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THE CONSTITUTIONAL SWORD UNSHEATHED: JUDICIAL IMPEACHMENT AND THE FAILURE OF ACCOUNTABILITY IN SOUTH ASIA

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Justice A.S. Anand (Former Chief Justice of India):

"A Judge has to be independent of the Executive, independent of the Legislature, independent of his colleagues, independent of litigants, independent of the Bar, independent of the media, and even independent of his own self."

1. Introduction: The Paradox of the Constitutional Sword

Is a sword never drawn still a weapon? What happens to its edge when it's never unsheathed? What purpose does it serve when and if it is never used? Would it have any impact at all? Would it rust, and would the rust injure the hand that wields it? This is the paradox of the doctrine of judicial impeachment. Designed as the ultimate check on judicial power, this 'constitutional sword' remains a fearsome instrument in theory, but its repeated failure to be wielded effectively raises a critical question: has it lost its purpose, or merely its potency?

An independent judiciary is universally acknowledged as the cornerstone of any democratic nation. This principle, often referred to as the **Rule of Law**, posits that all citizens, including the government itself, are accountable under the law. The judiciary's primary function is to interpret and safeguard the Constitution, acting as the final arbiter in disputes between citizens and the state. Yet, with the immense power granted by judicial independence comes the risk of its abuse. Absolute power, when unchecked, leads to absolute corruption. Therefore, a robust system of judicial accountability is indispensable to maintain public trust and democratic integrity. When this delicate balance between independence and accountability fails, impeachment shall serve as the ultimate constitutional remedy for the abuse of unchecked power.

This report posits that in three key South Asian nations—**India, Pakistan, and Sri Lanka**—this delicate balance is routinely compromised. While the formal constitutional procedures for judicial removal appear robust, they are frequently circumvented through political manoeuvres, transforming a constitutional safeguard into a tool of political pressure, a mechanism of

personal escape, or a symbol of inactive institutional design. The fundamental vulnerability lies in the inherent tension between a politically driven removal process (requiring action by the Executive or Legislature) and the constitutional imperative of judicial independence (which requires the removal mechanism to be free from political influence). One can't give the entire procedure in one's hands. Most of the judiciary would lead to the judiciary monopolising the process and protecting their own interests. Still, if given to the executive or legislative wing, it would lead to biased judgments due to the judges' fear of being removed. This tension is consistently exploited by political actors or, at times, by the judiciary itself.

The constitutional design for judicial removal is an elaborate mechanism of checks and balances, intentionally designed to be difficult to invoke and even harder to conclude. However, as this analysis will demonstrate, the very difficulties embedded in these procedures are often not a 'bug' of the system, but a 'feature' that is shrewdly leveraged for political expediency. This paper conducts a comprehensive comparative analysis of the legal frameworks for judicial removal in India, Pakistan, and Sri Lanka, evaluating key case studies to reveal how formal procedures are manipulated. The analysis identifies common patterns that range from legislative obstruction and strategic resignations to outright executive-legislative collusion and also explores the broader, detrimental implications for the rule of law, constitutionalism, and public trust across the region.

2. Theoretical Foundations: Independence, Accountability, and the Rule of Law

2.1 The Montesquieuan Mandate

The philosophical underpinning of judicial independence is inextricably linked to **Montesquieu's definition of the Separation of Powers**, articulated in his seminal 1748 work, *The Spirit of the Laws (De l'esprit des lois)*. Montesquieu argued that for a state to secure **political liberty**, the power must be divided into three independent functions: the Legislative, the Executive, and the Judicial.¹

Montesquieu asserted that "power should be a check to power," meaning that if any two or all three powers were united in the same person or body, liberty would vanish. Specifically, he warned that combining the power to make laws (Legislative) with the power to interpret laws

¹ C Montesquieu, *The Spirit of the Laws*, trans A Cohler, B Miller and H Stone (Cambridge University Press 1989) Book XI, Chapter 6.

(Judicial) would expose citizens to "arbitrary control," as the judge would effectively become the legislator.² The integrity of the judiciary, therefore, requires its autonomy from the other branches. This principle was directly incorporated into the Constitutions of South Asian Countries, affirming the judiciary's role as the indispensable guardian of fundamental rights and the Constitution itself.

2.2 The Nexus of Independence and Accountability

While independence is crucial, it cannot be absolute. Accountability is the necessary corollary to judicial independence. As scholars frequently argue, judicial independence is not a personal privilege of the judge, but a guarantee to the public that the judge will be able to render judgment free from fear or favour. Conversely, accountability ensures that this independence is not abused through corruption, incompetence, or overreach.

The tension lies in the design of the impeachment process: it must be strong enough to sanction misconduct (accountability) yet insulated sufficiently to prevent political actors from using it to pressure honest judges (independence). The Judges should be aware of and conscious of the fact that their power is not unchecked, but at the same time, they should be secure enough to carry out their duties without fearing for their jobs. Impeachment is designed as the highest form of accountability, reserved only for extreme misconduct (*proven misbehaviour or incapacity*) and not for every slight difference in opinions that people might have. The requirement for complex political action, such as a special majority vote in the legislature, is intended to raise the bar so high that the process is used only in rare circumstances where the judge has lost all public confidence, thereby protecting the bench from capricious political attacks. However, as the case studies will show, in South Asia, this high political bar often translates not into protection, but into impunity.

3. Judicial Accountability in India: The Invincible Judge and Political Obstruction

3.1 The Formal Procedure: A Monumental Barrier

The constitutional scheme for judicial removal in India is an elaborate, multi-stage process for judges of the Supreme Court (Article 124(4)) and High Courts (Article 218).³ The process is

² *ibid.*

³ *The Constitution of India*, arts 124(4), 218.

cumbersome by design. Our Constitutional forefathers wanted it to be that way. The Constitution of India mandates removal only on the specific grounds of ‘**proven misbehaviour or incapacity**’.

The President of India issues the final removal order, but this is merely a ceremonial step following the successful passage of a removal motion by both Houses of Parliament with a **special majority**. The Judges govern the detailed procedure (**Inquiry**) Act 1968.⁴

The procedural steps are as follows:

- **Initiation:** A signed notice must be given to the Speaker of the Lok Sabha by at least 100 members, or to the Chairman of the Rajya Sabha by at least 50 members.
- **Admissibility and Investigation:** If admitted, a **three-member committee**—comprising a Supreme Court judge, a High Court Chief Justice, and a distinguished jurist—investigates the charges.¹² This committee's investigation is judicial in nature and intended to establish the 'proof' of misconduct.
- **Parliamentary Vote:** If the committee finds the judge guilty, the motion must be adopted by each House with a **Special Majority**, defined rigidly by the Constitution as: (i) a majority of the total membership of that House, **AND** (ii) a majority of at least two-thirds of the members present and voting.

This exceptionally high political threshold makes removal not merely difficult but virtually impossible in a multi-party parliamentary democracy. In practice, impeachment motions have been initiated only five times, and **not a single judge has ever been removed** through this entire constitutional process. The difficulty of reaching the required special majority in a politically fractured environment is the primary safeguard for, and simultaneously the primary shield of, judicial corruption.⁵

3.2 Case Study: Justice V. Ramaswami (1993)

The case of **Justice V. Ramaswami** stands as a definitive illustration of the Indian procedure's systemic failure at the parliamentary stage, effectively granting impunity to a convicted judge through political manipulation.

⁴ *Judges (Inquiry) Act 1968*, s 3

⁵ *ibid.*

The scandal originated during Justice Ramaswami's tenure as Chief Justice of the Punjab and Haryana High Court, involving serious allegations of "extravagant expenditures" and "financial delinquency"⁶. The three-member investigation committee, acting under the **Judges (Inquiry) Act 1968**, conducted a rigorous inquiry.

The committee submitted a damning report in 1992, unequivocally holding Justice Ramaswami guilty of "**proved misbehaviour**," stating his actions constituted "willful and gross misuse of office" and "moral turpitude".⁷ The committee's judicial finding left no doubt as to the judge's misconduct, fulfilling the constitutional prerequisite for removal.

However, the process collapsed at the final stage: the parliamentary vote. The motion to remove Justice Ramaswami failed in the Lok Sabha on 10 May 1993. The failure was not due to a vote of no confidence in the committee's findings; instead, the ruling Congress party and its allies chose to **abstain en masse**.⁸

The final vote tally was telling:

For Removal: 196;

Against Removal: 0;

Abstentions: 205.

The strategic abstentions ensured the motion fell short of the constitutionally mandated Special Majority (a majority of the total membership). The judge was thus saved by political arithmetic, not by an investigative finding of innocence; as stated earlier, he was found guilty by the committee of 11 out of 15 charges. This incident highlighted a serious flaw in the impeachment procedure provided in the Constitution: even when a judge is found guilty of proven misconduct by a high-powered, independent judicial inquiry, their removal is ultimately dependent on the **political discretion of Parliament**, a mechanism that is easily subverted by extraneous political factors and party mandates. This renders the constitutional check inert, creating the paradigm of the 'Invincible Judge.'

⁶ P Mahanta, 'Justice V. Ramaswami's Impeachment Case: A Study in Political Manipulation' (2014) 2(3) *Journal of Constitutional Law & Governance* 112.

⁷ Quoted in P Mahanta (n 5) 117

⁸ *ibid* 118.

4. Judicial Accountability in Pakistan: The Executive Override and Collegial Protection

4.1 The Formal Procedure: Judicial Self-Regulation

The structure for judicial accountability in Pakistan differs fundamentally from the Indian parliamentary model. Pakistan provides for the removal of judges under **Article 209** of its Constitution through the **Supreme Judicial Council (SJC)**.⁹ The SJC is composed **exclusively of members of the judiciary**—the Chief Justice and the four most senior superior court judges. The SJC investigates the charges, and upon receiving the SJC's report substantiating misconduct or incapacity, the President may issue the final removal order.¹⁰ Judicial accountability in Pakistan is thus predominantly an internal judicial matter, which serves as a peer-review mechanism, allowing judges to protect their own behaviour.

4.2 The Structural Vulnerability: Collegial Protection and Strategic Avoidance

This internal, judicial-only structure creates its own specific vulnerabilities, primarily the risk of **collegial protection** and procedural laxity, as well as a mindset that prioritises protecting one's own kind. Scholarly analysis notes that the SJC's peer-review composition means that 'the feeling of fellowship influences the decisions of the Council,' predisposing it toward internal protection.¹¹ This disposition often renders the SJC "less as a genuine instrument of accountability and more as a procedural façade, insulating the judiciary from external oversight".¹²

This structural flaw manifests in two critical areas: delays and strategic avoidance.

4.3 Case Study: The Failure to Conclude (Strategic Resignations)

The most consistent failure of the SJC mechanism is its historical inability to conclude proceedings against judges facing serious allegations, a failure driven by a culture of internal protection and mostly deliberate procedural delays.

- **The Problem of Delays:** The SJC process has historically been plagued by such prolonged delays that a high percentage of cases before it became "**moot**" because the accused judge **retired** while the complaint was still pending.¹³ This procedural decay

⁹ *The Constitution of the Islamic Republic of Pakistan*, art 209(2).

¹⁰ A Fazeel, *The Constitution of the Islamic Republic of Pakistan* (Oxford University Press 2018) 464.

¹¹ Ruqia, Chen Yiling and Hashmat Ullah Khan, 'Supreme Judicial Council: Functions, Prospects, and Challenge' (2020) 2(3) 89.

¹² *ibid.*

¹³ R Omer, 'Pakistan: year of judicial accountability' (ICJ, 2016) <https://www.icj.org/resource/pakistan-year-of-judicial-accountability/>.

allowed judges, even those facing serious corruption charges, to exit the judiciary with full pension benefits and without the stigma of a formal removal, effectively subverting accountability.

- **Strategic Resignations:** Numerous judges who face references or investigations by the SJC choose to tender their **resignations to avoid the investigation process entirely**. This pre-emptive action allows the judges to prevent a formal finding of misconduct. For example, **Justice Mazhar Iqbal Sidhu** of the Lahore High Court and **Justice Farrukh Irfan Khan** both resigned instead of facing SJC proceedings related to corruption and undeclared assets, respectively.¹⁴

This pattern of delays and strategic resignations directly supports the argument that the SJC, due to its peer-review structure, historically functioned as a "procedural façade," allowing the accountability mechanism to be circumvented by internal judicial avoidance. It is worth noting, however, that the SJC has recently sought to close this loophole, asserting its authority to continue proceedings against a judge even after they resign, as seen in the recent case of former Supreme Court Justice Sayyed Mazahar Ali Akbar Naqvi in 2024.¹⁵

4.4 Case Study: The 2007 Judicial Crisis (Executive Override)

In addition to internal failure, the Pakistani system is susceptible to direct **Executive Override**. The **2007 Judicial Crisis** illustrates the system's structural fragility when faced with an aggressive military-backed executive.

The then-President **General Pervez Musharraf** suspended Chief Justice **Iftikhar Muhammad Chaudhry** and, later, declared a state of emergency (**Provisional Constitutional Order** or PCO Rule) to bypass the judiciary entirely.¹⁶ Under the PCO, Musharraf sacked approximately 60 judges who refused to take a new oath that aligned with his interests but was contrary to the written constitution and its spirit.

This event marked a blatant exercise of **arbitrary power** and a profound violation of the Rule of Law. The executive, unable or unwilling to rely on the SJC, weaponised unconstitutional

¹⁴ Ruqia, Chen Yiling and Hashmat Ullah Khan (n 11) 89.

¹⁵ 'Pakistan's top legal body rules to sack former Supreme Court judge for 'misconduct' *The Indian Express* (Islamabad, 7 March 2024).

¹⁶ International Crisis Group, 'Restoring Judicial Independence in Pakistan' (Asia Briefing No. 91, 16 April 2009) 4.

means to remove legal opposition. This confirmed that where the constitutional mechanism (SJC) is weak or slow, the vacuum of accountability will be aggressively filled by political power, especially when they have the added backing of a military regime.

5. Judicial Accountability in Sri Lanka: The Legislative Power Play and Constitutional Disregard

5.1 The Formal Procedure: Presidential Authority with Parliamentary Veto

Though the Sri Lankan framework for judicial removal closely resembles the Indian model in its requirement for both executive and legislative action, the mechanism is simpler and, as proven, more susceptible to legislative hijacking. **Section 107(2) of the Constitution** provides that a judge may only be removed by an order of the President, following an address of Parliament supported by a majority of the total number of Members, solely on the grounds of **proved misbehaviour or incapacity**.

The process is initiated by a resolution signed by at least one-third of the total membership of Parliament. **Section 107(3)** empowers Parliament to regulate the investigation and proof of the charges either by law or by **Standing Orders**.¹⁷ It is this ambiguous wording and reliance on non-statutory Standing Orders that prove to be the Achilles' heel of the system.

5.2 Case Study: The Impeachment of Chief Justice Shirani Bandaranayake (2013)

The impeachment of **Shirani Bandaranayake**, the country's first female Chief Justice, serves as a compelling example of the Executive-Legislative Power Play in South Asia, where the constitutional mechanism was used, rather than misused, to enforce accountability, not to punish judicial independence.

The controversy was overtly political. The impeachment motion was filed by the ruling coalition in late 2012, shortly after the Supreme Court, under Bandaranayake, delivered an unfavourable ruling on the controversial **Divi Neguma Bill**, which would have centralised financial power under the President's family.¹⁸ Critics universally view the impeachment as retaliation for her assertion of judicial review, which irked the government and led to its hijacking of the judiciary.

¹⁷ *The Constitution of the Democratic Socialist Republic of Sri Lanka*, s 107(2)-(3).

¹⁸ International Crisis Group, 'Impeachment of the Sri Lankan Chief Justice' (Asia Report No. 242, 17 January 2013) 2.

- **The Procedural Hijack:** The investigation was conducted by a **Parliamentary Select Committee (PSC)** heavily dominated by government MPs. The process was fatally flawed, denying Bandaranayake the rights to due process, including access to evidence and the right to cross-examine witnesses.¹⁹ She and her legal team withdrew from the hearings in protest, citing gross negligence of the constitutional letter and spirit.
- **The Constitutional Disregard:** In a defining moment of constitutional crisis, the Supreme Court and Court of Appeal subsequently ruled that the parliamentary impeachment process, being based only on Parliament's Standing Orders and not on a formal **Law** (as required by Section 107(3)), was **unconstitutional** and the PSC's findings were null and void.²⁰
- **Removal by Political Power:** The government, asserting the supremacy of Parliament over the judiciary in this matter, **ignored the binding court rulings** and proceeded with the vote. The motion was passed with a legislative majority, and President Mahinda Rajapaksa ratified her dismissal in January 2013, appointing an executive ally, Mohan Peiris, as the new Chief Justice.²¹

This incident provides a stark warning not just to the citizens of Sri Lanka but to the citizens of all SAARC nations that the Sri Lankan failure was a deliberate act of **Legislative Supremacy** overriding judicial review. It confirmed a breakdown of the horizontal checks and balances, where the legislature and executive successfully colluded to destroy judicial independence through a fundamentally flawed and politically motivated procedure. The constitutional sword, in this case, was wielded, but it was wielded illegally, acting more like a political axe than a constitutional sword.

6. Synthesis and Comparative Analysis: The Patterns of Failure

The comparative analysis reveals that while the constitutional architecture in each country is distinct, the ultimate failure of judicial accountability is driven by a consistent pattern: the **exploitation of procedural vulnerabilities by political actors.**

6.1 The Taxonomy of Accountability Failures

The case studies reveal three distinct, yet interconnected, forms of failure:

¹⁹ A Rajapaksa, 'The Impeachment of Chief Justice Shirani Bandaranayake: A Constitutional Crisis' (2013) 48 *Ceylon Law Journal* 47.

²⁰ S Weerakoon, *The Rule of Law and the Crisis of Judicial Independence in Sri Lanka* (Legal Publishers 2015) 112.

²¹ International Crisis Group (n 18) 6.

Country	Mechanism	Nature of Failure	Outcome for Rule of Law
India	Parliamentary Veto (Special Majority)	<i>Passive Failure:</i> Political parties exploit the high threshold for impeachment to shield judges, prioritising alliances and convenience over constitutional morality.	The “constitutional sword” remains permanently sheathed; the system protects the guilty as effectively as the innocent.
Pakistan	Judicial Self-Regulation (SJC) and Presidential Removal	<i>Peer Failure and Executive Override:</i> Collegial protection, procedural delays, and strategic resignations neutralise the SJC, while the Executive often bypasses it entirely.	The process oscillates between paralysis and authoritarian overreach, eroding both judicial integrity and executive restraint.
Sri Lanka	Parliamentary Investigation and Presidential Removal	<i>Active Collusion:</i> The Executive and Legislature jointly subvert constitutional interpretation to punish judicial independence.	The separation of powers collapses; accountability becomes a tool of political intimidation rather than a means of justice.

6.2 The Fundamental Challenge: Political Discretion

In all three instances, the effectiveness of the constitutional mechanism ultimately hinged on **political discretion**, rather than purely objective legal findings. In India, the final verdict rested on the political calculus of the Congress party; in Pakistan, accountability was subject to the political will of a military ruler or the collegial will of the SJC; and in Sri Lanka, the entire process was politically weaponised by the ruling government.

This reality runs counter to the spirit of judicial accountability, which demands that the removal process be **insulated from the majoritarian pressures** and political whims that judges are meant to check. By vesting the final authority to remove a judge with a majority of politically aligned legislators (India and Sri Lanka) or with a judicial body prone to internal protection (Pakistan), the system guarantees that the constitutional sword will remain sheathed whenever its use is politically inconvenient for the ruling power.

7. Broader Implications for the Rule of Law and Democratic Trust

The constitutional failures examined in India, Pakistan, and Sri Lanka extend far beyond the fate of individual judges. They strike at the heart of democratic legitimacy, undermining both the moral and institutional authority of the judiciary. When the guardians of the Constitution are seen as untouchable—or worse, manipulable—the rule of law ceases to function as an equalising principle and begins to appear as a mask for political convenience.

7.1 The Erosion of Public Confidence and Judicial Legitimacy

Perhaps the most damaging consequence of these recurring failures is the steady erosion of **public faith** in judicial institutions. When citizens witness a judge found guilty of misconduct by an independent inquiry (as in the **Ramaswami case**), remain protected by parliamentary manoeuvring, or when they see a courageous Chief Justice (like **Shirani Bandaranayake**) removed for challenging the Executive, they inevitably begin to doubt whether justice is truly impartial and free from fear or favour.

This disillusionment breeds cynicism. The judiciary, once regarded as the moral compass of democracy, is viewed as a politically compromised institution, either shielded from accountability or punished for independence. Over time, this perception corrodes the legitimacy that sustains judicial authority. Courts derive their power not from force but from public trust; when that trust collapses, even constitutional rulings lose their moral weight.

The ordinary citizen, then, ceases to see the judiciary as an avenue for redress. Instead, it appears as an elite fortress protected from scrutiny yet powerless to protect the people. This alienation from the justice system weakens the very foundations of democracy, where faith in institutions is as vital as the written text of the Constitution.

7.2 The Weakening of Judicial Review

The impeachment procedure was never meant to constrain judicial freedom; it was meant to address the misconduct and incapacity of the individuals who have the power to save or destroy lives with a single stroke of a pen. Yet, in practice, South Asian politics has blurred that distinction. The cases of **Bandaranayake** in Sri Lanka and **Iftikhar Chaudhry** in Pakistan illustrate how impeachment and disciplinary proceedings have been used to threaten, intimidate and punish judges who dare to challenge executive authority.

Such politicisation of accountability mechanisms gives rise to silent censorship in the minds of judges, which significantly hampers the exercise of judicial review, thereby striking at the core of judicial independence. Judges, fearing reprisal, may be hesitant to make decisions that challenge the government or expose constitutional violations.

When judges begin to decide not by constitutional principle but by political calculation, the very concept of judicial review disintegrates. The judiciary ceases to act as a check on power and instead becomes an accessory to it, allowing executive dominance to expand unchecked.

7.3 The Rule of Law Crisis

Montesquieu warned that liberty cannot survive where the separation of powers collapses. The South Asian experience confirms his prophecy: without effective and impartial mechanisms of judicial accountability, **the rule of law becomes conditionally dependent, not on the Constitution, but at the mercy of those in power.**

Each of the three systems studied professes fidelity to the doctrine of judicial independence. Yet, in practice, that independence has become either a shield for misconduct or a target for political reprisal. The absence of a credible, non-partisan method for enforcing judicial responsibility has created an environment where accountability is either impossible or selectively applied.

The result is a crisis of constitutionalism. A judiciary that is independent on paper but not in practice cannot serve as the final guardian of the Constitution. Its authority becomes symbolic rather than substantive, which is respected in rhetoric but ignored in reality. In such an environment, the rule of law loses its moral authority and devolves into rule by power, where legality is determined by convenience rather than principle.

8. Conclusion: The Path to a Legitimate and Enforceable Constitutional Sword

Across India, Pakistan, and Sri Lanka, the constitutional mechanism of judicial impeachment stands as a grand design that rarely delivers justice. Though crafted to act as the ultimate safeguard of judicial integrity, in practice, it has become little more than a ceremonial clause—impressive in language but ineffectual in action. The sword that was meant to guard constitutional morality has dulled not from overuse, but from prolonged neglect and deliberate misuse.

The failures examined throughout this study do not stem solely from flaws in constitutional drafting, but from the **systematic exploitation of political and procedural loopholes**. Each nation's framework, however noble in intention, has been undermined by political expediency, partisan control, and institutional complacency. The result is a judiciary that appears powerful yet remains dangerously exposed: insulated from meaningful accountability when it is guilty, and persecuted when it is independent.

To restore the original spirit of judicial impeachment, reforms must aim to **depoliticise the process and transform it** into a genuinely legal one. The following measures are essential to reclaiming the potency of this constitutional safeguard:

1. **Creating Independent Judicial Commissions (IJC)s:**

Instead of leaving impeachment to politicians or judicial peers alone, a standing **Independent Judicial Commission**—comprising retired judges, jurists, and respected members of civil society—should oversee both investigation and recommendation. Such a body would combine expertise with neutrality, insulating the process from partisan influence.

2. **Statutory Safeguards and Time-Bound Inquiries:**

The investigative process must be governed by law, not by vague parliamentary standing orders. Time-bound procedures should ensure that inquiries are neither indefinitely delayed nor strategically avoided, as has often happened in Pakistan's **Supreme Judicial Council**. Swift, transparent proceedings would both protect innocent judges and expose misconduct without political distortion.

3. **Reform of Parliamentary Voting Powers:**

In jurisdictions like India, where Parliament retains the final word, its role should be

limited to ratifying or rejecting the findings of an independent judicial tribunal—not to rehear or politically reinterpret them. The legislative vote could be confined to appointing members of the inquiry body rather than determining guilt. This would preserve democratic oversight while eliminating partisan veto.

These reforms would not weaken judicial independence; instead, they would legitimise **it**. True independence thrives not in the absence of scrutiny but in the presence of fair and credible oversight. By placing the impeachment process beyond the reach of political manipulation and internal favouritism, constitutional democracies can transform the “sword” of impeachment from a relic into a living safeguard.

Ultimately, a judiciary trusted by the public must be both **fearless and answerable**. Only when accountability and independence coexist harmoniously can judges truly uphold the Constitution without fear, favour, or reproach. The challenge before South Asia, therefore, is not to forge new constitutional weapons but to restore the sharpness of the one already in hand to ensure that the sword of justice, once unsheathed, strikes only in defence of the law, never at its command.

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