

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

JUDGES ON TRIAL: EVALUATING MECHANISMS OF JUDICIAL MISCONDUCT IN INDIA

AUTHORED BY - AARYANANDHA¹

1. INTRODUCTION

The judiciary is deemed to be the guardian of the constitution. It upholds the principle of democracy and is one of the vital components of our country. In India, it maintains the balance of power between the three organs of the Government, namely legislature, executive and judiciary and ensures that these organs do not exceed the ambit of their power. Further, it also upholds the principle of rule of law and ensures that the fundamental rights of citizens are protected. Being vested with such critical responsibility, the integrity and accountability of judges are of paramount importance.² At the same time, the independence of judiciary can at times act as a shield from effective scrutiny of the judiciary which raises serious concerns about instances of judicial misconduct. There have been several instances of corruption or bias³ that not only leads to public losing faith in the judicial system but also leads to undermining credibility of the functioning of the same.

There has to be mechanisms evolved that help to hold judges accountable without undermining the independence of the judiciary. In India, unlike the members of the executive or legislature, judges enjoy a security of tenure which is protected by the constitution. The constitution prescribes impeachment as the only procedure to remove judges of the Supreme court or High court, but the problem arises in the fact that this procedure is rarely invoked and even more rarely becomes successful. This brings about the question of whether this procedure is effective enough to address the problems of judicial misconduct.⁴

The balance between the independence of the judiciary and the accountability is very delicate. On one hand, judicial accountability is important to maintain public trust and to ensure that the

¹ Student in Symbiosis Law School, Hyderabad.

² M. P. Singh, "Securing the Independence of the Judiciary - The Indian Experience," 10 Ind. Int'l & Compar. L. Rev. 245 (2000).

³ M.P. Jain and S.N. Jain, Principles of Administrative Law (Wadhawa, Nagpur, 2001).

⁴ Manaswi Bheemapaka, "Analysing the Procedure of Impeachment of Judges Subject to Judicial Misconduct," 5 Indian J.L. & Legal Rsch. 1 (2023)

judges follow strict ethical standards. But on the other hand, excessive scrutiny, can jeopardise judicial independence. Maintaining the balance between the two is one of the most difficult constitutional dilemmas in today's society.

This article delves into detail, the instances of judicial misconduct and the methods that can be implemented to prevent the same. Despite several legislative frameworks being implemented, there is still the issue of judicial accountability and misconduct.

2. DEFINING THE CONCEPT

Judicial misconduct is an act or omission to do an act by a judge that violates the principle of impartiality and integrity a judge is supposed to adhere to.⁵ It refers to any act that erodes public trust in the judiciary. Instances of judicial misconduct include, biasness, corruption, abuse of authority or inappropriate behaviour. Judicial misconduct includes within its purview not just the judge's personal actions, but also the effect it has on the credibility of the institution they represent. In the Indian context, judicial misconduct represents the dilemma between the constitutional values of judicial independence and judicial accountability. Judicial independence protects the judges from any external pressure and Judicial accountability ensures that they remain answerable for their conduct. Judicial misconduct is not limited to acts that constitute a criminal offense but rather extends to behaviour that undermines the public trust on judiciary.

In the present scenario, judicial misconduct encompasses within its meaning a wide variety of acts. From a judicial decision to courtroom behaviour or even public remarks can be classified as judicial misconduct if it appears to compromise the integrity and legitimacy of the judicial office. Judicial misconduct often goes beyond the scope of just corruption or biasness and also includes questions of ethics and morality.

The Indian judiciary's biggest challenge is to balance between accountability and independence. If mechanisms evolved to ensure accountability are too weak it erodes public trust but on the other hand if they are too strong, they undermine independence.

⁵ Sophie Turenne, "Judicial Misconduct and Disciplinary Procedures – A Brave New World," 2011(24) Cambridge Faculty of Law Research Paper Series (2011).

3. LITERATURE REVIEW:

The newspaper editorial titled, “Instances of corruption, misconduct within judiciary impact public confidence: CJI Gavai”⁶ highlights how instance of judicial misconduct erodes public faith in the judiciary. It delves into detail how malpractices by judges impact the trust and faith the citizens have on the justice system. It explains the ethical dilemmas posed by judges who resign to contest elections or accept government positions after retirement highlighting how these practices create situations of biasness. The article argues about the need to recognize the dual values of judicial accountability and independence. CJI Gavai acknowledges that while the independence of the judiciary is to be upheld, the absence of proper mechanisms to deal with misconduct affects the very institution that the independence seeks to protect. The article further points out the mechanisms that has already been implemented such as voluntary disclosure of assets by judges and live streaming of hearings. The acknowledgment of these issues by the Chief justice underscores the need to address this issue at the earliest. This newspaper editorial is relevant to my study as it highlights the dilemma between the judicial accountability and independence. It argues that there is a dire need to protect both to ensure public trust. For the article at hand, it provides contemporary examples to help in understanding the reforms needed in the current mechanisms.

The research paper titled “*Beyond the Bench: Examining the Limits of Judicial Discretion and the Scope for Abuse in India’s Higher Judiciary*”⁷ examines how giving wide discretionary power to the judiciary can risk arbitrariness is left unchecked. The paper underscores the need for limits on these discretionary powers by citing important landmark judgements such as *Kesavananda Bharati v. State of Kerala*⁸. This research paper helps to understand the relation between judicial misconduct and the misuse of the discretionary power given to the judges. It helps to prove that judicial misconduct includes within its definition more than just corruption or misuse of power. It puts forth the suggestion that mechanisms evolved to increase accountability must address both misconduct and overuse of discretionary powers.

The research paper titled, “Judicial Conduct Regulation: Do In-house Mechanisms in India

⁶ “Instances of corruption, misconduct within judiciary impact public confidence: CJI Gavai,” *The Hindu* (Editorial), Aug. 3, 2025.

⁷ Dr. Shreshth Bhatnagar, “Beyond the Bench: Examining the Limits of Judicial Discretion and the Scope for Abuse in India’s Higher Judiciary,” SSRN Working Paper No. 5365813 (2025), 16 pp.

⁸ AIR 1973 SC 1461.

Uphold Judicial Independence and Effectively Enforce Judicial Accountability?”⁹, delves into detail the empirical aspect of the mechanisms that regulate judicial conduct in India. The research paper explains the effectiveness of the in-house disciplinary frameworks, which are implemented to maintain the balance between judicial accountability and judicial independence. The research paper uses qualitative and quantitative data from 110 respondents to analyse the regulatory procedures. The target population of the survey included, sitting and retired judges, legal professionals and scholars. A key finding of the research paper is that India’s in-house mechanisms are inadequate in ensuring accountability and complete transparency. The author points out various defects in the current system, including the wide discretionary power which leads to arbitrariness. These various factors lead to lack of a proper framework in reinforcing disciplinary measures. The author’s findings underscore the need for reforms including increased transparency and accountability. The paper points out the reasoning behind why judicial misconduct often remains unaddressed and the type of structural changes which could increase accountability without undermining judicial independence.

The newspaper article titled, “Supreme Court sets aside own order barring High Court judge from hearing criminal cases¹⁰” discusses about an instance of judicial self-correction that highlights the dilemma between accountability and independence of the judiciary. The controversy in the newspaper article talks about an unprecedented order directing Justice Prashant Kumar of the Allahabad High court to be barred from hearing criminal matters until his retirement. The reason behind the order was his refusal to quash a complaint. In addition, the order mandated that the judge could attend proceedings only with a senior colleague, which was a restriction on his judicial independence. However, the court later recalled its order due to objections from high court judges and intervention of the chief justice of India. These types of interventions risk undermining the independence given to the judiciary. The article highlights how control over the judiciary is often done through informal and discretionary measures rather than structured mechanisms. The case highlights the need for urgent reforms to balance the independence and accountability of the judiciary. It showcases the dilemma caused by granting excessive discretionary power to the judiciary.

⁹ Shivaraj Huchhanavar, “Judicial conduct regulation: do in-house mechanisms in India uphold judicial independence and effectively enforce judicial accountability?” *Indian Law Review*, vol. 6, pp. 352-386 (2022).

¹⁰ Srishti Ojha, “Didn’t want to cause embarrassment: Top court recalls order against Allahabad judge” (Editorial), *India Today*, Aug. 8, 2025

The research paper titled, “Judicial Behaviour and Conduct in the Present Scenario”¹¹ delves into detail the ethical perspective on the standards that are expected of judges. The author argues that judges are not merely administrative officials but rather serve as the constitutional actors vested with the responsibility of upholding the spirit of the constitution. The main observation made by the author is the importance of judicial ethics and decorum that arises from the judiciary’s central position in the society. The author highlights qualities such as impartiality and tolerance as the key characteristics every judge must possess and that these cannot be compromised regardless of the developments made. He points out that the public places an enormous amount of faith in the justice system, and the judges are the ones vested with the powers to fulfil these expectations. This research paper helps in providing a standard to which judicial misconduct can be measured and identified. It shows that accountability is not merely procedural but also directly related to ethical standards that the society demands from judges.

4. ANALYSING THE DEVELOPMENTS

Judicial accountability has been the cornerstone of the effectiveness of judiciary in India.¹² The trust and faith of the common public has been ensured through judicial accountability and activism. It has been gradually developed through constitutional provisions and judicial reforms. Since the implementation of the constitution, judicial accountability was protected through the impeachment process given under Articles 124(4)¹³ and 217¹⁴ of the Indian Constitution.¹⁵ These articles mandate that judges of the higher judiciary can only be removed from authority through a special majority in both the Houses.¹⁶ This procedure makes it difficult for a judge to be removed from authority without a reasonable explanation for the same.¹⁷ While this procedure protects independence of the judiciary, it also reduces the possibility of accountability. The case of impeachment proceedings initiated against Justice V. Ramaswami highlights the limitations of this procedure. Despite serious allegations made against him, the impeachment motion against him failed due to political considerations. There have been other instances of attempt at impeachment such as impeachment against Justice

¹¹ K.P. Singh, "Judicial Ethics and Conduct of Judicial Officers," (2011) LPA No. 163 of 2009.

¹² Supra note 10.

¹³ The Constitution of India, art. 124(4).

¹⁴ The Constitution of India, art. 217

¹⁵ The Constitution of India.

¹⁶ G. Cheritha Mahalakshmi, “An Analysis on the Legal Framework of Impeachment of Judges,” 3 Indian J.L. & Legal Rsch. 1 (2021-2022).

¹⁷ M.P. Jain, Indian Constitutional Law (Kamal Law House, Calcutta, 5th edn., 1998).

Soumitra Sen in which the judge resigned after the Rajya Sabha passed a motion. In 2015, motions were passed against Justice S.K. Gangele on grounds of alleged sexual harassment which remained unsuccessful after the inquiry. In the same year, more than 58 members of the Rajya Sabha had passed an impeachment notice against Justice J.B. Pardiwala for his remarks on reservation. In 2017, impeachment proceedings were initiated against Justice C.V. Nagarjuna Reddy. In 2018, opposition parties had put forth a proposal for moving an impeachment motion against CJI Dipak Misra.¹⁸

The inference to be made from these instances are that firstly, these show how rare impeachment proceedings are successful. Secondly, the impeachment procedure serves as a tool that may be politically motivated rather than being used purely to control judicial misconduct. Thirdly, many of these motions do not succeed due to lack of proof or consensus between the members that makes it difficult for efficient usage of these mechanisms. These cases show that the impeachment procedure is not an effective mechanism for keeping the judiciary in check. This complicated procedure erodes the public faith in the system and leads to dependence on external mechanisms.¹⁹

Taking into consideration this limitation, the judiciary brought about self-regulation in the judiciary. In 1995, the Supreme court brought about the “in-house procedure”²⁰ which allows for the Chief Justice of India to form a three-member committee inquire into allegations made against the judges. This mechanism allows for the judge to be heard for the allegation made against him. While this step was made to increase accountability, it relied heavily on confidentiality and peer discretion.²¹ It did not increase public trust and lacked transparency. Later efforts sought to codify standards of conduct but they were not successfully enacted.

Recent instances showcase how these inefficient mechanisms have led to an increase in judicial misconduct. In 2025, the Supreme court had recalled its own order of barring Justice Prashant

¹⁸ SCO Team, “Number of Times Impeachment Proceedings were Initiated against a SC or HC Judge,” *Supreme Court Observer*, Mar. 28, 2018, available at: <https://www.scobserver.in/journal/number-of-times-impeachment-proceedings-were-initiated-against-a-supreme-court-or-high-court-judge/> (last visited on Sept. 24, 2025).

¹⁹ K. G. Kannabiran, “Selection and Impeachment of Judges: Issues for Debate,” 39 *Economic & Political Weekly* 5221 (2004).

²⁰ Press Information Bureau, Government of India, “Corruption in Judiciary,” Ministry of Law and Justice, April 1, 2022, available at: <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1812350> (last visited on September 24, 2025).

²¹ *Supra* note 8.

Kumar of the Allahabad High court from hearing criminal matters.²² This order was criticised for posing a threat to the independence of the judiciary.

Another striking instance is that of Justice Shekhar Kumar Yadav of the Allahabad High Court who made controversial remarks at a public event which was perceived to be controversial and considered as “hate speech”. Justice Yadav, while speaking about the Uniform Civil Code, used phrases like ‘humaari Gita, aapki Quran’ (our Bhagavad Gita, your Quran) and a derogatory word like ‘kathmullah’.²³ His speech raised for motions of impeachment and led to an in-house enquiry by the Apex court. This case increases the scope of what falls under judicial misconduct. For the first time, a judge’s speech outside the courtroom was included within the ambit of judicial accountability. This includes under the definition of judicial misconduct any act that undermines the spirit of the constitution. This case underscores the weakness of the internal mechanisms to address cases of judicial misconduct.

Another shocking incident is one of the Allahabad High Court’s controversial judgements regarding the offence of rape. The judgement given declared that “grabbing of breasts” and “loosening of pyjama string” does not amount to an attempt to rape. The reasoning was later criticised to be insensitive and not relevant to the contemporary understanding of sexual offences. Eventually the judgement was stayed by the Supreme Court due to the insensitive nature of the judgement.²⁴ This intervention shows the appellate court’s power to review and revise insensitive judgement. It also showcases that judicial misconduct can also arise from judicial insensitivity and failure to adhere to constitutional values. The case underscores the need for judges to be empathetic and sensitive to social realities.

The inference from these cases to be made is that accountability is heavily dependent on the Apex court’s power to review and on the public opinion. In the Prashant Kumar and sexual assault cases, the Supreme court used its powers to intervene due to public opinion and protest on the controversial judgements. In the Yadav case, public outrage prompted an in-house inquiry. Media’s role in ensuring accountability has remained important. But the problem

²² Supra note 9.

²³ Sushovan Patnaik & Ajitesh Singh, “Justice Yadav ‘hate speech’ case: An acid test for the Supreme Court,” *Supreme Court Observer*, Feb. 12, 2025, available at: <https://www.scobserver.in/journal/justice-yadav-hate-speech-case-an-acid-test-for-the-supreme-court/> (last visited on Sept. 24, 2025).

²⁴ “‘Total insensitivity’: Supreme Court stays Allahabad HC judgement on attempt to rape,” *Supreme Court Observer*, Mar. 26, 2025, available at: <https://www.scobserver.in/journal/total-insensitivity-supreme-court-stays-recent-allahabad-hc-judgement-on-attempt-to-rape/> (last visited on Sept. 24, 2025).

remains in the fact that reliance on external pressure weakens the existing mechanisms. Without proper regulatory frameworks, accountability remains inconsistent and becomes enforceable only after controversies escalate.

These cases also reflect the wide definition of judicial misconduct in today's society. While initially, judicial misconduct only focused on debates of corruption or incapacity, today the scope has widened to include hate speech and insensitive reasoning. This evolution reflects the principle of judiciary as the guardian of constitutional values. In the current scenario judges are expected to inculcate values of empathy and impartiality not only in their decisions but also in their public conduct.²⁵

5. CONCLUSION

The history and contemporary scenario of judicial accountability in India showcase both progress and shortcomings. Several mechanisms such as constitutional impeachment, self-regulation have been implemented but they still remain inadequate. Recent events show that the judiciary is playing an active role to intervene to protect the constitution but there is a lack of transparent and enforceable mechanisms. The judiciary is meant to serve as the guardian of the constitution. When the judicial accountability is dependent on external interventions and pressure, the public trust in the justice system reduces.²⁶ For greater judicial accountability, India must develop and implement independent control mechanisms and transparency in inquiries. The balance between judicial independence and accountability must be maintained efficiently in order to protect and uphold constitutional values.

The key aspect to be taken into consideration is that for judiciary to be an efficient protector of the constitution it has to have its independence and must be accountable. Any step taken towards increasing accountability must not undermine its independence and must not create space for political misuse. The real problem lies in the fact that it is not sufficient to implement new amendments but it must be ensured that they remain independent and impartial. Accountability and independence are supplementary as long as the mechanisms do not exceed the limit and does not give room for arbitrariness.

²⁵ Supra note 5.

²⁶ Supra note 6.