



EDITORIAL: THE HINDU

GENERAL STUDIES 2: GOVERNANCE

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TOPIC: JUDICIARY (CORRUPTION)

Are existing mechanisms effective in combating judicial corruption?

1. Context: Sparked by Recent Allegations

- A significant amount of **unaccounted cash** was found at the residence of a **former High Court judge**.
- This incident has renewed **public debate** on the **accountability of the judiciary**, raising doubts about the strength of existing mechanisms to curb corruption.

2. Limitations of the Impeachment Process

- **Impeachment of judges** is the only constitutional mechanism for removing a judge, but it is **extremely rare and difficult**.
 - Requires a **two-thirds majority** in both the Lok Sabha and Rajya Sabha.
 - Only a few impeachment attempts have ever been made in Indian history, and none have succeeded fully.
- While the difficulty of impeachment ensures **judicial independence** (protecting judges from political harassment), it fails to act as a **practical deterrent against misconduct**.
- The judiciary needs its own **transparent internal system** to deal with cases of **ethical violations** and **serious allegations**, thus retaining **public trust**.

3. In-House Mechanism: Strengths and Weaknesses

- The **in-house procedure** was created to **limit executive overreach** and allow judges to be held accountable **internally**.
- This mechanism gained legitimacy after the **1991 Supreme Court ruling** that laid down procedures to deal with allegations against judges.
- However, over time, this system has shown **shortcomings**:
 1. **Slow or ineffective response** to complaints.
 2. **Opaque processes** with no public disclosure of actions taken.
 3. **Reluctance to act firmly** against erring judges due to fear of institutional backlash or loss of judicial unity.



- Legal **reforms are necessary** to strengthen this process and make it more responsive, credible, and transparent.

4. Importance of Transparency in Inquiry Reports

- In an age of **media scrutiny and public activism**, the **secrecy surrounding judicial inquiries** breeds speculation and mistrust.
- Making inquiry reports **publicly accessible** (after due legal vetting) can:
 1. Enhance the **credibility of the judiciary**.
 2. Reassure the public that **corrupt practices are not tolerated**.
 3. Dissuade future misconduct through public accountability.
- However, **transparency must be balanced** with:
 1. **Protection of the accused's rights** during the inquiry.
 2. Ensuring **fair trial and due process**.
 3. Avoiding **sensationalism** or media trials that could harm the judiciary's institutional dignity.
- Communication regarding such cases must be **clear and responsible** to avoid misinformation and preserve **institutional integrity**.

5. Revisiting the Executive's Role in Appointments

- The **executive informally influences** judicial appointments through:
 1. **Background checks**, often delaying the process.
 2. **Non-approval** of recommended names, even without formal rejections.
- While the **judiciary retains primacy** through the collegium system, the executive's role creates **non-transparent bottlenecks**.
- Rather than focusing on **who makes the appointments**, the key issue is ensuring:
 1. **Transparency in the process**.
 2. **Clear criteria for selection**.
 3. **Public confidence** in the fairness of the appointments.

6. Why Previous Judicial Accountability Bills Fell Short



- Earlier legislative attempts, like the **Judicial Standards and Accountability Bill**, failed to create **effective enforcement mechanisms**.
- These proposals focused more on **external oversight bodies**, without fixing the **core issues within the judiciary**.
- Reforms should instead aim at:
 1. **Clear standards of conduct** for judges.
 2. **Internal peer-review mechanisms**.
 3. **Mandatory disclosure** of relationships or affiliations that could lead to **conflicts of interest**, especially family members in the legal profession.
 4. **Structural reforms** that prioritize **merit, impartiality, and ethics**.

7. Liberalising Contempt Laws to Enable Constructive Criticism

- The **fear of contempt of court** often discourages the public, media, or even legal scholars from **raising concerns about corruption or misconduct** in the judiciary.
- There is a need to **reform contempt laws** to:
 1. Allow **genuine criticism and open discussion** of judicial conduct.
 2. Prevent the **misuse of contempt powers** by judges to **evade accountability**.
 3. Balance the need to **protect judicial authority** with the **right to freedom of speech**.
- Judicial integrity must not be beyond **public examination**, especially in a democracy that depends on **accountable institutions**.

8. Conclusion: Time for Systemic and Institutional Reforms

- The **judiciary must uphold the highest ethical standards**, being the guardian of the Constitution and rule of law.
- Incidents like the cash seizure from a judge's residence severely **damage public faith** in the system.
- Reforms needed include:
 1. **Strengthening internal mechanisms** for accountability.
 2. **Ensuring transparency** in inquiries and appointments.
 3. **Empowering public debate** through contempt law reform.



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- Without systemic correction, corruption within the judiciary risks **undermining the credibility of the entire justice system.**

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