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JUDICIAL ACCOUNTABILITY AND NEED FOR REFORMS: THE JUSTICE YASHWANT VARMA CASE

~ *Hatif Khan*

Introduction

Debates about the judicial accountability have reignited in India following the recent corruption allegation against the Delhi High Court Judge “Yashwant Varma”.¹ Although the official charges are still stuck, reports have indicated concealed conflict of interest and possible quid-pro-quo arrangements in high-profile cases. Amid the already growing distrust among the public by earlier scandals, such as the “Medical college bribery scandal” (2022),² which linked retired judges in offshore holdings, this controversy arrives as a fuel to fire.

The judicial accountability framework of India in today’s time relies on the shoulders of a non-transparent in-house inquiries³ and a never used, stringent, impeachment process⁴. Judges in India are shielded by constitution through excluding them from RTI scrutiny⁵ and immunity doctrines⁶, which ultimately create a panel of closed circuit where “judge is judged by judge”.⁷ As the recent corruption case unfolds, it presents a critical question: “Is Indian Judiciary in need of structural reforms to regain the trust of public, or can it self-regulate?”

¹ INDIAN EXPRESS, <https://indianexpress.com/article/india/cash-at-home-panel-found-credence-in-allegations-justice-yashwant-varma-gets-nudge-to-quit-9986842/> (Last visited May 11, 2025).

² THE ECONOMIC TIMES, <https://economictimes.indiatimes.com/news/india/medical-college-bribery-scandal-ex-allbad-hc-judge-key-prosecution-witness-for-cbi/articleshow/93282421.cms?from=mdr> (last visited May 10, 2025).

³ Supreme Court Resolution on In-House Procedure ¶ 3 (Dec. 15, 1997).

⁴ INDIA CONST. art. 124(4).

⁵ Supreme Court of India v. Subhash Chandra Agarwal, (2019) SCC OnLine SC 1459.

⁶ K. Veeraswami v. Union of India, (1991) 3 SCC 655.

⁷ S.P. Gupta v. Union of India, (1981) Supp SCC 87.

Judicial accountability and it's legal framework

India's Judicial accountability is fundamentally served through constitutional provisions, Judicial immunity doctrines and in-house procedures, each of which are designed to strike a balance between Judicial accountability and independence. However, such safeguards often fall back in ensuring accountability and transparency, as highlighted by the recent "Yashwant Varma case".

A. Constitutional provisions

The Indian constitution provides a single formal mechanism for removal of judges, e.i. **Impeachment** under article 124(4) and 217(1)(b), for Supreme Court and High Court judges respectively.⁸ This impeachment however requires a two-thirds majority in the parliament, which is a bar so high that no judge has so far been formally impeached. Furthermore, whilst Article 235 gives High Courts some control over disciplines of subordinate judiciary, but it leaves upper judiciary oversight up to self-regulation.⁹

B. In-house mechanism

The In-house Procedure Resolution of Supreme Court in 1977 formed committees of senior judges to look into claims of misconduct.¹⁰ However, such investigations are purely confidential, lacking any statutory backing, and frequently resulting in opaque and ambiguous resolutions.¹¹ Furthermore, the "Restatement of Values of Judicial Life (1999)", being a non-binding ethical code, also stands ineffective in discouraging misconduct due to its unenforceability.¹²

C. Judicial immunity

In *K. Veeraswami v Union of India* (1991), the Supreme Court of India held that judges cannot be charged with criminal prosecution, unless the same is approved through the Chief Justice.¹³ Although protecting Judicial independence, such precedent draws condemnation for granting impunity in matters involving corruption.¹⁴

⁸ INDIA CONST. art. 124(4), art. 217(1)(b).

⁹ INDIA CONST. art. 235.

¹⁰ Supreme Court Resolution on In-House Procedure, ¶ 3 (Dec. 15, 1997).

¹¹ *In Re: Hon'ble Shri Justice C.S. Karnan*, (2017) 1 SCC 1.

¹² *Restatement of Values of Judicial Life*, ¶ 5 (May 7, 1999).

¹³ *K. Veeraswami v. Union of India*, (1991) 3 SCC 655, 689.

¹⁴ Fali S. Nariman, *The Judicial Accountability Paradox*, 44 J. INDIAN L. INST. 1, 12 (2002).

Key issue

In the current framework where judges investigate judges, a blatant conflict of interest is created, which prioritizes Judicial independence over accountability. Lack of legislative changes, allegations such as those made against Justice Yashwant Varma run the threat of getting lost in the shuffle of this legal system.

The Justice Yashwant Varma case: bringing systematic flaw to light

The accusations made against Justice Yashwant Varma give light to significant lapses in the Judicial accountability. Although the specific charges are still undisclosed and being investigated, reports point few potential irregularities in case allocation and unreported conflict of interest.¹⁵

Key issues in the case:

- 1. Procedural delays:** As previously see in the C.S. Karnan case (misconduct accusations were overshadowed by a contempt proceeding), such in-house inquiries often take years to come to a conclusion.¹⁶
- 2. Opacity:** Indian in-house committees, unlike that of U.S. Judicial conduct system, function in a very confidential manner,¹⁷ which precludes public scrutiny.
- 3. Conflict of Interest:** An inherent bias is created in an environment where judges investigate colleagues, undermining fairness and principals of natural justice.¹⁸

The Varma case thus is reminiscent of past failures, such as the impeachment of Justice Soumitra Sen (2011), which fell through more on political plotting rather than on merits.¹⁹ Lacking any statutory deadlines or independent oversight, cases like these are on verge of becoming another illustration of India's lack of accountability.

Need for reforms: path to transparency in judicial accountability

¹⁵ THE INDIAN EXPRESS, <https://indianexpress.com/article/opinion/columns/cash-in-delhi-hc-judges-home-independent-judiciary-accountable-9899892/> (Last visited May 10, 2025).

¹⁶ In Re: Hon'ble Shri Justice C.S. Karnan, (2017) 1 SCC 1, ¶ 12.

¹⁷ Judicial Conduct and Disability Act, 28 U.S.C. § 351 (2021).

¹⁸ Fali S. Nariman, The Judiciary's Accountability Crisis, 50 J. INDIAN L. INST. 45, 52 (2018).

¹⁹ THE HINDU, <https://www.thehindu.com/news/national/timely-resignation-saves-justice-sen-from-untimely-ouster/article2426007.ece> (Last visited May 10, 2025).

The Indian crisis of Judicial accountability calls for immediate structural adjustments. Firstly, to avoid the conflict of interest, the National Judicial Commission (NJC) must take place of the long existing collegium system, with the inclusion of a variety of members, like the CVC and the Law Minister.²⁰ Secondly, the Judicial Standards and Accountability Bill (2010),²¹ which mandates asset disclosure and penalizes misconduct, shall be brought back to life.

Furthermore, Institutional reforms are just as significant. In order to avoid delays similar to that in K. Veeraswami case,²² cases involving judicial misconduct must be adjudicated by fast-track courts. In view the current atmosphere of intimidation, a whistleblower protection for those complaining is crucial as well.²³ Publication of redacted in-house inquiry results and overriding the Subhash Agrawal case²⁴ to ensure RTI compliance are some examples of transparency methods.

On a global scale, models such as that of South African Judicial Service Commission²⁵ (civil society monitoring) and the U.S. Judicial Conduct and Disability Act²⁶ (public hearing) provide verified results. India currently follows a system where the judges are “untouchable” in the absence of such reform, which would further damage public confidence in the court.

Conclusion: regaining trust in judicial integrity

The recent case of Justice Varma emphasizes how important a change in India’s Judicial accountability framework stands. Current procedures stand ineffective in ensuring transparency within the system,²⁷ which include opaque internal inquiries, close-to impractical impeachment, and excessive judicial immunity. However, the solution might lie in changing the lane and adopting the NJAC system, enforceable ethical norms,²⁸ and RTI compliance²⁹ for the judiciary

²⁰ 114th Law Commission Report on Judicial Reforms ¶ 3.2 (2005).

²¹ Judicial Standards and Accountability Bill, Bill No. XX of 2010 (India).

²² K. Veeraswami v. Union of India, (1991) 3 SCC 655, 689.

²³ Whistleblowers Protection Act, 2014, § 4, No. 17, Acts of Parliament, 2014 (India).

²⁴ Supreme Court of India v. Subhash Chandra Agarwal, (2019) SCC OnLine SC 1459.

²⁵ S. AFR. CONST. § 178.

²⁶ 28 U.S.C. § 351 (2021).

²⁷ In Re: Hon’ble Shri Justice C.S. Karnan, (2017) 1 SCC 1.

²⁸ Judicial Standards and Accountability Bill, Bill No. XX of 2010 (India).

to regain the eroding public trust.³⁰ Furthermore, International examples as well demonstrate that autonomous supervision is effective, even without sacrificing the independence of judiciary.

Lastly, to fulfill its constitutional function, Indian courts must decide whether to adopt accountability or continue operating as an isolated institution. Before any other controversy further shakes the public trust in courts, an urgent reform is indeed needed.

²⁹ Supreme Court of India v. Subhash Chandra Agarwal, (2019) SCC OnLine SC 1459.

³⁰ *India Justice Report 2022*, TATA TRUSTS (2022), <https://www.indiajusticereport.org> (last visited May 5, 2025).