



## Ensuring Discipline Among Judges

**For Prelims:** [Supreme Court](#), [Article 121](#), [Article 211](#), [Article 124\(4\)](#), [President](#), [High Court](#), [Lok Sabha](#), [Rajya Sabha](#), [Contempt of Court](#), [SC Collegium](#), National Judicial Council, [National Judicial Oversight Committee](#).

**For Mains:** Need and provisions for ensuring discipline among judges.

[Source: IE](#)

### Why in News?

Recently, the [Supreme Court \(SC\)](#) expressed **serious concern** over remarks made by a Karnataka **High Court** Judge.

- The SC dropped its intervention after the **judge tendered an apology** but it highlights the **constitutional limitations** on how the judiciary can discipline judges.

### What are the Challenges of Disciplining Judges in India?

- **Constitutional Protection:** [Article 121](#) of the Constitution **prohibits parliamentary discussion** on the conduct of Supreme Court or High Court judges, except when a motion is made for their removal.
  - [Article 211](#) of the Constitution **prohibits state legislatures** from discussing the conduct of **Supreme Court or High Court judges** in the discharge of their duties.
- **Difficult Impeachment Process:** [Article 124\(4\)](#) of the Constitution requires an **impeachment motion** to be supported by a **majority of the total membership** and at least **two-thirds** of members present and voting in each House.
  - The high impeachment threshold ensures judges aren't easily removed for trivial reasons but **makes addressing misconduct that does not reach the level of impeachment difficult**.
  - E.g. Impeachment proceedings have been triggered **only five times** in history and **no judge** of the Supreme Court has been **impeached so far**.
- **Narrow Definition:** The grounds of removal are **proved misbehaviour or incapacity**.
  - Misbehaviour under **Article 124(4)** of the Constitution is a high standard, covering **corruption, lack of integrity, and moral turpitude**.
  - Many instances of judicial misconduct, such as **indiscipline, bias, or inappropriate conduct**, do not meet the threshold for impeachment, leaving the judiciary with few options to address such behaviour.

### What is the Procedure of Removal of Judges?

- A judge of the **Supreme Court** can be removed from his Office by an **order of the President**.
- The President can issue the **removal order** only after an address by **Parliament** has been presented to him in the **same session** for such removal.

- The address must be supported by a **special majority** of each House of Parliament (i.e., a **majority of the total membership** of that House and a **majority of not less than two-thirds of the members of that House present and voting**).
- The grounds of removal are **proved misbehaviour or incapacity**.
- A judge of a [high court](#) can be removed in the **same manner and on the same grounds** as a judge of the Supreme Court
- The [Judges Enquiry Act, 1968](#) regulates the **procedure** relating to the removal of a judge of the Supreme Court by the process of impeachment.
  - A removal motion signed by **100 members (in the case of Lok Sabha)** or **50 members (in the case of Rajya Sabha)** is to be given to the Speaker/ Chairman.
  - The Speaker/Chairman may **admit** the motion or **refuse** to admit it.
  - If it is **admitted**, then the Speaker/Chairman is to constitute a **three-member committee** to investigate the charges.
  - The committee should consist of-
    - A chief justice or a judge of the **Supreme Court**
    - A chief justice of a **high court**
    - A **distinguished jurist**
  - If the committee **finds the judge to be guilty** of misbehaviour or suffering from an incapacity, the House can take up the **consideration of the motion**.
  - After the motion is passed by each House of Parliament by **special majority**, an address is presented to the president for **removal of the judge**.
  - Finally, the president **issues an order removing the judge**.

## What are Other Provisions of Disciplining Judges?

- **Judicial Intervention:** The SC can take **judicial action** to discipline judges.
  - E.g. In 2017, the SC held Calcutta High Court's **C S Karnan** guilty of [contempt of court](#), and sentenced him to six months' imprisonment.
- **Transfer Policy:** The [SC Collegium](#), comprising five senior-most judges of the Supreme court including the CJI, recommends the **transfer of High Court judges**.
  - Since the decisions of the Collegium are **opaque**, this transfer policy can be deployed as a **tool to discipline judges** as well.
  - E.g. While impeachment of **Justice P D Dinakaran**, a Karnataka High Court judge pending, the Collegium transferred him to the **Sikkim High Court**.
- **In-House Inquiry Procedure:** Under the **in-house inquiry procedure of 1999**, the CJI can request a comment from the **Chief Justice of the relevant High Court**, who then **seeks a response from the judge involved**.
  - If a more **thorough investigation** is deemed necessary, a **three-member committee** comprising two chief justices from other high courts and one high court judge may be formed to conduct a fact-finding inquiry.
- **Censure Policy:** The judge concerned can be **advised to resign** from his office or seek **voluntary retirement**.
  - If the judge refuses to resign or retire, the CJI can advise the Chief Justice of the concerned High Court **not to assign any judicial work** to the judge.
- **Restatement of Values of Judicial Life 1997** : The SC adopted a Charter called the [Restatement of Values of Judicial Life](#) in 1997 consisting of [16 points](#).
  - It is a code of **judicial ethics** and serves as a **guide** for an **independent and fair judiciary** which can help in maintaining discipline among judges.

## How Discipline of Judges is Maintained Globally?

- **Lithuania:** In Lithuania, there are two institutions dealing with judicial discipline. They are the **Judicial Ethics and Discipline Commission and the Judicial Court of Honour**.
- **Germany:** According to Section 77 of the Judges Act, 1972, **federal states** have their own **special tribunals** for the supervision of judges of common courts.
  - Such a tribunal also exists at the **federal level for federal judges**, as a special senate

within the German Federal Court of Justice.

- **Scotland:** The Lord President of the Court of Session may **nominate a person to conduct investigations** into disciplinary procedures.
- **Bangalore Principles of Judicial Conduct:** It aims to set **ethical standards for judges**, providing a framework for **regulating judicial behaviour** and offering guidance on maintaining judicial ethics.
  - It was adopted by the [United Nations Economic and Social Council \(ECOSOC\)](#) in 2006.
- **UN Basic Principles on the Independence of the Judiciary 1985:** These principles aim to **bridge the gap** between **ideal judicial independence and real-world practices**, ensuring justice is maintained, human rights are protected, and the judiciary operates free from discrimination.

## What Measures can be Taken to ensure Discipline among Judges?

- **Establishment of a National Judicial Council (NJC):** Revive and pass the [Judges \(Inquiry\) Bill, 2006](#), which aims to create the NJC to **oversee inquiries into allegations of incapacity or misbehaviour by judges**.
- **Judicial Oversight Committee:** Revive and pass the **Judicial Standards and Accountability Bill, 2010** that provided for establishing the [National Judicial Oversight Committee](#), the **Complaints Scrutiny Panel**, and an **investigation committee**.
- **Clear Standards of Conduct:** Develop and implement a **Code of Conduct** for judges that outlines **expected behaviour, ethical standards, and procedures for addressing violations**. This code should be publicly accessible to promote accountability.
- **Judicial Performance Evaluation:** Implement a system for evaluating judges' performance based on criteria such as case **disposal rates, adherence to ethical standards, and feedback** from litigants and peers.
  - For example, in **Odisha**, a judicial officer is expected to achieve workoutput equivalent to **240 working days in a year**.
- **Asset Declaration and Transparency:** Mandate judges to declare their **assets and liabilities**, and make this information publicly available. This measure can help deter corruption and enhance public trust in the judiciary.
- **Mandatory Training and Workshops:** Institute regular training programs and workshops on **judicial ethics, anti-discrimination laws**, and the importance of impartiality to foster a culture of accountability among judges.
- **Judicial Independence Safeguards:** While enhancing accountability, it is crucial to safeguard **judicial independence**. Any reforms should ensure that the processes for holding judges accountable do not undermine their ability to make impartial decisions.

### **Drishti Mains Question:**

Q. What measures can be implemented to promote accountability and high standards of conduct among judicial officers?

## UPSC Civil Services Examination, Previous Year Question (PYQ)

### **Prelims**

**Q. With reference to the Indian judiciary, consider the following statements: (2021)**

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (c)**

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**Mains**

**Q.**Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to appointment of judges of higher judiciary in India. **(2017)**

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