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FROM BACKLOGS TO BENCHMARK:

SHOULD JUDGES BE PROMOTED BASED ON THE QUALITY & QUANTITY OF CASES JUDGED?

~ Shrushti Vishal Dumbre

"A judge measured only by how many cases she closes will close cases. Whether she has done justice is a question no statistic asks."

ABSTRACT

India's courts carry one of the largest case backlogs in the world: approximately 5.41 crore matters were pending as of 31 December 2025, more than 4.76 crore in the district and subordinate judiciary alone.¹ Delay on this scale erodes the constitutional guarantee of speedy justice and the confidence on which judicial authority rests. Yet promotion remains insulated from structured assessment: in the higher judiciary elevation turns on seniority and collegium recommendation; in the subordinate judiciary evaluation exists but is uneven across States.

This paper asks whether judicial promotion should incorporate structured criteria drawn from the quantity and quality of judicial work, and whether it can do so without compromising independence. It examines the constitutional framework, the debate over whether judicial performance can be measured, and comparative practice in the United States, Singapore, the United Kingdom and Europe.

¹ National Judicial Data Grid, Department of Justice, Government of India, <https://njdg.ecourts.gov.in> (last visited 5 June 2026).

A purely seniority-based system rewards survival rather than competence; a purely numerical system rewards disposal rather than justice. The paper proposes a hybrid Judicial Performance and Promotion Framework: weighted towards quality, administered independently of the executive, insulated from the content of decisions, and piloted before any nationwide extension. Accountability and independence are not opposing values. They fail together, and must be designed together.

KEYWORDS

Judicial performance evaluation; judicial independence; judicial accountability; pendency; case backlog; collegium; subordinate judiciary; judicial promotion; National Judicial Data Grid; basic structure doctrine; hybrid evaluation model.

INTRODUCTION

Consider two judges in the same district court. The first disposes of nine hundred matters in a year, most uncontested, many resolved by default after repeated adjournments. The second disposes of three hundred, several of them complex commercial and constitutional disputes, each decided by a reasoned judgment that survives appeal. Under a promotion system that counts, the first is plainly the better judge. Under a system that reads, the second may well be. India's system does neither with any consistency.

Unlike most public institutions, judiciaries resist performance metrics, and for a principled reason: the fear that a judge who is assessed will begin to decide with the assessor in mind. Rising pendency has nonetheless forced the question onto the agenda.

The argument can be stated simply. India has built the infrastructure required to measure judicial work without building the framework required to use it responsibly. The **National Judicial Data Grid** records disposal and pendency in near real time,² while elevation runs on seniority and collegium recommendation, and subordinate promotion on instruments varying from State to State. The institution generates performance data continuously and uses it for advancement barely at all.

A promotion system built on disposal statistics will produce judges who dispose; it will not

² National Judicial Data Grid, Department of Justice, Government of India, <https://njdg.ecourts.gov.in> (last visited 5 June 2026).

produce judges who reason, and it will quietly penalise those who take the time that difficult cases demand. A system built on seniority alone rewards longevity and insulates incompetence. India requires a hybrid framework, weighted towards quality, administered independently, and tested before it is imposed.

A note on terminology. "**Promotion**" covers two distinct processes: elevation within the higher judiciary, meaning appointment to a High Court or the Supreme Court, and promotion within the subordinate judiciary through the district cadre. They are governed by different constitutional provisions, and the paper distinguishes them where the distinction matters.

RESEARCH PROBLEM

The core question is whether India can develop a promotion system based on both the quantity and the quality of judicial work without undermining judicial independence.

METHODOLOGY

This is doctrinal and policy-oriented research. The doctrinal component analyses the constitutional structure governing judicial appointment and promotion, particularly **Articles 124, 217 and 233 to 237 of the Constitution of India**,³ with **All India Judges Association v. Union of India** and the Judges Cases on the collegium.⁴ The comparative component examines evaluation in the United States, Singapore, the United Kingdom and Europe, and the policy component assesses feasibility, drawing on the **Singapore Judicial Service Commission's Annual Report for 2024**⁵ and Vinceti's work on peer review.⁶

SCOPE & LIMITATIONS

The paper concerns promotion and elevation. It does not address appointment at first instance, judicial discipline, removal, or the substantive law applied by the courts whose performance it discusses. Its focus is institutional design, not individual assessment.

³ Constitution of India, arts. 124, 217, 233-237.

⁴ All India Judges Association v. Union of India, (2023) 1 SCC 1; Supreme Court Advocates-on-Record Association v. Union of India, (1993) 4 SCC 441; In re Special Reference No. 1 of 1998, (1998) 7 SCC 739.

⁵ Judicial Service Commission, Annual Report 2024 (Singapore Judiciary 2024).

⁶ Silvio Roberto Vinceti, "Innovating Judicial Performance Evaluations: Toward Academic-Style Peer Review?" (2024) 15(1) International Journal for Court Administration 2, DOI: <https://doi.org/10.36745/ijca.576>.

Three limitations should be stated. The research is doctrinal and offers no original empirical measurement of whether evaluation reduces pendency. The comparative material is drawn from four jurisdictions differing markedly from India in scale and legal culture, so transferability is treated as a question rather than an assumption. And judicial data remains uneven across States.

1. THE BACKLOG: SCALE & CONSEQUENCE

1.1 SCALE OF PENDENCY

Court Level	Pending Cases
Supreme Court of India	92,101
High Courts	63,66,023
District & Subordinate Courts	4,76,57,328
Total	5,41,15,452 (approx. 5.41 crore)⁷

As of 31 December 2025, approximately 5.41 crore cases were pending across Indian courts: 92,101 before the Supreme Court, 63,66,023 before the High Courts, and 4,76,57,328 before the District and Subordinate Courts.⁸ The distribution matters as much as the total. Roughly 88% sits in the subordinate judiciary, where structured evaluation already exists in some form and reform is most immediately achievable. Any proposal concentrating on the higher judiciary addresses the most visible part of the problem and the smallest. The causes are largely structural: vacancies, procedural delay, adjournments, inadequate infrastructure, high rates of litigation including by the State itself, and inefficiency in listing.

1.2 WHAT DELAY COSTS

The economic consequences are the most easily quantified. Delay depresses investment and commercial certainty; disputes left unresolved for years weaken contract enforcement and raise transaction costs, predictably enough to be priced in.

The social consequences are more serious and less measurable. Litigants endure strain and hardship across the life of a delayed case, and in criminal matters delay means undertrials held for periods sometimes exceeding the sentence the alleged offence

⁷ Nat'l Judicial Data Grid, Dep't of Just., Gov't of India, <https://njdg.ecourts.gov.in> (last visited June 5, 2026).

⁸ National Judicial Data Grid, Department of Justice, Government of India, <https://njdg.ecourts.gov.in> (last visited 5 June 2026); Ministry of Law and Justice, Government of India, Unstarred Question No. ___, Lok Sabha (13 February 2026) (reporting pendency data based on the National Judicial Data Grid).

would have attracted. The cost is not borne by the institution. It is borne by the person waiting.

The constitutional consequences follow directly. The right to a speedy trial is an integral component of *Article 21*⁹ through *Hussainara Khatoon v. Home Secretary, State of Bihar*.¹⁰ Extreme delay weakens the guarantee of life and personal liberty and, through it, the rule of law: when courts cannot provide timely remedies, the guarantee becomes formal rather than real.

The institutional consequences complete the sequence. Prolonged pendency damages the judiciary's credibility, generating a perception that justice delivery is inefficient and inaccessible. That distrust weakens the legitimacy of judicial institutions, and legitimacy is the only currency in which courts are paid.

1.3 FROM DELAY TO ACCOUNTABILITY

Pendency of this scale has strengthened demands for accountability, and led directly to the question this paper addresses: whether promotion should reward not only seniority but efficiency and the quality of judgments. The step is often taken too quickly. A backlog does not by itself establish that judges are underperforming, still less that measuring them will clear it. What it establishes is that the institution is failing to deliver a constitutional guarantee and has no systematic way of knowing which parts of itself are working. Evaluation is defensible as a diagnostic instrument before it is defensible as a promotional one.

2. LITERATURE REVIEW

2.1 INDEPENDENCE & ACCOUNTABILITY: THE FOUNDATIONAL DEBATE

Mauro Cappelletti framed the central question as one of who watches the watchmen, arguing that accountability is not the antithesis of independence but a condition of its legitimacy.¹¹ **Shimon Shetreet** likewise contends the two must be held in institutional balance.¹² **Contini** and **Mohr** show that European judiciaries have sought to reconcile them through structured but safeguarded assessment.¹³ Independence, on this premise,

⁹ Constitution of India, art. 21.

¹⁰ *Hussainara Khatoon v. Home Secretary, State of Bihar*, AIR 1979 SC 1360.

¹¹ Mauro Cappelletti, "Who Watches the Watchmen? A Comparative Study on Judicial Responsibility" (1983) 31 *American Journal of Comparative Law* 1.

¹² Shimon Shetreet and Sophie Turenne, *Judges on Trial: The Independence and Accountability of the English Judiciary* (2nd edn, Cambridge University Press 2013).

¹³ Francesco Contini and Richard Mohr, "Reconciling Independence and Accountability in Judicial Systems" (2007) 3(2) *Utrecht Law Review* 26.

is not a license but a trust, and a trust implies an account.

2.2 THE CASE FOR MANAGEMENT

A distinct strand argues that judicial performance can and should be measured. **Choi** and **Gulati**'s tournament of judges proposed ranking judges on transparent indicators such as productivity and influence, precisely to reduce the role of patronage in advancement.¹⁴ **Epstein, Landes** and **Posner** analyzed judges as rational actors whose output can be studied systematically,¹⁵ and **Posner** has argued that courts may be assessed on efficiency and workload.¹⁶ The argument deserves to be stated at its strongest: the alternative to transparent metrics is not the absence of evaluation but opaque evaluation, in which advancement turns on reputation and proximity no one must justify.

2.3 THE CASE AGAINST

Others caution that metrics carry serious risks. **Kate Malleson** warns that instruments designed to safeguard impartiality may instead pressure judges towards conformity.¹⁷ **Garoupa** and **Ginsburg** demonstrate that bodies created to evaluate judges do not automatically improve quality; poorly structured ones politicise rather than professionalise.¹⁸ The warning is not that evaluation is impossible, but that evaluation is an institution in its own right, and will be captured if it is not designed against capture.

2.4 COMPARATIVE & INSTITUTIONAL EVIDENCE

A substantial comparative literature verifies how systems operationalise evaluation. The European Commission for the Efficiency of Justice has produced sustained data on timeliness and quality, and scholars of judicial councils have examined how peer review can coexist with safeguards against political interference.¹⁹ Evaluation is workable, but only where independent oversight and transparent criteria are built in from the outset. The safeguards are not refinements added to a working system; they are the condition

¹⁴ Stephen J. Choi and G. Mitu Gulati, "A Tournament of Judges?" (2004) 92 California Law Review 299; see also Stephen J. Choi and G. Mitu Gulati, "Choosing the Next Supreme Court Justice: An Empirical Ranking of Judicial Performance" (2004) 78 Southern California Law Review 23.

¹⁵ Lee Epstein, William M. Landes and Richard A. Posner, *The Behavior of Federal Judges: A Theoretical and Empirical Study of Rational Choice* (Harvard University Press 2013).

¹⁶ Richard A. Posner, *How Judges Think* (Harvard University Press 2008).

¹⁷ Kate Malleson, "Safeguarding Judicial Impartiality" (2002) 22 Legal Studies 53; see also Kate Malleson, *The New Judiciary: The Effects of Expansion and Activism* (Ashgate 1999).

¹⁸ Nuno Garoupa and Tom Ginsburg, "Guarding the Guardians: Judicial Councils and Judicial Independence" (2009) 57 American Journal of Comparative Law 103; Nuno Garoupa and Tom Ginsburg, *Judicial Reputation: A Comparative Theory* (University of Chicago Press 2015).

¹⁹ European Commission for the Efficiency of Justice (CEPEJ), *European Judicial Systems: Efficiency and Quality of Justice* (Council of Europe, CEPEJ Studies), biennial evaluation reports.

of it working.

2.5 THE INDIAN LITERATURE, & THE GAP THIS PAPER ADDRESSES

Indian scholarship has concentrated more on appointments, workload and delay than on evaluation-based promotion. **Nick Robinson's** analysis of the Supreme Court's workload documented the scale of pendency.²⁰ **Gadbois** and **Chandrachud** have shown that elevations have historically turned on seniority and unwritten criteria rather than transparent performance measures.²¹ Law Commission reports have urged efficiency-oriented reform without prescribing a promotion framework.²²

The gap is therefore specific. The international debate has produced arguments for and against measurement; the Indian literature has documented delay and the informality of elevation. What remains under-examined is how a hybrid model could be integrated into Indian promotion, given federal structure, uneven data, and a doctrine treating independence as basic structure.

3. JUDICIAL PROMOTION IN INDIA: THE EXISTING FRAMEWORK

3.1 THE CONSTITUTIONAL ARCHITECTURE

Appointment and promotion operate under a divided constitutional scheme. **Articles 124 and 217** govern appointment to the Supreme Court and the High Courts.²³ **Articles 233 to 237** govern the subordinate judiciary, placing the district judiciary substantially under the control of the High Court of the State.²⁴ Reform of the two tiers therefore raises different questions: the subordinate judiciary can be reformed through High Court administrative action, the higher judiciary cannot.

3.2 THE HIGHER JUDICIARY: SENIORITY & THE COLLEGIUM

Elevation within the higher judiciary depends on seniority, collegium recommendation and an assessment of competence that is neither published nor structured. This is the striking feature of the Indian position: at the level where decisions carry the greatest constitutional weight, the criteria for advancement are the least articulated.

²⁰ Nick Robinson, "A Quantitative Analysis of the Indian Supreme Court's Workload" (2013) 10(3) Journal of Empirical Legal Studies 570.

²¹ George H. Gadbois Jr., *Judges of the Supreme Court of India 1950-1989* (Oxford University Press 2011); Abhinav Chandrachud, *The Informal Constitution: Unwritten Criteria in Selecting Judges for the Supreme Court of India* (Oxford University Press 2014).

²² Law Commission of India, 245th Report on Arrears and Backlog: Creating Additional Judicial (Wo)manpower (2014); Law Commission of India, 230th Report on Reforms in the Judiciary: Some Suggestions for Immediate Measures (2009).

²³ Constitution of India, arts. 124, 217.

²⁴ Constitution of India, arts. 233-237.

3.3 THE SUBORDINATE JUDICIARY: STRUCTURE WITHOUT STANDARDIZATION

Promotion within the subordinate judiciary is comparatively structured, involving seniority, departmental examinations, Annual Confidential Reports, disposal statistics and vigilance records. These already evaluate the mixture of quantity and quality this paper concerns; the question is not whether to begin evaluating but how to evaluate coherently. The difficulty is that they remain inconsistent across States, which makes the aggregate system difficult to assess, defend or improve.

3.4 ALL INDIA JUDGES ASSOCIATION & THE REFORM MANDATE

In *All India Judges Association v. Union of India*, the Supreme Court emphasised the refinement of judicial service conditions, institutional efficiency and modernisation.²⁵ The decision matters here for a narrow reason: it establishes that institutional reform directed at efficiency is not constitutionally suspect merely because it is directed at judges. The objection must be to the design of a mechanism, not to institutional improvement itself.

4. WHAT CAN BE MEASURED, & WHAT CANNOT

Any proposal to evaluate judges must confront a prior question: what is being evaluated? The debate proceeds as though "performance" were a single quantity. It is not. Judicial work has a quantitative dimension that is genuinely measurable and a qualitative dimension that is genuinely resistant to measurement, and most of the disagreement dissolves once the two are separated.

ASPECTS	QUANTITY – BASED EVALUATION	QUALITY – BASED EVALUATION
INDICATORS	Number of Cases Disposed	Strength of Judicial Reasoning
	Clearance Rate	Use of Precedents
	Time Taken per Case	Reversal Rates
	Backlog Reduction	Clarity and Accessibility
	Case Management Efficiency	Ethical Conduct & Courtroom Management

²⁵ All India Judges Association v. Union of India, (2023) 1 SCC 1.

ADVANTAGES	Encourages Efficiency	Protects Substantive Justice
	Reduces Backlogs	Encourages Judicial Scholarship
	Enhances Accountability	Enhances Public Trust
	Improves Administrative Discipline	Supports Constitutionalism
CHALLENGES	Risk of Mechanical Justice	Subjectivity
	Quality May Decline	Bias Risks
	Complex Cases Require Time	Political Influence
	Threat to Judicial Independence	Difficulty of Standardization
	Disposal-Oriented Culture	

4.1 QUANTITY-BASED INDICATORS

The quantitative dimension is measured through cases disposed, clearance rate, time per case and backlog reduction. These indicators are objective, in that reasonable evaluators applying them to the same record reach the same result; they are already collected through the National Judicial Data Grid.

Their defects are equally real. They invite mechanical justice; they permit quality to decline while the numbers improve; they penalise the complex case that properly requires time; and, tied tightly to advancement, they give a judge a career reason to prefer the quick disposal to the correct one. Every one measures the closing of a file rather than the doing of justice, and the two coincide only when nobody is rewarded for the difference.

4.2 QUALITY-BASED INDICATORS

The qualitative dimension is assessed through the strength of reasoning, the use of precedent, reversal rates, the clarity of judgments, and ethical conduct. These indicators protect substantive justice and support constitutionalism. They are directed at what the judiciary is actually for.

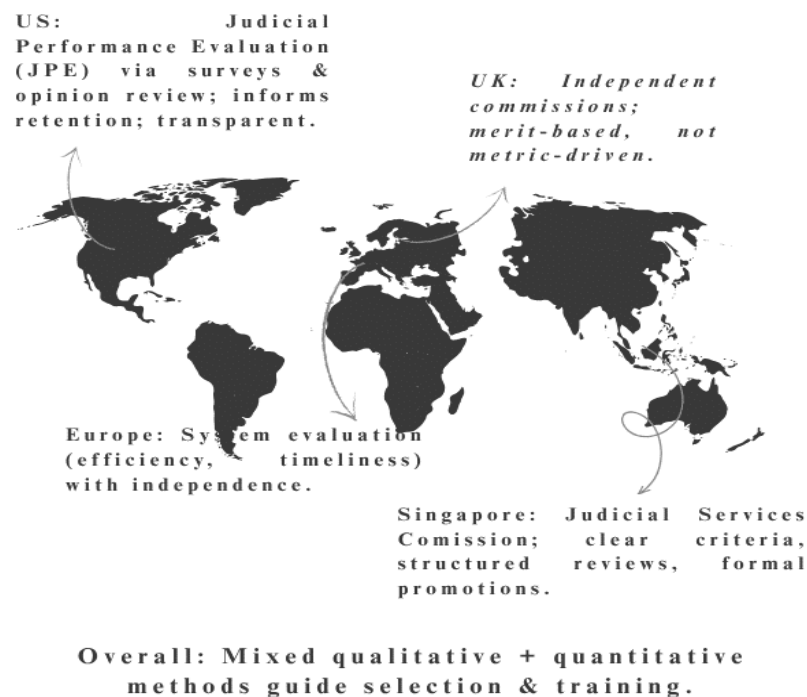
They are also harder to operate: subjective, exposed to evaluator bias, and difficult to standardise across courts and States. Reversal rate illustrates the difficulty. It appears objective, and it is not: a judge frequently reversed may be a poor judge, or one correctly applying settled law in an area the appellate court is actively changing. Used carelessly, reversal rate punishes the judge who is right too early.

4.3 WHY NEITHER SHOULD SURVIVE ALONE

The arguments on each side are not evenly matched, and it is worth saying why. Almost every argument for measurement is about the institution: efficiency, throughput, transparency. Almost every argument against is about the individual judge in the hard case. Measurement improves the institution in the aggregate while endangering the judge at the margin, and it is at the margin that constitutional adjudication happens. Neither a purely seniority-based model nor a purely performance-driven model is therefore defensible. A balanced hybrid framework is the only structure that responds to both halves of the problem.

5. COMPARATIVE PERSPECTIVES

Several jurisdictions have addressed the question India now faces. None offers a model that can simply be transplanted.



5.1 THE UNITED STATES: JUDICIAL PERFORMANCE EVALUATION (JPE)

Several American States operate Judicial Performance Evaluation programmes involving lawyer surveys, peer review and assessment of written opinions, tied to holding elections rather than promotion. Their instructive feature is what they demonstrate rather than what they achieve: evaluation can coexist with independence where safeguards exist. But American evaluation informs an electorate deciding

whether to retain a judge, and India has no equivalent mechanism. What survives translation is the methodology, not the institutional purpose.

5.2 SINGAPORE: STRUCTURED INSTITUTIONAL REVIEW

Singapore's Judicial Service Commission oversees appointment, promotion and discipline, emphasising structured training, institutional efficiency and performance assessment.²⁶ It is the jurisdiction most often invoked in Indian debate and the one requiring the greatest caution. It indicates that performance-oriented administration can substantially reduce backlog when combined with technology, training and efficient case management. But a single unified jurisdiction with a compact judiciary is not a federal system of twenty-five High Courts supervising thousands of subordinate courts across States with divergent service rules. India can take the principle that criteria should be explicit; it cannot assume a centrally administered model will function across a federal judiciary.

5.3 THE UNITED KINGDOM: MERIT-BASED APPOINTMENT

The United Kingdom follows a merit-oriented framework administered by the Judicial Appointments Commission, relying not on numerical metrics but on holistic evaluation through independent machinery. Its contribution is conceptual: merit can be assessed by an institution independent of both the executive and the judicial hierarchy, and the legitimacy of such assessment derives from the independence of the assessor rather than the objectivity of the measure. That is directly relevant to India, where the objection to evaluation is almost always an objection about who would be doing the evaluating.

5.4 EUROPE: COUNCILS, PEER REVIEW & CEPEJ

Several European countries operate evaluation systems addressing timeliness, efficiency and professional development, with judicial councils combining quantitative assessment, peer review and training evaluation.²⁷ They place heavy emphasis on safeguards against political interference, and councils lacking them have politicised rather than professionalised their judiciaries. The European experience is the most relevant to India because it is the only one in which judges evaluate other judges at scale within systems treating independence as a constitutional value. Its transferability is qualified: European councils operate with standardised data, which India lacks.

5.5 WHAT THE COMPARISON YIELDS

²⁶ Judicial Service Commission, Annual Report 2024 (Singapore Judiciary 2024).

²⁷ European Commission for the Efficiency of Justice (CEPEJ), European Judicial Systems: Efficiency and Quality of Justice (Council of Europe, CEPEJ Studies), biennial evaluation reports.

Comparative claims here are not always accompanied by evidence of causation. Each is a claim of association within a particular setting, not a causal law that will hold in India. What the comparison establishes more securely is negative and more useful. No jurisdiction that evaluates judges successfully does so through numerical targets alone; every one pairs measurement with independent administration, professional input and protection of the content of decisions. The safeguards travel better than the mechanisms.

<i>Country</i>	<i>Evaluation System</i>	<i>Impact on Efficiency</i>
<i>Singapore</i>	Structured reviews	Significant reduction in delays
<i>USA</i>	JPE	Increased accountability
<i>UK</i>	Merit-based assessment	Improved transparency
<i>Europe</i>	Mixed models	Better case management

6. CONSTITUTIONAL FAULT LINES

6.1 INDEPENDENCE AS BASIC STRUCTURE

The Supreme Court has consistently recognised judicial independence as part of the basic structure. Any evaluation system must therefore avoid executive dominance and conformity pressure. This is not an exhortation to caution; it is a constraint determining the permissible design space. A scheme leaving the assessment of judges in executive hands is not merely unwise. It is, on the current doctrine, unconstitutional.

6.2 THE RISK OF CONFORMITY & CAREER PRESSURE

Improperly designed systems threaten independence in two immediate ways. Judges may hesitate to deliver unpopular decisions for fear of adverse evaluation, which deters independent constitutional interpretation. And if advancement depends excessively on metrics, judges may adjust their conduct to institutional expectation rather than apply legal principle impartially. A third and subtler risk is the decline of judicial creativity. Rigid systems encourage caution, and a cautious judiciary does not develop innovative interpretation. The risk is the one least likely to be detected: a judiciary disciplined into conformity produces excellent statistics, and the loss is invisible in every metric the system collects.

6.3 THE RISK OF EXECUTIVE CAPTURE

There is also the risk of executive influence where evaluation machinery is controlled, directly or indirectly, by political authorities. This is why the identity of the evaluating

body, not the content of the criteria, is the decisive question in India. Criteria can be renegotiated. An institution, once captured, is not easily recovered.

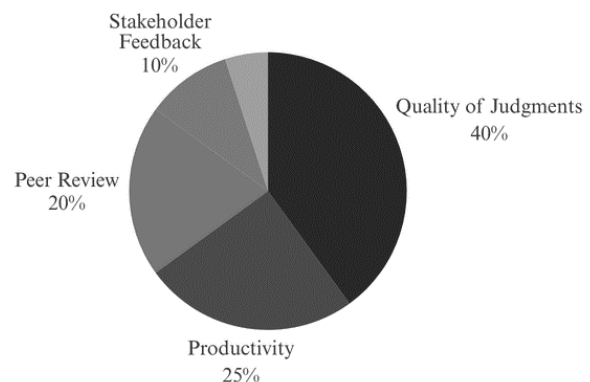
6.4 RECONCILING ACCOUNTABILITY & INDEPENDENCE

Accountability and independence should not be treated as opposing principles, and the position here is stronger than the claim that they must be balanced. A judiciary that is unaccountable loses public confidence, and one that has lost public confidence cannot defend its independence when it is challenged. Conversely, a judiciary whose independence has been eroded cannot be meaningfully accountable, because it is no longer answerable for its own decisions.

7. FRAMEWORK FOR INDIA

7.1 THE EVALUATION CRITERIA & THEIR WEIGHTING

The framework proposed here assigns forty per cent to the quality of judgments, twenty-five per cent to productivity, twenty per cent to peer review, ten per cent to stakeholder feedback and five per cent to judicial training and ethics.



Quality carries the largest weight

because the primary function of the judiciary is to deliver legally sound decisions. Productivity remains substantial because of the pendency crisis. Peer review is weighted enough to matter without permitting the profession to mark its own work. Stakeholder feedback is confined to a weight too low to influence decisional independence.

These weightings are an illustrative starting point for a pilot, not a claim to precision. What the distribution encodes is a defensible ordering of priorities, quality above productivity, professional assessment above lay feedback, each open to revision on the evidence a pilot generates.

7.2 JUDICIAL PERFORMANCE & PROMOTION FRAMEWORK

The framework comprises six components: an annual judicial review; an independent evaluation commission; a peer review mechanism; training assessment; public transparency reports published in aggregate form and no individual report will be published to maintain the dignity of the judges; and appellate review analysis.

One design rule governs all six. Appellate review analysis must identify patterns indicating training needs rather than penalise a judge for decisions an appellate court disagreed with.

7.3 AN INDEPENDENT EVALUATION COMMISSION

A Judicial Performance Evaluation Commission may be established either through parliamentary legislation or under the administrative authority of the judiciary in consultation with constitutional authorities.

The choice of instrument matters more than it first appears. A statutory commission enjoys durability and democratic authorisation but is created by the political branches and may be amended by them. A commission under the judiciary's own authority is more easily insulated from the executive but easier to dilute from within. The safer sequence is to begin under judicial administrative authority at the subordinate level, and to consider statutory footing once a pilot has shown what the body needs to do.

7.4 PHASED IMPLEMENTATION

Implementation should proceed in four phases: a pilot in selected subordinate courts using limited indicators, treated as diagnostic rather than promotional; institutional development, creating review bodies and standardised data systems; expansion, introducing promotion-linked consequences only then; and continuous review through independent audit.

Evaluation is introduced first as a diagnostic instrument and only later attached to advancement, so its defects are discovered while the cost is still institutional rather than borne by individual careers. Beginning in the subordinate judiciary is equally deliberate: that is where the backlog sits, and where the High Courts can act without legislation.

8. CHALLENGES TO IMPLEMENTATION

The first obstacle is institutional resistance: courts may decline evaluation out of concern for autonomy. This is not simply defensiveness; it is grounded in a real constitutional risk, and a reform treating it as an obstacle to be overcome rather than a concern to be answered will deserve to fail.

The second is unreliable data. Uniform judicial data collection remains underdeveloped across much of India, and without standardised data assessment produces misleading results. This is why the framework places data standardisation in the second phase

rather than assuming it. A framework built on unreliable data does not merely fail; it fails while appearing to succeed, because the numbers will still be produced.

The third is the causes of delay are largely structural rather than personal, and courts across States operate under widely varying conditions. It is decisive for design rather than against reform. Assessment must be contextual, since a uniform standard applied to unlike caseloads is not fairness but its opposite, and no judge should be measured against a docket the institution rather than the judge has shaped. These constraints establish the pace of reform, and they are why this paper proposes a pilot rather than a statute.

9. RECOMMENDATIONS

9.1 ACHIEVABLE WITHIN THE PRESENT FRAMEWORK

First, pilot the framework in selected subordinate courts under High Court administrative authority. *Articles 233 to 237* already vest the High Courts with control over the district judiciary, and no legislation is required. This is the single most important recommendation in this paper, because it is the one that can begin now.

Second, use the National Judicial Data Grid as the evidentiary backbone. The data required for the quantitative component is already collected nationally.²⁸ The task is not to build new measurement systems but to standardise, audit and connect what exists.

Third, standardise the instruments already operating. Annual Confidential Reports, disposal statistics and vigilance records vary across States; aligning their form and weighting would improve the existing system immediately and is a precondition for any national framework.

Fourth, publish evaluation criteria and aggregate performance reports. Transparency about criteria costs nothing constitutionally and addresses the legitimacy deficit directly; reports should be aggregated so that institutional accountability does not become individual exposure.

Fifth, embed judicial academies from the outset, so that evaluation identifies training needs and delivers training in response rather than functioning as a disciplinary instrument.

9.2 REQUIRING LEGISLATION OR FORMAL INSTITUTIONAL CHANGE

²⁸ National Judicial Data Grid, Department of Justice, Government of India, <https://njdg.ecourts.gov.in> (last visited 5 June 2026).

Sixth, consider placing a Judicial Performance Evaluation Commission on a statutory footing, but only after a pilot has established what the body needs to do. Legislating before its functions are understood risks entrenching a design the evidence does not support.

Seventh, if such a commission is established, its composition must be fixed by law as retired judges, judicial academicians, senior advocates and administrative experts, with appointment insulated from executive control.

Eighth, attach promotion consequences only after the diagnostic phase has run and the data has been audited. The sequencing is itself a constitutional safeguard, not an administrative preference.

Ninth, extend structured evaluation to the higher judiciary only after the subordinate pilot has been assessed, and only through mechanisms consistent with collegium primacy. The case for disclosed criteria is strongest where criteria are least articulated, but that is also where the constitutional risk is highest.

9.3 THE ORGANIZING PRINCIPLE

A single principle underlies every recommendation: evaluate the conduct of judicial work, never the content of judicial decisions.

Every safeguard in this paper applies it. The evaluating body must be independent of the executive because an executive assessor will eventually assess conclusions. Stakeholder feedback must carry a low weight because litigant satisfaction tracks who won. Quality must outweigh productivity because productivity is indifferent to whether the decision was right.

10. CONCLUSION

This paper has argued that performance-based judicial promotion is neither unconstitutional nor inherently dangerous: carefully designed frameworks can improve efficiency and institutional legitimacy while preserving decisional autonomy. It has equally rejected numerical approaches that reduce judges to disposal statistics.

It is often said that justice delayed is justice denied. The maxim is true, and it has been repeated in India long enough to have become an alibi. But there is a second half the debate on backlogs tends to omit. Justice counted is not justice done. A judiciary that responds to the first proposition by embracing the second will clear its docket and lose the reason it existed. The task is to build a system that can tell the difference, and India can begin building it without amending a word of the Constitution.

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