



## Mains Practice Question

**Q.** Discuss the challenges in maintaining judicial independence while ensuring judicial accountability in India. To what extent do the existing mechanisms address this tension? (250 words)

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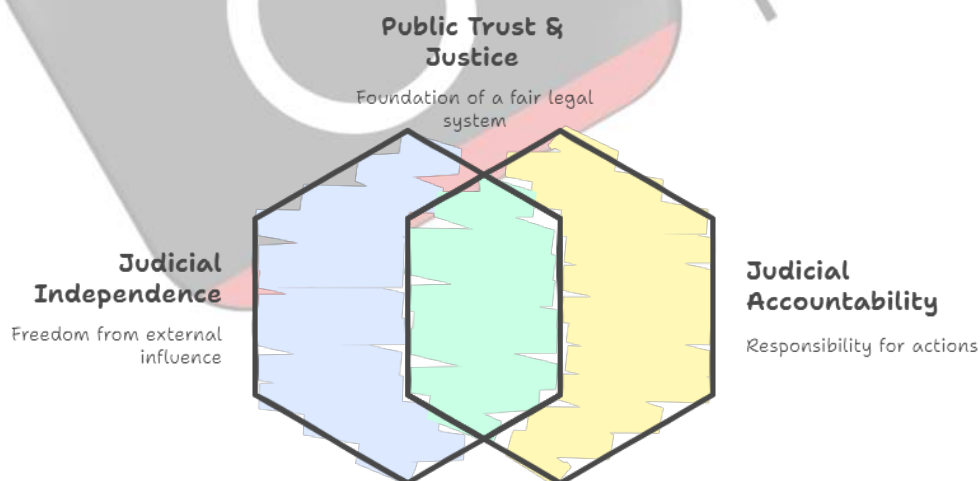
### Approach:

- Introduce the answer by briefing about Judicial independence and highlight recent current events where judicial accountability was in question.
- Highlight Challenges in Maintaining Judicial Independence While Ensuring Accountability
- Delve into the Extent to Which Existing Mechanisms Address the Tension
- Give Measures to Ensure Robust and Balanced Judicial Accountability in India.

### Introduction:

**Judicial independence** ensures **impartiality and safeguards the judiciary from external pressures**, while accountability ensures judges act within constitutional and ethical boundaries. The **recent move by the Union Government to initiate impeachment proceedings against an Allahabad High Court judge** over alleged financial misconduct has once again brought this inherent tension to the forefront.

#### The Synergy of Judicial Independence and Accountability



### Body:

#### Challenges in Maintaining Judicial Independence While Ensuring Accountability

- **Ineffectiveness of Existing Accountability Mechanisms:** The **Judges (Inquiry) Act, 1968**, provides for impeachment, but it is complex, rare, and heavily dependent on political will.
  - No judge has ever been removed under this process, leading to a **perception of institutional immunity**.
- **Lack of Statutory and Transparent In-House Mechanism:** The in-house mechanism created by the judiciary operates without statutory authority and lacks transparency or public scrutiny.
  - In serious cases like that of Justice Yashwant Varma, internal investigations remain behind closed doors, raising concerns about effectiveness and impartiality.
- **Judicial Independence as a Shield Against Scrutiny:** Excessive insulation has led to **judicial independence being misused to resist oversight**.
  - There is no external regulatory body to monitor judicial ethics or conduct, unlike in the executive or legislative branches.
- **Opaque Collegium System:** The **judicial appointment process**, controlled by the collegium, lacks transparency and objective criteria.
  - This non-transparent system fuels perceptions of nepotism, lack of meritocracy, and **limits external checks on performance or conduct**.
- **Absence of Uniform Standards for Misconduct:** No codified or binding Judicial Conduct Code exists, leading to inconsistencies in handling misconduct across courts.
  - Disparate and discretionary application of disciplinary measures erodes faith in internal mechanisms.
- **Risks of Politicization:** Strong accountability mechanisms, if not insulated, can be **misused by the executive to influence or punish the judiciary**.
  - The proposal to bring judges under the Lokpal, though stayed, raises concerns of **executive overreach**.

#### **Extent to Which Existing Mechanisms Address the Tension:**

- **Impeachment Offers Theoretical Deterrence but Lacks Practical Teeth:** While the Constitution enshrines judicial independence, the **impeachment mechanism is too rigid, slow, and politicized** to act as a real deterrent.
  - The process being invoked for the first time in a High Court case shows its **extreme underutilization**, despite repeated allegations.
- **Internal Mechanisms Offer Control but Lack Credibility:** The **in-house mechanism provides autonomy**, thus safeguarding independence.
  - However, the lack of transparency and enforceability limits its ability to inspire public confidence or ensure accountability.
- **Lapsed Reforms Reflect Institutional Hesitancy:** The **Judicial Standards and Accountability Bill (2010)** could have introduced an independent oversight committee, but its lapse in Rajya Sabha in 2014 **highlights the judiciary's resistance to external checks**.
- **Judicial Review as a Check on Lower Judiciary, Not Conduct:** **Judicial review** allows higher courts to scrutinize lower court rulings, but it does not function as a conduct-monitoring tool.
  - **Allegations of corruption or misconduct often result in quiet resignations**, with little or no explanation to the public.

#### **Measures to Ensure Robust and Balanced Judicial Accountability in India:**

- **Establishment of an Independent Judicial Oversight Body:** Create a **National Judicial Oversight Committee** with statutory authority, comprising retired judges, legal experts, and eminent citizens.
  - Empower it to receive complaints, conduct investigations, and recommend disciplinary action, while insulating it from political influence.
  - This would provide **external checks** without compromising judicial independence.
- **Revamp the Impeachment Process: Simplify and streamline** the procedure under the Judges (Inquiry) Act, 1968.
  - Introduce **clear timelines**, ensure **transparency**, and provide a **public complaints mechanism**.
  - Make the process less vulnerable to political manipulation, ensuring it acts as a credible deterrent.
- **Public Disclosure of Assets and Liabilities:** Make **annual asset declarations by judges**

**mandatory and public**, similar to public servants.

- This increases transparency and helps detect disproportionate wealth accumulation, serving as a preventive measure against corruption.
- **Codify a National Judicial Conduct Code:** Introduce a binding Code of Conduct that defines ethical standards, conflict-of-interest rules, and expected behavior.
  - Ensure that the code is enforceable through an independent mechanism, and periodically reviewed.
- **Introduce a Judicial Performance Review System:** Periodically evaluate judges on parameters like judicial reasoning, pendency reduction, adherence to ethical standards, and case disposal rates.
  - Publish **aggregate, anonymized performance reports** to maintain public accountability while respecting individual independence.
- **Whistleblower Protection in Judiciary:** Establish a mechanism for court staff, lawyers, and litigants to report judicial misconduct safely.
  - Provide legal protection to whistleblowers from retaliation by the judicial establishment.
- **Legislative Revival of Judicial Reforms:** Reintroduce and pass the **Judicial Standards and Accountability Bill** with appropriate checks and balances.
  - Incorporate provisions for **independent inquiry**, public participation, and safeguarding judicial autonomy.

## Conclusion:

As former CJI D.Y. Chandrachud aptly said: "**True judicial independence is not a shield to protect wrongdoing, but an instrument to secure the fulfilment of constitutional values.**" Striking the right balance between independence and accountability is essential to preserve the legitimacy and moral authority of the judiciary.

PDF Reference URL: <https://www.drishtiias.com/mains-practice-question/question-8874/pnt>