identifies the Judge as guilty.

## **VI. ABSENCE OF JUDICIAL ACCOUNTABILITY IN INDIA**

The Indian Constitution's architects claimed that 60 years after it was drafted, the Indian court would not have become the most powered institution in the State. The Constitution established the Supreme courts and High Courts as independent institutions to serve as watchdogs over the administration of justice and to assure that the executive and legislative branches doesn't exceed

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<sup>18</sup> G Neetika & Y Singh, *The Judicial Accountability Bill, A Watchdog for a Watchdog?* 2 NLIU L, 226, 2011

the bounds of their constitutionally assigned authority. Hence, the judiciary was granted an authority in analysing the law as well as the Constitution and to overturn executive actions that disobeyed the law and individual's basic rights. It also had the authority to check to see if legislation enacted by Parliament conformed with the Constitution as well as to void them if they did not. The Supreme Court in 1973 also gained the authority to invalidate constitutional changes even when the Court found that they violated the fundamental principles of the Constitution by a clever reading of the clause allowing the Parliament to modify the Constitution. The Courts have overturned several legislation and certain constitutional changes throughout this time.

With practically imperial and unfettered powers, India's superior courts have emerged from all of this as possibly the most powerful courts in the world. All executive officials were required to abide by court orders or risk being found in contempt of court, although executive action and perhaps even legislation may regularly be reversed by the courts. In other cases, court orders were delivered without even notifying the parties impacted. Naturally, these authorities were frequently and sensibly used to address flagrant presidential inactivity.

The Court took over the authority to appoint judges while it was collecting these other powers by using an even more creative (also known as purposive) reading to the clause about judicial appointments by the government. Hence, a collegium of senior justices of the Supreme Court now appoints judges to the High Court and Supreme Court. As a result, the court has evolved into an autocratic system of government. There is no set procedure followed in choosing judges, and the process is opaque. Specifically, no consideration is provided in examining the judges' credentials or background in terms of their ideological loyalty towards the ideals of constitutions of socialist, secular, democratic individuals or their understanding of sensitivity towards the general public of the nation who are marginalised, poor as well as not able to defend their basic rights in the court of law.

Because of this, Indian courts have nearly unrestricted authority that is unmatched by any other court in the globe. In these situations, it is imperative which judges of the superior court be held responsible for their actions as well as performance, whether it be for exploitation or for disobeying constitutional principles and citizen rights. Sadly, neither the Constitution nor any other legal framework has established a structure or organisation to review complaints against judges or to evaluate their performance. According to the Constitution, judges of the High Court and Supreme Court can only be dismissed by impeachment. To start that procedure, 100 members of People house and 50 members of State Council should sign. A three-judge inquiry committee is formed to conduct the judge's trial if a motion containing significant misconduct

allegations is presented, accepted by People House' Speaker or the State Council' Chairperson, and has the required number of signatures.

## VII. NEED FOR STRONGER JUDICIAL ACCOUNTABILITY

As of the reasons below, more judicial responsibility is needed as of present situation:

1. **Change in demands of the public belonging to a welfare State:** India, a democratic nation, is rapidly evolving as more and more people enrol in school, increasing their understanding of their rights and responsibilities. Also, there has been a rise in public involvement from ten years ago. The need to understand how the nation is governed must be satisfied by strengthening the accountability of public authorities and institutions, including the court.
2. **Absence of remedy for regulating misbehaviour among judges:** One thing that has been made clear in various court decisions is that there are no other options for correcting the misconduct or errors of the judges outside their removal through impeachment, which is again a drawn-out procedure. In *Sub-Committee on Judicial Accountability v. Union of India*, the court noted that no legislation has a provision for holding a judge of the Supreme Court or a judge of a High Court accountable for improper conduct during a judicial action. To maintain the integrity of the judiciary, increased judicial accountability is required in light of this lack.
3. **The legitimacy of a judicial procedure:** Each judicial judgement or law that is enacted by the court must be supported by and adhere to constitutional legitimacy. The judiciary should be held accountable as well to demonstrate that the decisions made by them or the laws, they brought into effect comply with the Indian Constitution in order to maintain legitimacy.
4. **Knowledge regarding the judge standard that are practised in the courts:** The qualifications of judges sitting at the Supreme Court of India or at the High Courts are kept secret from the general public. Also, a number of judges have been appointed based on their political ties, which is biased and bad for the court. More judicial accountability is required to guarantee the fair and transparent administration of justice in order to prevent similar situations from occurring in the future.
5. **Seat reservation in the judiciary:** Due to the existence of both minorities and majorities in India, there is a need for seats in the judiciary to be reserved for the less fortunate and downtrodden members of society. In order to guarantee that such a thing

is carried out in some fashion, the court must be held accountable. Treating the judicial service test as the single exam required for entry into the judiciary for everyone is the only method to implement the same.

6. **The necessity of efficiency:** Even though there are presently 31 justices in the Supreme Court of India, remarkably few of the court's rulings have altered or changed the existing structure. Because of this, a more effective system overall as well as effective judges are required. Accountability aids in keeping track of judges' deeds. If judges are held responsible and restrained from abusing their position of authority, the efficacy of the judicial process will inevitably be restored.
7. **The transparency' need:** Only the judiciary can provide basic citizens with access to justice in a democratic society. So, in order for the court to successfully perform its function, accountability on the part of the legal system is required. No, there was not an absence of accountability in the system; nonetheless, there was and still continues to be judicial ineptitude in the manner in which judgements were made. Given that the court would not be governed by the Right to Information Act of 2005, enhanced judicial accountability is required. This was stated explicitly by the Indian Chief Justice, Dr Dhananjaya Y Chandrachud.
8. **Absence of provision to review the Supreme Court's decisions:** The Indian Constitution does not contain any language directing the review of a ruling by the Supreme Court. Outside of the Supreme Court itself, there is no other body or council that has the authority to review decisions issued by the highest court. Yet because there is no mutual reliance between the three organs of government, the court is helpless to thwart calls for transparency, responsibility and security. The 21st century demands not only that justice be served quickly, but also must the legal system act with honesty, impartiality, and responsibility.

## VIII. CONCLUSION

Quoting Dr Ambedkar's last speech in the Constituent Assembly is relevant here: "I feel, however good a constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot. However bad a constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot. The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will

set up as their instruments to carry out their wishes and their politics.” The idea of judgement is one thing that is quite generic yet worth quoting. The judiciary issues rulings. The Court's reasons and justification for the decision it has made are included in judgements. This justification also represents some level of accountability. Finally, it is vital to remember that the Constituent Assembly recognised that the judiciary's independence is crucial but that it should not be protected. If it is not already in place completely, accountability must be implemented fully. According to Chief Justice Burger of the US Supreme Court, it is crucial to have faith in the courts in order to preserve the structure of a free society. It can be claimed with certainty that this feeling of assurance requires some level of accountability.

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**IX. REFERENCES**

- JN Eule, *Judicial review of direct democracy*, 99 *The Yale Law Journal*, 1503, 1990
- M KOSKENNIEMI, *THE POLITICS OF INTERNATIONAL LAW* (Bloomsbury Publishing 2011)
- D Rangaswamy, *Judicial Accountability in India: Issues and Challenges*, 2020
- H Stacy, *Relational sovereignty*, *Stanford Law Review*, 2029, 2003
- PH Solomon Jr, *The accountability of judges in post-communist states: from bureaucratic to professional accountability*. *Judicial independence in transition* Berlin, Heidelberg: Springer Berlin Heidelberg, 909, 2012
- AA Priya & R Kumar, *Is Judiciary Accountable for Its Actions?* 1 *Int'l JL Mgmt. & Human*, 261, 2018
- CM Larkins, *Judicial Independence and Democratization: A Theoretical and conceptual analysis* 44 *Am. J. Comp. L.*, 605, 1996
- R Gregory, *Accountability in modern government*, 2 *The Sage handbook of public administration*, 681, 2012
- G Jayasurya, *Indian Judiciary: From Activism to Restraint*. Available at SSRN 1601843, 2010
- S Shetreet, *Judicial Independence, Liberty, Democracy and International Economy*. *The Culture of Judicial Independence*, 14, 2014
- G Jayasurya, *Judicial Accountability and Judicial Transparency: Challenges to Indian Judiciary*, Available at SSRN 1601846, 2010
- A Chajlani, *Independence and Accountability of Judiciary*, 5 *Supremo Amicus*, 51, 2018
- M Shukla, *Judicial Accountability: an aspect of judicial independence*, *Judicial Accountability: Welfare and Globalization*, 2010
- S Deva, *Public interest litigation in India: A critical review*, 28 *Civil Justice Quarterly*, 19, 2009
- S Yagyasen, *Judicial Accountability in India*, 3 *International Journal of Recent Research Aspects*, 78, 2016



- G Neetika & Y Singh, *The Judicial Accountability Bill, A Watchdog for a Watchdog?* 2 NLIU L, 226, 2011

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