



Parliamentary Oversight vs. Judicial Independence: An Examination of the Supreme Court Judge Removal Mechanism in India

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ARTICLE DETAILS	ABSTRACT
Research Paper	
Keywords : <i>Judicial Independence, Parliamentary Oversight, Supreme Court Judges, Removal Mechanism, Judicial Accountability, Articles 124(4), Misbehaviour, Impeachment.</i>	<i>The Indian Constitution enshrines judicial independence as a cornerstone of democracy, enabling judges to function without fear or favor. However, judicial independence carries a concomitant responsibility of accountability, ensuring that judges uphold integrity and maintain public confidence. The process of removing Supreme Court judges, as envisaged in Articles 124(4) and 217(1), is intentionally rigorous, reflecting the delicate balance between parliamentary oversight and judicial autonomy. This paper provides a comprehensive examination of the constitutional framework for judge removal, historical precedents, procedural intricacies, challenges in implementation, comparative perspectives from other democracies, and potential reforms. By analyzing landmark cases and scholarly commentary, this study critically evaluates how India seeks to maintain judicial accountability while preserving judicial independence.</i>

1. Introduction

Judicial independence is a hallmark of democratic governance. In India, it ensures that the judiciary functions as a robust check against arbitrary actions by the legislature or executive. Yet independence is not absolute; the judiciary must remain accountable to the Constitution, the law, and the public. Striking the right balance between independence and accountability is especially critical in the context of Supreme Court judges, whose decisions can influence the political, social, and economic fabric of the nation.



The Constitution of India envisages a rigorous mechanism for the removal of Supreme Court judges to safeguard independence while allowing accountability in cases of proven misbehavior or incapacity. The involvement of Parliament in this process, known as parliamentary oversight, is a double-edged sword—it serves as a check against judicial misconduct but introduces the potential for political influence. This paper explores this complex interplay, examining constitutional provisions, historical experiences, procedural challenges, and comparative global practices.

2. Constitutional Framework for Removal of Supreme Court Judges

2.1 Article 124(4)

Article 124(4) of the Constitution stipulates:

“A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a special majority, praying for such removal on the ground of proved misbehaviour or incapacity.”

Key features:

1. **Grounds for Removal:** Only misbehaviour or incapacity.
2. **Parliamentary Role:** Both Houses of Parliament must pass the removal motion by a special majority.
3. **Presidential Order:** The President acts on the recommendation of Parliament.

This provision emphasizes judicial security from arbitrary executive action, reflecting the framers’ intent to protect judges from political pressures while ensuring accountability.

2.2 Article 217(1)

While primarily applicable to High Court judges, Article 217(1) reinforces that judges can be removed only according to constitutional procedures, thereby indirectly highlighting the importance of due process in Supreme Court judge removal.

2.3 Rationale Behind the Rigorous Procedure

The framers of the Constitution were aware of historical contexts in which executive authorities could manipulate judicial appointments and removals to their advantage. By entrusting the removal process to Parliament with a high threshold of special majority, they ensured that only a broad consensus could lead to removal, reducing the risk of politically motivated actions.



3. Grounds for Removal

The Constitution provides two primary grounds:

3.1 Misbehavior

Misbehavior is broadly interpreted to include:

- Corruption or acceptance of bribes
- Abuse of judicial office
- Conduct incompatible with judicial dignity
- Criminal or morally reprehensible acts

Judicial misbehavior does not include controversial judgments or mere differences of opinion. This protection shields judges from political retaliation, preserving independence.

3.2 Incapacity

Incapacity refers to:

- Physical or mental inability to perform judicial duties efficiently
- Chronic illness preventing timely adjudication
- Disability affecting judgment delivery

Unlike misbehavior, incapacity may not involve ethical lapses but reflects the functional ability of a judge.

4. The Removal Procedure

The removal of Supreme Court judges is modeled after impeachment. The process involves multiple stages:

4.1 Initiation of Motion

A motion to remove a judge may be initiated in either House of Parliament. It must be signed by a minimum number of members:

- 100 members in the Lok Sabha
- 50 members in the Rajya Sabha

This ensures that the motion is not frivolous or politically motivated.

4.2 Inquiry Committee

Once a motion is admitted, an inquiry committee is formed, typically comprising:



- A Chief Justice of India or senior Supreme Court judge
- Two other senior judges or judicial figures

The committee investigates the allegations and submits a report. If the committee finds the judge guilty of misbehavior or incapacity, the motion proceeds to debate in Parliament.

4.3 Parliamentary Approval

Both Houses must pass the motion with a special majority:

- Two-thirds of members present and voting
- More than 50% of the total membership

This dual requirement ensures a broad political consensus, reducing partisan misuse.

4.4 Presidential Order

Finally, the President issues an order removing the judge. This formalizes the process, but the President acts based on parliamentary recommendation.

5. Historical Cases of Attempted Removals

5.1 Justice V. Ramaswami (1993)

Justice V. Ramaswami, former Chief Justice of Punjab and Haryana High Court, faced an impeachment motion in the Lok Sabha for financial improprieties. Despite the inquiry committee confirming allegations, the motion failed in the Rajya Sabha due to insufficient support. This case illustrates:

- High threshold for removal
- Political consensus as a decisive factor
- Challenges in achieving accountability

5.2 Justice P.D. Dinakaran (2011)

Justice Dinakaran, a Supreme Court judge, faced allegations of corruption and misconduct. The removal process was stalled due to political complexities and procedural delays, highlighting the slow and cumbersome nature of the existing framework.

5.3 Justice Soumitra Sen (2011)

Justice Soumitra Sen of the Calcutta High Court faced impeachment for financial misconduct. Parliament passed the motion, and he resigned before formal removal. This case set a precedent for parliamentary action against misconduct while protecting judicial independence.



5.4 Justice Yashvant Verma (2025)

The impeachment motion against Justice Yashwant Varma was formally initiated in the Lok Sabha after 146 Members of Parliament signed the proposal following the discovery of a large pile of cash at his official residence during a fire incident in March 2025. Lok Sabha Speaker Om Birla accepted the motion and constituted a three-member committee to investigate the allegations. The panel includes Justice Aravind Kumar of the Supreme Court, Justice Maninder Mohan, Chief Justice of the Madras High Court, and senior advocate B.V. Acharya.

Under Article 124(4) of the Constitution, the panel has the authority to collect evidence and cross-examine witnesses to assess whether the judge's conduct constitutes misbehavior or incapacity warranting removal. After the panel submits its report, the Speaker will present it before the House, and a motion for impeachment will be debated. For the judge to be removed, at least two-thirds of the members present and voting in both the Lok Sabha and Rajya Sabha must vote in favor of impeachment.

The process is currently ongoing, and the outcome will determine whether Justice Varma will be formally removed. The motion illustrates the procedural safeguards in place to ensure accountability of Supreme Court judges while respecting judicial independence. The case has attracted attention because of the large cash stash, the Supreme Court's earlier dismissal of Varma's plea challenging the in-house inquiry, and the speed at which Parliament is processing the motion.

This impeachment motion represents one of the rare instances where the parliamentary mechanism for judicial accountability is activated, highlighting the constitutional balance between oversight and judicial independence in India.

6. Challenges in Balancing Oversight and Independence

The removal of Supreme Court judges in India is designed to protect judicial independence, but it is not without challenges. Despite constitutional safeguards, several factors limit the effectiveness of the mechanism and pose practical difficulties in ensuring accountability. The key challenges include political influence, procedural complexity, ambiguity in defining misbehavior, and public perception issues.

6.1 Political Influence

One of the most significant challenges in the removal process is the potential for political interference. The mechanism requires parliamentary approval, meaning that elected representatives—who are inherently influenced by party politics—play a central role in deciding the fate of a judge. This raises two major concerns:

A. Partisan Motivation: Governments or ruling coalitions may attempt to protect judges sympathetic to their policies or target those perceived as hostile. For instance, in the attempted removal of Justice V. Ramaswami in 1993, political calculations in the Rajya Sabha played a role in the failure of the motion, highlighting how consensus is influenced by party interests rather than solely on the merits of the case.

B. Risk of Undue Pressure: Judges may perceive that certain judgments or positions could provoke political backlash, leading to indirect pressures that can compromise their decision-making. While the high threshold for removal—requiring a two-thirds majority in both Houses—mitigates the risk of arbitrary action, it also makes it extremely difficult to hold judges accountable, even in clear cases of misconduct.

In essence, the dual role of Parliament as both a democratic check and a political body introduces an inherent tension: while oversight is necessary, the very body entrusted with accountability may have interests that conflict with impartial evaluation.

6.2 Procedural Complexity

The procedural intricacies of the removal mechanism constitute another major challenge. The process is intentionally rigorous to protect judges from arbitrary removal, but this rigor also makes the system cumbersome and time-consuming:

- **Multi-Stage Process:** The procedure involves initiating a motion in either House of Parliament, forming an inquiry committee, conducting investigations, reporting to Parliament, debating the motion, securing special majorities in both Houses, and finally obtaining a presidential order. Each stage involves significant deliberation and documentation, which can stretch over several years.
- **Delays Undermining Accountability:** In cases such as Justice P.D. Dinakaran (2011), delays in initiating and completing parliamentary inquiries allowed allegations of misconduct to remain unresolved for extended periods. These delays not only hinder accountability but also impact the credibility of the judiciary in the public eye.
- **Bureaucratic and Political Bottlenecks:** Parliamentary calendars, political negotiations, and internal procedural rules can further prolong the process. The very safeguards that prevent arbitrary removal inadvertently create obstacles to timely justice.

The procedural complexity, while designed to protect judicial independence, therefore introduces a practical trade-off between safeguarding judges and ensuring accountability.



6.3 Ambiguity in “Misbehaviour”

The Constitution does not provide a precise legal definition of “misbehaviour,” leaving it open to interpretation. This ambiguity has significant implications:

- **Flexibility vs. Exploitation:** While the broad definition allows the removal mechanism to cover a wide range of misconduct, it also creates uncertainty. Ambiguity can be exploited either to shield judges by narrowing interpretations or to pressure them by stretching definitions.
- **Judicial vs. Extrajudicial Conduct:** Determining what constitutes misbehavior—whether it is limited to acts within judicial office or includes personal and extrajudicial conduct—is often contentious. For example, financial impropriety outside the courtroom may or may not be considered “misbehaviour” depending on interpretation.
- **Difficulty in Enforcement:** Ambiguity complicates the work of inquiry committees and parliamentary debates. In the absence of codified standards, decisions may depend on subjective judgment, political calculations, or social perception, undermining the objectivity of the removal process.

Clearer definitions or codified guidelines for misbehaviour could help balance accountability with protection of judicial independence, reducing ambiguity and increasing the effectiveness of the removal mechanism.

6.4 Public Perception

Public trust in the judiciary is critical for maintaining democratic legitimacy. However, the visibility and transparency of the removal process directly impact perception:

- **Opacity in Proceedings:** Much of the inquiry and parliamentary debate occurs behind closed doors or is inadequately reported, leaving the public uncertain about the rationale for delays or outcomes. For instance, in the Dinakaran case, prolonged procedural delays without clear public communication led to skepticism about the judiciary’s accountability.
- **Impact on Judicial Credibility:** When the public perceives that judges cannot be held accountable, or that removal proceedings are politically influenced, confidence in judicial impartiality may be eroded. This perception can undermine the judiciary’s authority, weaken rule of law, and fuel cynicism toward democratic institutions.
- **Role of Media and Civil Society:** Transparent reporting and civil society engagement can enhance public confidence. Media coverage that is factual and analytical, combined with proactive

disclosure of inquiry outcomes, ensures that the judiciary remains accountable in both substance and perception.

In short, the effectiveness of the removal mechanism is not only legal or procedural but also perceptual. Public confidence is as vital as constitutional safeguards.

The challenges of political influence, procedural complexity, ambiguity in defining misbehavior, and public perception collectively highlight the delicate balance in India's judicial removal process. While parliamentary oversight ensures democratic accountability, it can introduce partisanship and delays. Ambiguities in misbehavior definitions create interpretative challenges, and lack of transparency undermines public trust. Addressing these challenges requires structural reforms, codified ethical guidelines, transparent procedures, and clear definitions, ensuring that accountability does not compromise judicial independence.

7. Comparative Perspectives

Examining judicial removal mechanisms in other democracies provides valuable insights for understanding the strengths and limitations of India's system and identifying possible reforms.

7.1 United States

In the United States, federal judges enjoy life tenure, underscoring a strong commitment to judicial independence. However, accountability is maintained through the constitutional process of impeachment. Federal judges can be removed only by impeachment in the House of Representatives, followed by conviction in the Senate. The grounds for removal are explicitly defined as "treason, bribery, or other high crimes and misdemeanors," providing a relatively clear standard compared to the broader term of "misbehavior" used in India. Historically, impeachment of federal judges has been extremely rare, which demonstrates the system's effectiveness in preserving judicial independence while retaining a mechanism to address egregious misconduct. For example, in 1804, Judge John Pickering was impeached and removed for intoxication and unlawful rulings, and in 1989, Judge Alcee Hastings was removed following conviction for bribery and perjury. These cases illustrate that while the process is deliberately difficult and infrequently invoked, it functions as a credible check on misconduct without compromising judicial autonomy. The U.S. model emphasizes transparency and a clear procedural structure, balancing independence and accountability in a manner that has been stable for over two centuries.



7.2 United Kingdom

The United Kingdom follows a different model, reflecting its constitutional monarchy and parliamentary system. Judges in the UK are formally appointed and can be removed by the monarch on the advice of the Prime Minister, based on recommendations from the Lord Chancellor. While the process may appear politically linked, it is complemented by independent judicial review mechanisms that assess conduct and provide a preliminary check before executive action is taken. The system allows for efficient removal when warranted, as the centralization under the executive ensures procedural swiftness and clarity. However, this model also carries a risk of political influence, as decisions may be perceived as guided by executive discretion rather than purely judicial considerations. To mitigate such risks, the UK has developed the Judicial Conduct Investigations Office, which investigates complaints independently and maintains public reporting, enhancing transparency and accountability. This model demonstrates a trade-off between procedural efficiency and potential political influence, providing lessons for India regarding the importance of independent preliminary review before parliamentary or executive action.

7.3 South Africa

South Africa's judicial removal mechanism offers a hybrid approach that emphasizes both independence and accountability through multi-tiered oversight. The Judicial Service Commission (JSC), comprising judges, legal practitioners, and representatives of the executive and legislature, plays a central role in investigating allegations of misconduct or incapacity. When a complaint arises, the JSC conducts an independent inquiry, which may include public hearings to ensure transparency and fairness. If the inquiry concludes that removal is warranted, the matter proceeds to parliamentary approval, providing a democratic check on the decision. This model balances judicial autonomy with accountability effectively, as the involvement of an independent commission ensures that political considerations are minimized, while parliamentary approval upholds democratic oversight. The South African approach illustrates that combining an independent investigative body with legislative review can mitigate political pressures and ensure timely resolution of complaints, offering a practical model that India could consider in refining its own removal procedure.

In summary, comparative analysis highlights three distinct approaches to judicial accountability. The United States emphasizes life tenure with impeachment as a rare but rigorous check; the United Kingdom relies on executive-led removal supplemented by independent investigation; and South Africa utilizes a multi-tiered approach integrating independent inquiries and parliamentary oversight. Each model reflects the balance between independence, efficiency, transparency, and accountability. Lessons from these



countries suggest that India could strengthen its mechanism by incorporating clearer standards, independent pre-parliamentary inquiry bodies, and enhanced transparency to minimize political influence while maintaining the constitutional protections afforded to Supreme Court judges.

8. Reforms and Recommendations

Enhancing the effectiveness of the Supreme Court judge removal mechanism in India requires reforms that preserve judicial independence while ensuring accountability. One key recommendation is the establishment of an independent judicial oversight body comprising retired judges, eminent legal scholars, and experts in judicial ethics. Such a body would be tasked with conducting preliminary inquiries into allegations of misconduct or incapacity before any motion is introduced in Parliament. By functioning independently, it would ensure that investigations are objective, thorough, and insulated from political influence. This preliminary review would prevent frivolous or politically motivated motions from reaching Parliament, while simultaneously providing credible, fact-based assessments of genuine allegations. A model for this can be drawn from South Africa's Judicial Service Commission, which successfully balances independence with accountability through a multi-tiered investigative process.

Another critical reform is the codification of clearer definitions for misbehavior and incapacity. Currently, the broad constitutional terms leave significant scope for interpretation, which can be exploited to shield judges or exert undue pressure. Codified standards would provide specific criteria for ethical violations, financial impropriety, abuse of office, or functional incapacity, ensuring uniformity in evaluation. Additionally, guidelines on ethical conduct and mandatory reporting mechanisms for misconduct can formalize expectations and reduce ambiguity. Clear definitions would not only streamline investigations but also serve as a deterrent against potential violations, reinforcing the judiciary's integrity.

Implementing time-bound procedures is equally important. The current process is often protracted, with delays stretching over years, as seen in cases like Justice P.D. Dinakaran. Establishing strict timelines for each stage of inquiry—from initiation to parliamentary deliberation—would ensure swift resolution of complaints, protect the rights of judges under scrutiny, and maintain public confidence in judicial accountability. Timely processing of allegations would also minimize uncertainty and prevent reputational damage that prolonged proceedings may cause.

Transparency and public reporting constitute another crucial reform. Publishing inquiry reports, parliamentary debates, and outcomes of removal proceedings would enhance public trust by demonstrating that the process is fair, impartial, and rigorous. Transparency ensures that both the judiciary



and Parliament are accountable to the citizenry, mitigating perceptions of secrecy or political manipulation. Moreover, it empowers civil society and media to engage constructively, promoting informed discourse about judicial accountability while preserving the dignity of the judges involved.

Finally, the introduction of periodic review mechanisms for judges can proactively identify issues of incapacity or ethical concern. Regular assessments of judicial performance, both in terms of efficiency and adherence to ethical standards, can serve as early warning signals for potential misconduct or functional incapacity. Such reviews would not constitute punitive measures but would provide data to ensure that any challenges are addressed before escalating into serious cases requiring parliamentary intervention. This proactive approach reduces the risk of high-profile crises, reinforces ethical conduct, and strengthens the overall credibility of the judiciary.

In combination, these reforms—independent oversight, codified definitions, time-bound procedures, transparency, and periodic review—can significantly improve the effectiveness of India's removal mechanism for Supreme Court judges. They ensure that accountability is enforced without undermining judicial independence, addressing both structural and perceptual challenges. By drawing on domestic experiences and comparative international practices, such reforms can maintain the delicate equilibrium between judicial autonomy and democratic oversight, enhancing public confidence and upholding the rule of law.

9. Conclusion

The removal of Supreme Court judges in India represents a nuanced and deliberate attempt to balance two essential yet sometimes competing values: judicial independence and parliamentary oversight. Judicial independence is critical for the judiciary to function as an impartial arbiter of the Constitution and protector of citizens' rights, free from external pressures or partisan influences. Without such independence, judges may be vulnerable to intimidation or coercion from the executive or legislative branches, undermining the rule of law and democratic governance. On the other hand, parliamentary oversight ensures that judges remain accountable for misconduct or incapacity, maintaining the integrity of the judiciary and public trust in democratic institutions. The Constitution, through Articles 124(4) and 217(1), achieves this delicate balance by instituting a rigorous, multi-stage removal mechanism that safeguards judges while providing a legitimate pathway to address ethical or functional failures.

Historical experiences illustrate both the strengths and limitations of this mechanism. Cases such as Justice V. Ramaswami in 1993, Justice P.D. Dinakaran in 2011, and Justice Soumitra Sen in the same year



highlight the dual realities of the removal process. On one hand, the high parliamentary threshold protects judges from frivolous or politically motivated actions, preserving judicial independence. On the other hand, the same threshold, combined with procedural delays and ambiguities in defining misbehavior, often makes it difficult to hold judges accountable, even in instances of proven misconduct. These examples underscore the tension inherent in the current system: while the judiciary is insulated from undue political interference, genuine concerns about ethical violations or incapacity can remain unresolved for extended periods, affecting public confidence. Comparative perspectives from countries such as the United States, the United Kingdom, and South Africa provide valuable insights into potential reforms. The U.S. model, with clearly defined grounds for impeachment and a rigorous but infrequently invoked process, illustrates how independence can be preserved while maintaining accountability. The U.K. model demonstrates the utility of executive oversight supplemented by independent review mechanisms, ensuring efficiency but requiring safeguards against political manipulation. South Africa's Judicial Service Commission exemplifies a multi-tiered approach, integrating independent inquiry and parliamentary approval to balance impartiality, transparency, and democratic oversight. These international experiences suggest that India could enhance its own system by adopting measures that clarify standards of misbehavior and incapacity, establish independent pre-parliamentary review bodies, and introduce transparent, time-bound procedures. To strengthen public confidence, reforms should also include periodic performance assessments, codified ethical guidelines, and mechanisms for transparent reporting of proceedings and outcomes. Such measures would ensure that allegations of misconduct are addressed promptly and objectively, without compromising judicial autonomy. In addition, transparent communication with the public can reinforce the legitimacy of the judiciary, countering perceptions of secrecy or political bias in the removal process. Collectively, these reforms would enhance both accountability and independence, ensuring that judges are free to perform their constitutional duties with integrity while remaining answerable for their conduct.

In conclusion, the removal mechanism for Supreme Court judges in India is a vital constitutional instrument designed to preserve the delicate equilibrium between independence and accountability. While historical experiences reveal procedural challenges and political vulnerabilities, careful reforms—grounded in comparative practices, codified standards, independent oversight, and transparency—can strengthen the system. By safeguarding judicial integrity and enhancing public trust, India can ensure that its judiciary remains both independent and accountable, upholding the rule of law and the democratic values enshrined in the Constitution. The ongoing evolution of the removal process is thus essential not



only for maintaining the credibility of individual judges but also for reinforcing the authority and legitimacy of the Supreme Court as the guardian of constitutional democracy.

References

1. Constitution of India, Articles 124(4) and 217(1).
2. Justice V. Ramaswami impeachment case, 1993, Lok Sabha and Rajya Sabha debates.
3. Justice P.D. Dinakaran controversy, Supreme Court and parliamentary records, 2011.
4. Justice Soumitra Sen resignation proceedings, 2011.
5. SSRN, "Judicial Accountability and Independence in India," 2012.
6. NLIU Law Review, "Judging the Judges: Crisis of Accountability in India," 2025.
7. International Commission of Jurists, "Judicial Independence in India," 2025.
8. U.S. Constitution, Article II, Section 4; Impeachment of Federal Judges.
9. Comparative studies on judicial removal mechanisms, UK and South Africa legal journals.