

REMOVAL OF JUSTICE YASHWANT VARMA: POLITY

NEWS: Government to initiate removal motion against Justice Yashwant Varma

WHAT'S IN THE NEWS?

The government is set to initiate removal proceedings against Justice Yashwant Varma following a Supreme Court in-house inquiry into alleged misconduct, reviving focus on judicial accountability. This highlights gaps in India's legal framework for judge removal and the urgent need to enact the Judicial Standards and Accountability Bill.

1. Context: Justice Yashwant Varma Case

- The Government is set to initiate formal proceedings for the **removal of Justice Yashwant Varma** after an internal inquiry found sufficient grounds to proceed.
- Trigger: Discovery of **burnt currency at his residence**, followed by a **fact-finding inquiry** initiated by the Supreme Court.
- The case has revived national attention on **judicial accountability**, ethical conduct, and the inadequacies in current oversight mechanisms.

2. Supreme Court's Internal Inquiry Mechanism

- A **three-member committee** led by then Chief Justice of India **Justice Sanjiv Khanna** conducted the in-house inquiry.
- Outcome:
 - Found **substantial grounds** to proceed with constitutional removal.
 - Stated that the report is **not an indictment**, but a recommendation to initiate **constitutional removal procedures**.
- The committee's findings have been **forwarded to the Government**, triggering the next phase — introduction of a motion in Parliament.

3. Government's Planned Action

- The government is expected to **introduce a removal motion** in Parliament.
- The decision on which House (Lok Sabha or Rajya Sabha) will move the motion is **still under consideration**.

4. Constitutional and Legal Framework for Judge Removal in India

A. Constitutional Provisions

- **Article 124(4)** – Pertains to the **removal of Supreme Court judges**.
- **Articles 217(1)(b) and 218** – Provide for the **removal of High Court judges**.
- Judges can be removed only by the **President of India** after a motion is **passed by both Houses of Parliament** by **special majority**.

B. Judges (Inquiry) Act, 1968 – Key Steps

1. Initiation of Motion:

- Must be signed by **at least 100 Lok Sabha MPs or 50 Rajya Sabha MPs**.

2. Formation of Inquiry Committee:

- Consists of:
 - **Chief Justice of India** or a **Supreme Court judge**.
 - **Chief Justice of a High Court**.
 - **A distinguished jurist**.

3. Investigation & Report:

- Committee examines evidence and submits its findings.

4. Parliamentary Approval:

- If the judge is found guilty, **both Houses must pass the motion** with:
 - **Two-thirds majority of those present and voting**, and
 - **Majority of total membership** of each House.

5. Final Step:

- If approved, **President issues the removal order**.

5. Definition of Misbehaviour and Incapacity

- The Constitution does not define these terms explicitly.
- **Judicial interpretation** includes:
 - *Proven misbehaviour*: Willful misconduct, moral turpitude, corruption, lack of integrity.
 - *Incapacity*: Physical or mental conditions that render a judge unfit to discharge duties.

6. Key Past Cases of Judge Removal in India

Judge	Year	Allegation	Outcome
Justice V. Ramaswami	1993	Financial impropriety	Motion failed in Lok Sabha as Congress abstained
Justice Soumitra Sen	2011	Misappropriation of funds	Resigned before Lok Sabha vote after Rajya Sabha passed motion
Justice S. K. Gangele	2015	Sexual harassment	Cleared by inquiry panel; motion dropped
Justice J. B. Pardiwala	2015	Anti-reservation remarks	Remarks expunged; motion withdrawn

7. Safeguards to Ensure Judicial Accountability in India

- **In-House Mechanism:**
 - Confidential inquiries led by the Chief Justice of India.
 - Helps avoid public shaming while ensuring internal scrutiny.
- **Contempt Powers:**
 - Courts can take suo motu cognizance to defend institutional integrity.
- **Restatement of Values of Judicial Life (1997):**
 - Ethical code for judges; not legally binding but widely respected.
- **Increasing Transparency:**
 - Push for **asset declarations, public accountability, and transparency in appointments and inquiries.**

8. Comparative Perspective: Removal of Judges Globally

Country	Process	Grounds for Removal
USA	House impeaches; Senate convicts	Treason, bribery, or high crimes
UK	Monarch removes after Parliament's address	Reserved for serious misconduct
Canada	Judicial Council recommends; Parliament approves	Misconduct or incapacity undermining public trust

9. Key Issues Raised by the Justice Varma Case

- **Legal Uncertainty:**
 - The case highlights ambiguity in **standards for misbehaviour** and **lack of enforceable judicial ethics.**
- **Institutional Credibility:**
 - Prolonged or opaque proceedings **erode public trust** in the judiciary.
- **Need for Reform:**
 - Renewed calls to pass the **Judicial Standards and Accountability Bill**, which remains pending.

10. The Judicial Standards and Accountability Bill: Need for Revival

- **Objective:** To provide a **statutory framework for ethical conduct**, inquiry procedures, and public complaints.
- **Key Provisions Proposed:**
 - Code of conduct for judges

- Mandatory declaration of assets
- Establishment of a **National Judicial Oversight Committee**
- **Status:** Introduced in 2010, but lapsed.

11. Way Forward

- **Codify Ethical Norms:** Make Restatement of Judicial Values legally binding.
- **Judicial Ombudsman:** An independent ombudsman could handle complaints in a transparent manner.
- **Protect Judicial Independence:** Ensure that removal procedures are rigorous, fair, and immune to political misuse.
- **Strengthen In-House Mechanisms:** Improve transparency while retaining confidentiality.
- **Revive the Accountability Bill:** Enact a modern framework to ensure ethics and accountability without judicial overreach.

Source: <https://www.thehindu.com/news/national/government-to-initiate-removal-motion-against-justice-yashwant-varma/article69767887.ece>