



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)

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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