

SUBS → Indian JUDICIAL ACCOUNTABILITY  
 Consti. Law -  
 New Challenges.

JUDICIAL ACCOUNTABILITY →  
 to whom answerable

Legislative Judiciary  
 elected by people Selected

① How are they accountable?

② To whom are they accountable

Ans → to Constitution, Law, one's own  
 Conscience.

→ Reasons for judgement is also  
 one of the features of accountability

Introduction → Judging is no longer an easy  
 -task, in 19<sup>th</sup> C. the traditional  
 function of Judges was of being  
 an arbitrator (to solve disputes  
 between citizens), by the time of  
 20<sup>th</sup> C. the function of judges  
 had expanded. The principle of  
 unelected Judiciary (Selected) overruling  
 the laws passed by the elected represent-  
 -atives of the people was argued  
 by the Critics as undemocratic.

The problem increases when the  
 judiciary expresses themselves in strong  
 language and strike down govt.  
 action or the decision of Ministers  
 of govt. Politicians and public

authorities though very close to the people do not like being told publicly that they are wrong and acted contrary to law.

Judges are without constituency and are answerable to no one except to their conscience and law. Giving reasons for judgment, judgments given in open courts all these are sufficient grounds of judicial accountability.

Judiciary is the most accountable branch of govt. Judges are not elected but selected and so they are not accountable to the people. They are appointed by the executives rather politicians who are directly accountable to the people.

\* Forms of Accountability —

- ① Accountability vis-a-vis political branches.
- ② Constitutional Accountability.
- ③ Public Accountability.
- ④ Legal Accountability.
- ⑤ vicarious "
- ⑥ Civil "
- ⑦ Criminal "
- ⑧ Disciplinary "

In 1996 "Re-statement of Values of Judicial life" a 16 points charter was made.

① The behaviour and conduct of the members of the higher judiciary should be such as to reaffirm people's faith of trust in the impartiality of Judiciary. Any judge in his official or personal capacity should not act in such a way which would damage the image or credibility of higher judiciary.

② A judge should not contest any election regarding any office or club or society as far as possible he can hold office only connected with law.

③ There should be no close relationship or association with individuals or members of Bar, particularly those who practice in the same Court.

④ A judge should not permit any member of his family such as spouse, son, daughter in law or any close relative as a member of Bar or any kind of association to any case or cause to be dealt by judge.

⑤ No member of his family who is member of Bar shall be allowed to use the residence in which the judge is residing or also other facility.

is provided in official capacity

6 A judge should remain away or aloof from society considering the dignity of his office.

7 A judge should not hear or decide any matter in which a member of family, close relative or a friend is concern.

8 A judge shall not enter into public debates or express his views in public regarding political matters or matters which are pending for judicial consideration.

9 A judge is expected to give speaking orders or judgement which should speak for themselves he should not interview for media.

10 A judge shall not accept gift or any hospitality except from his family, close relation or friends.

11 A judge shall not hear and decide a matter in which a company in which he holds shares.

12 A judge shall not speculate his share [stock exchange]

13 A judge shall not be engaged directly

or indirectly in any trade, business either by himself or through any other person

14) A judge should not ask for any contribution with the intention of raising funds for any purpose

15) A judge shall not seek any financial benefits or privileges attached to his office unless provided.

16) Every judge 24x7 shall be conscious that he is always under public watch. Though he does not see public, he should be conscious that the office he holds is of high esteem.

Along with code of conduct on May 7, 1997, a full bench Supreme Court meeting adopted 2 other (two) resolutions.

1) If any judge violates these 6 points of Charter a Committee of judges will be constituted headed by Chief Justice of India and in house procedure would be followed. by this, at first place the allegation against any judge would be investigated by his peers and not by outside agency, by which independence of judiciary will be maintained, 2nd aim will be to

~~other countries in the state~~  
preserve the faith of people regarding bias and impartiality many cases have been solved by this method.

② Regarding the declaration of assets or property it says that every judge should declare his/her assets in any kind of real estate investment property to the concern Chief Justice of particular court. It should be disclosed within reasonable time of assuming the office. The Chief Justice also should be serious about this.

Conclusion - Transparency is equivalent to accountability to keep balance between Judicial activism and Judicial accountability. The role of higher judiciary should be appreciated for giving some landmark judgements and protecting the Mandate of Constitution. Judicial review the weapon in the hands of Judiciary has to be used to give justice. This particular power in the hands of judiciary has been criticised by the people. This power has been given to judiciary in larger interest of democracy, human rights and good governance.

Accountability is established through Credibility of reasoning. Transparency can be observed during the process of

Selection and removal of judges. If the appointment process are not transparent then accountability also damages the image of judiciary. Lower judiciary appointment of judges is through advertisement, vacancies in higher judiciary are not through advertisement, appointments are through nomination process, there is confidential consultation between Chief Justice and one or two other judges, President then appoints the judges. Lastly we can conclude that

"A powerful Judiciary without accountability is a recipe for disaster for our democracy."

\* Committee of on Judicial Accountability [CJA]

is a group of lawyers in India who work to improve the accountability of judges.

Purpose of (CJA) → legal transparency

In 1998 Committee prepared a Charge Sheet to Impeach (remove) Justice Madan Mohan Punchhi and obtained sign of 25 members of Rajya Sabha (M.P)

The Committee on Judicial

Accountability issued a highly critical report on the Judges Inquiry Bill, 2006,

In December 2009 the CJA stated that it considered recommendations for judicial appointments should only be made after a public debate including review by members of the bar of the affected high courts. This statement was made in relation to controversy about the appointments of Justices of  
① C.K. Prasad and P.D. Dinkaran.

There are no existing means used in India for Judging Judges

C.J. + 30 Judges - SC