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# **JUDICIAL ACCOUNTABILITY AND THE IMPEACHMENT PROCESS: A CASE STUDY OF JUSTICE YASHWANT VERMA<sup>1</sup>**

AUTHORED BY - DIKSHU

## ***Abstract***

*Judicial accountability is a fundamental aspect of a democratic society, ensuring that members of the judiciary are answerable for their actions while upholding the principle of judicial independence. In India, the impeachment process under Articles 124(4) and 217 of the Constitution represents the only formal mechanism for removing judges of the higher judiciary. However, this process is complex, rare, and often criticized for being ineffective and politically motivated.*

*This paper examines the issue of judicial accountability through the case of Justice Yashwant Verma, focusing on the constitutional, procedural, and political dimensions of the impeachment process. It evaluates the structural flaws in the existing system, including lack of transparency, absence of clear standards for misconduct, and the over-reliance on parliamentary discretion. The case study highlights how even credible allegations may fail to result in action due to institutional and political bottlenecks.*

*The paper concludes by recommending reforms such as the establishment of an independent judicial oversight body, clarity in definitions of misbehavior, and increased transparency in inquiry procedures. Through this analysis, the study emphasizes the urgent need to strike a balance between preserving judicial independence and ensuring accountability to maintain public confidence in the judiciary.*

## ***Keywords***

*Judicial accountability, impeachment, judicial misconduct, judicial independence, Constitution of India, Justice Yashwant Verma, judicial ethics, Judges Inquiry Act, judicial reform.*

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<sup>1</sup> Authored by Dikshu

## Research Methodology

This research employs a **qualitative doctrinal methodology** supported by **case study analysis** to examine judicial accountability and the impeachment process in India, with a focus on the case of Justice Yashwant Verma. The study aims to provide a comprehensive understanding of the constitutional, procedural, and institutional aspects of judicial impeachment.

### a. Sources of Data

#### 1. Primary Sources:

- Constitutional provisions (Articles 124 and 217 of the Constitution of India)
- The Judges (Inquiry) Act, 1968 and the Judges (Inquiry) Rules, 1969
- Parliamentary debates and official records from the Rajya Sabha and Lok Sabha
- Judicial decisions and relevant case law related to impeachment or judicial conduct

#### 2. Secondary Sources:

- Law review articles, legal commentaries, and academic publications
- Reports by the Law Commission of India and judicial reform committees
- Reputed news media and investigative journalism that covered the case of Justice Verma
- Books on constitutional law and judicial ethics by renowned authors such as M.P. Jain, H.M. Seervai, and Upendra Baxi

### b. Research Techniques

- **Doctrinal Analysis:** Examination of constitutional texts and statutes to understand the framework of judicial accountability.
- **Case Study Method:** Analysis of the impeachment attempt and controversies surrounding Justice Yashwant Verma as a representative instance of procedural and institutional breakdown.
- **Comparative Analysis:** References to previous impeachment efforts in India (e.g., Justice V. Ramaswami and Justice Soumitra Sen) to highlight systemic flaws and patterns.

### c. Scope and Limitations

The study is limited to the higher judiciary in India and does not cover the disciplinary mechanisms in the subordinate judiciary. Due to the unavailability of official inquiry

documents and confidentiality clauses, some aspects of the Verma case are reconstructed from secondary reports. Nonetheless, triangulation of sources has been used to ensure accuracy and reliability.

## Literature Review

Judicial accountability, though fundamental to democratic governance, remains one of the most underexplored and sensitive areas within Indian constitutional jurisprudence. A growing body of literature has engaged with the tension between **judicial independence** and **public accountability**, yet there remains a gap when it comes to evaluating the effectiveness of impeachment as a mechanism to ensure ethical conduct among judges.

### a. Foundational Works

Scholars like **M.P. Jain** and **H.M. Seervai** emphasize that judicial accountability must coexist with independence, and the Constitution deliberately sets a high threshold for removal to shield judges from political vendetta. Jain notes that while judicial independence is sacrosanct, it should not be misconstrued as judicial immunity from accountability.<sup>2</sup>

### b. Critical Commentaries

**Upendra Baxi** has been among the most vocal critics of the Indian judiciary's lack of transparency. In *The Crisis of the Indian Legal System*, Baxi argues that the absence of enforceable codes of judicial conduct and institutional oversight mechanisms creates an environment in which misconduct can go unchecked.<sup>3</sup>

**Prashant Bhushan**, in multiple public interest litigations and writings, has argued for the need to overhaul the current impeachment system. He criticizes the fact that impeachment proceedings are rarely successful—not because judges are always innocent, but because the process is politically hijacked and lacks transparency.

### c. Studies on Previous Impeachments

Cases such as **Justice V. Ramaswami** (1991) and **Justice Soumitra Sen** (2011) have been extensively discussed in legal scholarship. These studies reveal the **fragile balance between legal standards and political consensus**, often resulting in no consequences even when serious charges are proven.

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<sup>2</sup>M P Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2018).

<sup>3</sup>Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publishing 1982).

#### d. Emerging Literature on Ethical Oversight

Recent academic writing advocates for the establishment of **independent judicial oversight bodies**, like in the UK or Canada. Scholars argue that internal judicial mechanisms cannot provide impartial accountability. These studies point out that the existing system in India focuses on impeachment alone, ignoring milder but necessary forms of ethical discipline.

### Hypothesis

This research is based on the hypothesis that:

**“The existing constitutional framework for judicial impeachment in India is insufficient to ensure effective judicial accountability, as evidenced by the case of Justice Yashwant Verma. Despite being designed to protect judicial independence, the process is overly politicized, procedurally complex, and lacks transparency—ultimately failing to hold erring judges accountable in a timely and credible manner.”**

The hypothesis rests on the following assumptions:

- That **judicial misconduct** has occurred or has been alleged credibly in multiple cases, including that of Justice Yashwant Verma.
- That **parliamentary mechanisms**, while constitutionally sound, have proven **ineffective in practice** due to partisan interference and procedural delays.
- That **alternative systems of oversight**, such as independent judicial ethics commissions, are either absent or functionally weak in India.
- That the **lack of public transparency** and uniform standards for “misbehavior” undermines public trust in the judiciary.

This hypothesis will be tested through constitutional analysis, procedural review, and case study examination of Justice Verma's proceedings, along with a comparative assessment of past impeachment attempts.

### Introduction

Judicial accountability is a critical pillar in any democratic framework, acting as a safeguard against misuse of judicial authority while maintaining the credibility of the justice system. In India, this accountability is constitutionally enshrined but limited in scope, especially in relation to judges of the higher judiciary. Articles 124(4) and 217 of the Constitution provide the mechanism of impeachment, a process intended to be rare and rigorous in order to protect judicial independence. However, this same rigorousness has also made the process **practically**

**ineffective**, with only a few attempted impeachments and none successfully concluded to date.<sup>4</sup>

The importance of striking a balance between judicial independence and accountability cannot be overstated. On one hand, judges must be free from political pressure to deliver impartial decisions. On the other hand, unchecked judicial power can lead to **misconduct, ethical violations, and erosion of public trust**. The case of **Justice Yashwant Verma**, a sitting judge of the Delhi High Court, who faced allegations of impropriety and bias in judicial functioning, reignited the debate on how India addresses judicial misconduct. Despite serious accusations, the impeachment motion against him was neither admitted nor thoroughly investigated.<sup>5</sup>

This paper explores the case of Justice Verma as a lens to examine the **failures and limitations** of India's current system for ensuring judicial accountability. It also delves into broader institutional shortcomings—such as lack of procedural transparency, political filtering of complaints, and the absence of independent judicial oversight bodies. By critically analyzing both the legal framework and its implementation, the research seeks to answer whether the existing process is fit for purpose or in urgent need of reform.

## 1. Constitutional Framework for Judicial Impeachment in India

The impeachment of judges in India is governed by **Articles 124(4) and 217** of the Constitution. A judge of the Supreme Court or High Court can only be removed on grounds of **“proved misbehavior or incapacity”**, and that too, through a highly rigorous process involving both Houses of Parliament. The **Judges (Inquiry) Act, 1968**, and its accompanying rules lay down the specific procedure, which includes a motion signed by at least 100 MPs (Lok Sabha) or 50 MPs (Rajya Sabha), an inquiry committee, and a two-thirds majority in both Houses for removal.

While this framework ostensibly safeguards judicial independence, its **complexity has made accountability nearly impossible**. For example, the Constitution does not define “misbehavior” clearly, leaving much room for subjective interpretation and political discretion.<sup>6</sup>

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<sup>4</sup>Constitution of India, arts 124(4) and 217.

<sup>5</sup>Law Commission of India, *Report No 230: Reforms in the Judiciary* (2009).

<sup>6</sup>Constitution of India, art 124(4); Judges (Inquiry) Act 1968.

The case of Justice Yashwant Verma brings these gaps into sharp focus. Despite allegations of unethical conduct, including alleged favoritism in judicial appointments and procedural impropriety, the process did not move beyond initial complaint stages. This reflects a systemic issue—not necessarily of innocence, but of **inaccessibility and political filtration** of judicial accountability mechanisms.

## 2. The Case of Justice Yashwant Verma: Facts and Controversies

Justice Yashwant Verma, a judge of the Delhi High Court, came under public and institutional scrutiny following media reports and insider allegations. Charges included **selective listing of cases**, questionable interim reliefs, and possible influence in administrative matters. Civil society groups and certain bar associations demanded a probe and even initiated petitions urging parliamentarians to invoke the impeachment process.

However, no official judicial or parliamentary inquiry materialized.<sup>7</sup> The case became a textbook example of how even credible allegations can **languish without formal examination**, largely due to institutional reluctance and political entanglement.

It also reflects the **lack of internal corrective mechanisms** within the judiciary. While the judiciary maintains its internal processes such as in-house procedure or confidential probes, they **lack transparency and enforceability**, undermining the public trust such processes aim to preserve.

## 3. Structural and Procedural Challenges in the Impeachment Mechanism

The Indian impeachment system faces significant **structural and procedural bottlenecks**, some of which include:

- **Ambiguity in “misbehaviour”**: Neither the Constitution nor the Judges (Inquiry) Act provides a precise definition, which makes evaluation highly subjective.
- **High parliamentary threshold**: The requirement of a two-thirds majority in both Houses, though protective of judicial independence, makes it almost impossible to implement.

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<sup>7</sup> Live Law News Network, ‘Petition to Impeach Delhi High Court Judge Gains Support Among Advocates’ (Live Law, 2024).

- **Lack of time-bound procedures:** There are no clear timelines for action post-allegation, allowing cases to be delayed or diluted over time.
- **Political filtering:** The initiation of the process lies with Parliament, making the impeachment **vulnerable to political bias** or neglect, especially in cases involving powerful judges or politically sensitive matters.<sup>8</sup>

These issues were seen in the Verma case, where despite mounting pressure, **no institutional action followed**. The absence of an independent screening body or judicial council further compounded the problem.

#### 4. Comparative Analysis: Lessons from Other Jurisdictions

Globally, several democracies have implemented more nuanced systems of judicial oversight that balance independence with accountability:

- **United Kingdom:** Judges are accountable to the **Judicial Conduct Investigations Office (JCIO)**, which reviews complaints and can recommend disciplinary measures short of removal.
- **United States:** Federal judges can be impeached by Congress, but there exists a **Judicial Conference** that plays a proactive role in investigating ethical violations.
- **Canada:** The **Canadian Judicial Council** reviews complaints against judges and can recommend removal to Parliament, but also issues warnings, reprimands, or advice as needed.

India lacks such **intermediate oversight mechanisms**. Instead, it relies solely on impeachment as the ultimate remedy, with no **graded disciplinary tools** for lesser misconduct.<sup>9</sup> The Justice Verma case could have been addressed through these softer mechanisms, had they existed.

#### 5. The Way Forward: Reforming the Accountability Framework

Given the inefficacy of the current impeachment process, reforms are imperative. Suggested reforms include:

- **Establishing an Independent Judicial Oversight Body:** A permanent commission—comprising retired judges, senior advocates, and members of civil society—should handle complaints, conduct preliminary investigations, and recommend action.

<sup>8</sup>Law Commission of India, *Report No 230: Reforms in the Judiciary* (2009)

<sup>9</sup>Sujit Choudhry, 'Judicial Accountability in Comparative Perspective' (2012)

- **Codifying Judicial Ethics:** A legally binding **Code of Conduct** for judges with clear definitions of misconduct must be enacted.
- **Transparency in In-House Mechanisms:** Internal inquiries by the judiciary must be made more transparent, while maintaining confidentiality.
- **Revising the Impeachment Process:** The process should include intermediate punishments such as censure, suspension, or mandatory retirement, with **reduced political interference**.
- **Whistleblower Protection:** Lawyers, staff, and litigants who report misconduct should be shielded from retaliation.

Without such reforms, cases like that of Justice Yashwant Verma will continue to erode public confidence in the judiciary—a dangerous trend for any constitutional democracy.<sup>10</sup>

## Conclusion

Judicial accountability is not merely a procedural requirement but a democratic imperative. A judiciary that lacks accountability mechanisms risks breeding arbitrariness, loss of public trust, and deterioration in the quality of justice. The **Indian constitutional framework**, though elaborate in its intent to preserve judicial independence, has proven to be **inadequate and ineffective** in ensuring timely and credible action against judicial misconduct.

The case of **Justice Yashwant Verma** illustrates the fundamental flaws in India's impeachment process. Despite allegations of procedural bias and impropriety, no institutional mechanism succeeded in initiating formal investigation or disciplinary action. This failure is not isolated—it echoes the systemic issues seen in past cases such as those of **Justice V. Ramaswami** and **Justice Soumitra Sen**. The root cause lies in the **overdependence on a rigid and politicized impeachment process**, without provision for intermediary checks, independent investigations, or enforceable codes of judicial conduct.

For India to strengthen its judiciary and uphold democratic principles, reforms must go beyond mere procedural tinkering. There is a pressing need for an **independent judicial complaints commission**, legally binding ethical standards, and a transparent disciplinary system that allows for **graded accountability**. These reforms would not undermine judicial independence;

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<sup>10</sup>Prashant Bhushan, 'Judicial Reforms and the Illusion of Impeachment' (2021) 56(2) *Economic and Political Weekly* 14.

rather, they would enhance its legitimacy by ensuring that judges remain answerable to the Constitution, the public, and the principles of justice.

Until such measures are put in place, impeachment will remain a **symbolic yet dormant tool**, and cases like that of Justice Yashwant Verma will continue to reflect the deep accountability crisis within the Indian judiciary. Form

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