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## **INSTITUTE OF PROFESSIONAL STUDIES**



# Judicial Accountability Unveiled

Delving into the Removal of Judges in India

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# CERTIFICATE

This certifies that Palak Bansal has successfully completed the project titled "Judicial Accountability Unveiled: delving into the Removal of Judges in India" under the supervision of Ms. Jaya Singh at Dr. Akhilesh das Gupta Institute of Professional Studies, Delhi.

Throughout the duration of the project, she exhibited commendable dedication, research acumen, and analytical skills in exploring the intricacies of Justice V. Ramaswamy's impeachment case. The recipient's thorough examination of the subject matter and insightful analysis have contributed significantly to the understanding of judicial accountability and the complexities of judge removal processes in India.

Date- \_\_\_\_\_

(Signature of Supervisor)  
ADGIPS

# ABSTRACT

As India commemorates 70 years of its Constitution, the issue of judicial accountability has garnered significant attention.

Impeachment, colloquially known as the removal of judges, remains a rare phenomenon in the Indian judicial landscape. This project delves into the process of judge removal in India, focusing on the challenges faced and the mechanisms involved in ensuring judicial accountability.

Through an analysis of constitutional provisions, legal frameworks, and notable case studies, this study aims to shed light on the complexities surrounding the removal of judges and the implications for the Indian judiciary

# INTRODUCTION

Having completed 70 years of our Constitution being in effect, India's literati have been prone to introspection on the seeds sown by the framers of our constitution on the day of January 26th, 1950 and the journey we have made since then. Impeachment is a term used colloquially for removal of judges. So far, no Supreme Court judge has ever been impeached in India. Justice V Ramaswami was the first Supreme Court judge against whom an impeachment was initiated and the Inquiry committee found the judge guilty but the motion was defeated in the Lok Sabha.

- Being able to review your projects against your mission and goals
- Improving and implementing changes depending on the results of the report
- Building trust with funders, supporters, and beneficiaries
- Cultivating a culture of learning among similar organizations
- Celebrating the achievements of staff and volunteers

# Process of Judge Removal

The project outlines the constitutional provisions and legal frameworks governing the removal of judges in India. It highlights the procedures laid down in Article 124(4) of the Constitution and the Judges (Inquiry) Act, 1968, for initiating and conducting removal proceedings against Supreme Court and High Court judges. The role of Parliament, the Speaker, and the Chairman in admitting notices for removal motions is also discussed. Furthermore, the constitution of an Inquiry Committee, its composition, and functions are elucidated. The project examines the submission of the inquiry report and the criteria for determining the guilt of a judge. It also discusses the requirements for adopting a removal motion in both Houses of Parliament and the final step of the judge removal process, wherein the President of India issues an order for the removal of a judge after the motion is adopted by both Houses of Parliament.

# Challenges and Problems

The project identifies and analyzes the challenges and problems inherent in the process of judge removal in India. It discusses issues such as vague grounds for impeachment, the burden of proving misbehavior, and past experiences of failed impeachment motions. The challenges related to the interpretation of terms like 'misbehavior' and 'incapacity' as outlined in the Constitution are explored. Additionally, the project examines the role of political influence and external pressures in the impeachment process. It also delves into the complexities surrounding the formation and functioning of Inquiry Committees, as well as the limitations of the current legal framework in ensuring judicial accountability.

# Constitution of an Inquiry Committee

After the motion is admitted, the Speaker of the Lok Sabha or Chairman of the Rajya Sabha will form an Inquiry Committee as per Article 3(2) of the Judges (Inquiry) Act, 1968 to start investigating the complaint. It will consist of the following members:

1. A Supreme Court judge,
2. A High Court Chief Justice, and
3. A distinguished jurist, as per the opinion of the Speaker /Chairman.

If such notices have been admitted in both the Houses of Parliament, the Inquiry Committee will be formed together by the Speaker and the Chairman of the respective houses. In this scenario, the notice that has been on a later date will stand rejected. If such notices have been passed by both the Houses of Parliament on the same day, the Inquiry Committee will not be formed. After the motion is admitted, the Speaker of the Lok Sabha or Chairman of the Rajya Sabha will form an Inquiry Committee as per Article 3(2) of the Judges (Inquiry) Act, 1968 to start investigating the complaint. It will consist of the following members:

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# CASE STUDY

## *Judicial Accountability Issues in India*

The Constitution under Article 124(4) has provided for the impeachment of judges on the grounds of proved misbehaviour or incapacity but the Constitution has not given any mandate till date as to what constitutes 'misbehaviour' or 'incapacity'. In other words, the framers of the constitution have risked the independence of the judiciary subject to any interpretations of these words by the legislature. Judicial Independence can't be bolstered by keeping vague grounds. Our MPs may not be the best ambassadors of literacy, so it might be possible that a party can assemble the required numbers for commencing impeachment even on frivolous grounds. It is not unreal to believe that involving a person in litigation is similar to defaming him even though the litigant is falsely seeking remedy for his rights which have not been violated by the defendant. Comparing the position of the judiciary with the latter, it can be considered to be more protected for the reason that the judiciary is the scrutineer of the country. It is an institution whose disrepute we cannot afford, considering the expansive role it plays in the justice system. Therefore, the drawback of vague conditions is an area of concern that must be done away with.

A concrete view has been provided by the Supreme Court by taking into account the instruction of Article 317 where the removal of a member of Public Service Commission is given and comparing the grounds of removal with those of the UPSC Chairman. The Supreme Court identified the meaning of the term 'misbehaviour' to comprise wrong and improper conduct. The conduct that could involve some degree of mens rea and wilful abuse of constitutional office, misconduct, corruption, lack of integrity or any act of moral turpitude. The persistent failure of performing duties of the office with integrity and commitment was also a ground.



# V Ramaswami Case

In the late 1980s, India witnessed a significant event in its judicial history with the impeachment proceedings initiated against Justice V. Ramaswamy, a judge of the Supreme Court. This case study delves into the details of the impeachment motion, the findings of the Inquiry Committee, and the subsequent political and legal ramifications.

**Background:** Justice V. Ramaswamy was appointed as a judge of the Supreme Court of India in 1987. However, his tenure on the bench was marred by allegations of financial impropriety and misuse of office.

**Initiation of Impeachment Proceedings:** In 1991, the impeachment process against Justice Ramaswamy was set in motion when members of Parliament raised serious allegations against him, including irregularities in the expenditure incurred during his tenure as the Chief Justice of Punjab and Haryana High Court. The allegations centered around discrepancies in the audit of expenses related to purchases made for the High Court.

**Inquiry Committee:** An Inquiry Committee was constituted by the Lok Sabha to investigate the charges against Justice Ramaswamy. The Committee meticulously examined the evidence and testimonies presented before it.

**Findings of the Inquiry Committee:** The Inquiry Committee found Justice Ramaswamy guilty of financial mismanagement and misuse of public funds. The Committee's report highlighted inconsistencies in the audit regarding the purchases made for the High Court, pointing towards possible irregularities.

**Political Dynamics:** Despite the damning findings of the Inquiry Committee, the impeachment motion faced significant political hurdles. The ruling party at the time, which held a majority in the Lok Sabha, chose to abstain from voting on the motion, thereby preventing it from garnering the necessary support for Justice Ramaswamy's removal.

**Legal Implications:** The failure of the impeachment motion raised questions about the effectiveness of the judicial accountability mechanisms in India. Critics argued that the lack of consequences for Justice Ramaswamy despite the evidence against him undermined public trust in the judiciary and highlighted loopholes in the impeachment process.

**Legacy and Lessons Learned:** The case of Justice V. Ramaswamy's impeachment serves as a critical juncture in India's judicial history, highlighting the challenges and limitations of the process of judge removal. It underscores the need for reforms to strengthen judicial accountability mechanisms and ensure that judges are held to the highest standards of integrity and ethical conduct.



## THE VERDICT

- The President of India may be deemed to be the authority to grant sanction for prosecution.
- In order to adequately protect a judge from frivolous prosecution and unnecessary harassment, the President will consult the chief justice of India.
- If, the chief justice feels it is not a "fit case", the President shall not accord sanction to prosecute the judge.



## JUDGES WHO FACED REMOVAL PROCEEDINGS

### 1. V Ramaswami (1991)

- 1st case of a removal motion in Parliament was against Justice V Ramaswami, a judge of the SC, on charges of corruption
- He escaped the removal motion as it failed to secure required two-thirds majority in Lok Sabha

### 2. P D Dinakaran (2011)

- Rajya Sabha chairman had set up a committee to look into allegations of corruption against Dinakaran, the then chief justice of the Sikkim high court
- He, however, resigned in 2011 before removal proceeding could be initiated against him in the Rajya Sabha

### 3. Soumitra Sen (2011)

- Justice Soumitra Sen of the Calcutta high court was the first judge against whom the Rajya Sabha had voted with required majority on a removal motion
- But the judge finally resigned

to avoid the removal

### 4. J B Pardiwala (2015)

- 58 Rajya Sabha MPs moved a removal motion against Pardiwala of the Gujarat high court for his objectionable remarks on the issue of reservation
- The judge, however, removed his controversial statement from his judgment and the motion was dropped

### 5. S K Gangele (2015)

- 58 Rajya Sabha MPs moved a motion against Justice SK Gangele of the Madhya Pradesh high court
- However, an inquiry committee later absolved the judge of sexual harassment charges against him

### 6. Nagarjuna Reddy (2017)

- Accused of misusing position as HC judge to 'victimise' a 'Dalit' judge. Also accused of disproportionate income
- Motion failed as 9 of 54 RS members withdrew in the second attempt to remove him



## S AND BALANCES

Over the decades, action has been taken to regulate, monitor and safeguard judges



# Outcome

The outcome of the impeachment proceedings against Justice V. Ramaswamy was marked by political maneuvering and ultimately failed to result in his removal from office. Despite the findings of the Inquiry Committee pointing to financial mismanagement and misuse of public funds, the impeachment motion did not gather enough support in the Lok Sabha due to the abstention of the ruling party. As a result, Justice Ramaswamy continued to serve as a judge of the Supreme Court, albeit under a cloud of controversy. The failure of the impeachment motion raised concerns about the effectiveness of the judicial accountability mechanisms in India and highlighted the challenges in holding judges accountable for their actions.

# Conclusion

The case of Justice V. Ramaswamy's impeachment serves as a stark reminder of the complexities and limitations of the process of judge removal in India. Despite clear evidence of financial impropriety and misuse of office, the impeachment motion faltered in the face of political dynamics. This case underscores the need for robust and transparent mechanisms to ensure judicial accountability and uphold the integrity of the judiciary. It highlights the importance of addressing loopholes in the impeachment process and strengthening the legal framework to hold judges accountable for misconduct. Furthermore, the case of Justice Ramaswamy's impeachment serves as a catalyst for reforms aimed at enhancing judicial accountability in India. It underscores the imperative of promoting a culture of integrity, transparency, and ethical conduct within the judiciary to uphold public trust and confidence in the legal system.