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COLLEGIUM V. NJAC – RE-EVALUATING JUDICIAL APPOINTMENTS

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INTRODUCTION

The independence of the judiciary is widely accepted as the *sine qua non* of a modern democratic State, and collaterally the need for a fair and transparent method of judicial appointments is recognized. However, the process of appointing members to the higher judiciary has historically proven inconsistent and frequently varying. The Constitution of India lays down the process with reference to the Supreme Court (*hereinafter* SC) and High Courts (*hereinafter* HCs) in Articles 124(2)[1] and 217(1)[2] respectively. As per these constitutional provisions, these appointments are made by the President in consultation with such Judges of the SC and of the HCs in the States as the President considers necessary for Supreme Court appointments; and with the Chief Justice of India (*hereinafter* CJI), the state Governor, along with the Chief Justice of that HC if the appointment is to any other post. The CJI is generally appointed of the principle of seniority, which although not constitutionally specified, has been historically developed as a convention.[3]

The process of appointments to the SC and the HCs has been examined time and again by various Commissions such as the Law Commission (1987), the National Advisory Council (2005) and the 2nd Administrative Reforms Commission (2007). These committees have repeatedly recommended the establishment of an independent body to be established for providing direction for such appointments. However, these commission reports have all differed in their advised representation of the three branches of government in the making of such appointments.[4] In the gaps between the interests of various parties to the judicial-appointment affair, the fault lines in the system have become deeply etched; because no method followed in the process has been truly free from internal biases and unjust practices.

[1] INDIA CONST. art. 124, cl. 2.
[2] INDIA CONST. art. 217, cl. 1.
[3] Abhinav Chandrachud, *Supreme Court's Seniority Norm: Historical Origins*, Vol. 47, No. 8 ECONOMIC AND POLITICAL WEEKLY 26, 29-30 (Feb. 2012).
[4] Priyanka Rao, *Rethinking Judicial Appointments: Collegium vs. Commission*, PRS LEGISLATIVE RESEARCH (Oct. 16, 2015), https://www.prsindia.org/theprsblog/rethinking-judicial-appointments-Collegium-vs-commission.

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Keywords

Judicial appointments; Higher Judiciary; National Judicial Appointments Commission; Collegium; Art. 124(2); Art 217(1).

Statement Of Problem

In India, the method of higher judicial appointments specified in the Constitution refers to appointment to the judiciary by the President after consulting the judges of the SC and HCs, without specifying the number of judges to be consulted, whether the opinion of said judges is binding, and other such essential details. This has resulted in immense ambiguity and historical inconsistency in the appointment of judges, with certain landmark case laws being used to interpret the constitutional provisions. This resulted in the formation of the Collegium, which was thereafter replaced by the National Judicial Appointments Commission (*hereinafter* NJAC), which was subsequently declared unconstitutional in a return to the Collegium system which has been followed since. The problem under consideration is that none of these methods have been entirely acceptable, and therefore pose a threat even today to the spirit of democracy, judicial independence and separation of powers.

Literature Review

'Reform That You May Preserve: Rethinking the Judicial Appointments Conundrum'[5] authored by Prannv Dhawan, is the most recent and relevant published literature relevant to this topic. It analyses the NJAC case with respect to its constitutional validity, and concludes in favour of the majority. Moreover, it emphasis the fact that judicial independence and accountability are not mutually exclusive, and puts forth a call for meaningful institutional dialogue to resolve the stand-off between the Indian judiciary and the executive. The paper was indispensable in providing an overview of the topic at large, along with clarity regarding the essence of the NJAC versus collegium quandary.

'From 1993-2019: Has Collegium Over-Lived Its Utility?'[6] published by Aparna Tiwari and Ayushi Choudhary in the NLUJ Law Review, criticises the method of 'self-selection' of judges brought about by the Collegium system. It draws a clear line of distinction between judicial independence, and primacy of judges in judicial appointments. In pointing out the various fallacies of the Collegium, the paper concludes with a

[5] Prannv Dhawan, *Reform That You May Preserve': Rethinking the Judicial Appointments Conundrum*, 9 INDIAN JOURNAL OF CONSTITUTIONAL LAW, 186-196 (2020).

[6] Aparna Tiwari & Ayushi Choudhary, *From 1993-2019: Has Collegium overlived its utility?*, Vol. 6(1) NLUJ LAW REVIEW, 1-29 (2019)

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recommendation in favour of the revival of the NJAC, to ensure executive checks of judicial overreach. This paper was used two comparatively critique each appointment method, and attempt to find a balance between the best of both worlds.

'National Judicial Appointments Commission: A Critique'[7] is a paper authored by renowned lawyer and legal activist, Indira Jaising. After providing the legal background of the judicial appointments controversy beginning from 1981, it goes on to critique the NJAC system. This article was published while the NJAC was in force as the method of appointing judges to the higher judiciary, which is why it reflects first-hand the harms that accrued out of the system. It analytically points out the various grave constitutional infirmities that accompanied the 99th Amendment and the NJAC Act, and portrayed how these planted the seeds of authoritarianism in the Indian democracy. Finally, it pre-emptively recommended that the NJAC be struck down, and be replaced by a structure of public participation in the appointment process, with the opportunity to become a judge being equally afforded to all. The publication was in particular useful in this paper for the analysis of the unconstitutionality of the NJAC.

Judicial Appointments in India And The NJAC Judgement: Formal Victory Or Real Defeat?[8] is a critical analysis by Dr. Anurag Deep and Shambhavi Mishra of the SC judgement that declared the 99th Amendment and the NJAC Act *ultra vires*. It provides insight into the constitutional framers' intentions, and ties it back to the current status. The paper critically breaks down the NJAC judgement and individually analyses the view of each of the five judges, with special emphasis on the rationale of the voice of dissent. It concludes with comments on a report prepared by the then additional Solicitor General on the need for a complaint mechanism against the Collegium. This paper helps in a balanced, unbiased explosion of both sides of the dispute in question.

Research Gap

Prior extensive research has been done on the legal history regarding the origin of two different judicial appointment methods in India. Said prior research highlighting the pros and cons of the NJAC as well as the Collegium has certainly provided invaluable information on how each of these two creates fault lines of its own, while attempting to resolve the flaws of the other. However, there still remains a gap in answer to the question of how the standoff can be resolved, how a fair balance may be established, and the best mechanism

[7] Indira Jaising, *National Judicial Appointments Commission: A Critique,* Vol. 49, No. 35 ECONOMIC AND POLITICAL WEEKLY, 16-19 (Aug. 30, 2014).
[8] Dr. Anurag Deep & Shambhavi Mishra, *Judicial Appointments in India And The NJAC Judgement: Formal Victory Or Real Defeat?,* VOL. 3, JAMIA LAW JOURNAL, 49-76 (2018).

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to be followed in order to increase judicial accountability while still preserving it from executive interference to the extent of appointments to the higher judiciary.

Research Questions

- What are the methods that have been employed in employed in the appointments to the Indian higher judiciary, and how did *status quo* come into being?
- How does the Collegium system differ from the NJAC, and in what manner do both these systems tackle the tradeoff between judicial independence and executive control?
- What is the way forward to disentangle the Collegium versus NJAC deadlock in the most democratically appropriate manner?

Research Objectives

1. To trace and comprehensively understand the historical developments involving the 'Collegium system' presently in use for the appointment of judges as well as the 'NJAC system' that has now been rejected;
2. To critically and comparatively analyze both the methods that have primarily been resorted to for the purpose of judicial appointments, and to expose how both have been flawed in different ways;
3. To recommend practical solutions to resolve the judicial-appointment imbroglio in a manner acceptable to all major stakeholders while simultaneously upholding the tenets of judicial independence.

Historical Background to the NJAC Versus Collegium Conundrum

Various case laws must herein be considered chronologically to fully comprehend the meaning and application of Articles 124(2) and 217(1). In the historically denounced case of *S.P. Gupta v. Union of India*[9] (known as the "First Judge's Case") a seven-judge-bench of the SC gave the primacy of higher judicial appointments to the executive, stating the CJI's advice may be rejected for "cogent and convincing reasons"[10]. Given that Art. 217(1) mentions 'consultation' rather than 'concurrence', the Central Government was given the discretion to override the view of the constitutional functionaries that must be consulted. Moreover, the

[9] AIR 1982 SC 149 : 1982 2 SCR 365.
[10] *Id.* at para 632.

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was restricted from holding primacy over the State Government (represented by the Governor). Thereby, in giving primacy to the executive, the independence of the judiciary was wrongfully curtailed.

The First Judge's Case was doubted in *Subhash Sharma & Ors. v. Union Of India*[11] wherein it was held that although the Executive can rightfully initiate the appointment process by suggesting names, it must not deviate from the opinion of the CJI without just material cause. It also confirmed the concept of a commission for judicial appointments. It was advised that the majority opinion in the First Judge's Case be reconsidered by a larger SC bench.

The advice in the Subhash Sharma case was carried through in what came to be known as the "Second Judge's Case" or *Supreme Court Advocates on Record Association v. Union of India*[12] in which a nine-judge bench in its majority verdict decided that the CJI must hold primacy in the matter and consult specifically two most senior judges, therein giving birth to the Collegium. Moreover, the misconstruction in the First Judge's Case was overruled in clarifying that the word 'consultation' ought to be read as 'concurrence'.

The Collegium system born out of the Second Judge's Case was subsequently improved upon in the "Third Judge's Case" or *Special Reference No.1 of 1998*[13] which came about as a result of an opinion sought[14] by then President K.R. Narayanan. In this case the strength of the Collegium was expanded to include the CJI along with four most senior Supreme Court judges in matter of appointments as well as transfers to the higher judiciary. Thus, the Second and Third Judges Cases together served to once again establish the primacy of the judiciary itself in judicial appointments, with the executive head of the State performing only the formalities in this matter.[15] Effectively, the sphere of judicial appointments was returned to the hands of the judiciary alone, at the exclusion of the legislative and executive branches which criticised this move extensively.

In the year 2000, the National Commission to Review the Working of the Constitution (NCRWC), commonly known as *the Justice Venkatachaliah Commission*, was established for the purpose of suggesting promising amendments to the Indian Constitution.[16] This commission proposed the setting up of a 5-member Judicial Appointments Committee chaired by the CJI, along with two senior-most judges of the SC, the Union

[11] 1991 (Supp) 1 SCC 574 : AIR 1991 SC 631.
[12] AIR 1994 SC 268.
[13] AIR 1999 SC 1.
[14] INDIA CONST. art. 143.
[15] Prannv Dhawan, *Reform That You May Preserve': Rethinking the Judicial Appointments Conundrum*, 9 INDIAN JOURNAL OF CONSTITUTIONAL LAW (2020).
[16] Prakhar Saran, *NJAC Or Collegium… The Need Of An Ideal System For Appointments To The Higher Judiciary*, LEGALLYINDIA (18 Oct., 2015), https://www.legallyindia.com/views/entry/njac-or-Collegium-the-need-of-an-ideal-system-for-appointments-to-the-higher-judiciary.

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Minister for Law and Justice, and one eminent personality designated by the President after consulting the CJI. Although the recommendations of the Commission could not be implemented in time before the dissolution of the Lok Sabha, it served to lay the groundwork for the formation of the NJAC.

In response to the criticisms to the Collegium, particularly by the left out executive, the legislature passed the Constitution (Ninety-Ninth Amendment) Act, 2014[17] in consonance with the NJAC Act[18]. The *NJAC was thus formed*, gaining the status of a constitutional body unlike the Collegium. The composition of the NJAC was to be as follows:[19]

- The CJI as the *ex-officio* chairman;
- Two other senior-most SC judges;
- The Union Minister for Law and Justice;
- Two eminent persons nominated on behalf of the Prime Minister, the Leader of Opposition in the Lok Sabha, and the CJI.

In addition to the composition of the NJAC, the 99th Amendment also laid down its duties[20] and permitted Parliament to empower the NJAC to enact such regulations as may have been necessary to carry out its functions[21]. Thus, while re-instating the roles of the legislature and the executive, the revamping of the judicial appointment process came at the heavy cost of judicial independence.

The constitutionality of the 99th Amendment and the NJAC Act were subsequently challenged before the SC in *Supreme Court Advocate-on-Record Association & Ors. v. Union of India & Ors*,[22] commonly referred to as "the NJAC case". This deeply significant and oft-debated landmark case in a 4-1 judgement struck down as *ultra vires* the constitutional amendment as well as the legislation that effected the NJAC to begin with, as both were considered to be in violation of the basic structure. Therefore, in *status quo*, the nation has once again reverted to the 'Collegium system' of appointing judges to the SC and the HCs, albeit without removing the loopholes in it which caused the birth of the NJAC in the first place.

[17] No. 49, Acts of Parliament, 2014.
[18] The National Judicial Appointments Commission Act, 2014, No. 40, Acts of Parliament, 2014.
[19] INDIA CONST., art. 124A, *inserted by* the Constitution (Ninety-Ninth Amendment) Act, 2014.
[20] INDIA CONST., art. 124B, *inserted by* the Constitution (Ninety-Ninth Amendment) Act, 2014.
[21] INDIA CONST., art. 124C, *inserted by* the Constitution (Ninety-Ninth Amendment) Act, 2014.
[22] (2016) 5 SCC 1.

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UNCONSTITUTIONALITY OF The NJAC – AN ANALYSIS

The NJAC was instituted in response to the extensive criticism directed at the Collegium, with regard to the complete power vested solely in the hands of judicial members alone which had led to nepotism and internal institutional turmoil.[23] By including three members representing the other branches of the government, it instituted a system of checks and balances so that no single entity would have unfettered powers in this regard. Several Writ Petitions were filed, alleging *inter alia* that the NJAC compromised the judiciary's independent functioning, and was thereby in violation of the basic structure of the Constitution.[24] Thus the NJAC was abolished in a 4-1 judgement[25] of the SC, which still remains a point of controversial impassioned debate.

The NJAC Act as well as the 99th Amendment were struck down *inter alia* on the herein discussed points of criticism[26]. To begin with, the Executive was effectively given a veto power in the matter of judicial appointments as the Commission was barred from making a recommendation if even two out of the 6 members did withheld their assent.[27] With such a veto power in place, the checks and balances are not effectively balanced at all. As for the two "eminent persons" nominated Prime Minister, the Leader of Opposition, and the CJI – there is no concrete clarity as to who an eminent person is; and this lack of clarity serves to pave the way for. Moreover, the recommendations are to be made on the basis of "ability and merit", but there is no mechanism in place for determining merit or ability. Additionally, the inclusion of the Union Law Minister leaves the scope for a conflict of interest[28] given that the Union Government is the most notable and frequent litigant in the SC and HCs, and therefore the minister has an obvious vested interest in judicial appointments.[29] In this way, the legislative representative has an unacceptably free reign to assert one's influence to get those judges appointed who are likely to be more favourable to the government in power, while vetoing those unlikely to be more appeasing.[30]

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[23] Prannv Dhawan, *Reform That You May Preserve': Rethinking the Judicial Appointments Conundrum*, 9 INDIAN JOURNAL OF CONSTITUTIONAL LAW (2020).
[24] Mohit Singh, *NJAC Act and 99th Constitutional Amendment Faces Challenge at Supreme Court; Petitions by AoR Association and Senior Advocates*, ONE LAW STREET (Jan. 10, 2015), https://onelawstreet.com/njac-act-and-99th-constitutional-amendment-faces-challenge-at-supreme-court-petitions-by-aor-association-and-senior-advocates/.
[25] *Supreme Court Advocate-on-Record Association & Ors. v. Union of India & Ors,* (2016) 5 SCC 1.
[26] Indira Jaising, *National Judicial Appointments Commission: A Critique,* Vol. 49, No. 35 ECONOMIC AND POLITICAL WEEKLY, 16, 18-19 (Aug. 30, 2014).
[27] The National Judicial Appointments Commission Act, 2014, No. 40, Acts of Parliament, 2014, §5 (2).
[28] Rehan Abeyratne, *Upholding Judicial Supremacy in India: The NJAC Judgment in Comparative Perspective*, 49 THE GEORGE WASHINGTON INTERNATIONAL LAW REVIEW 569, 573-574 (2017).
[29] *Supreme Court Advocate-on-Record Association. v. Union of India* (2016) 5 SCC 1 at pg. 369.
[30] Prashant Bhushan, *Scuttling Inconvenient Judicial Appointments,* Vol. 49, No. 28 ECONOMIC AND POLITICAL WEEKLY, 12 (Jul. 12, 2014)

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It is thus undeniable that the active part played by the executive branch in the sphere of judicial appointments is bound to result in the independence of the judiciary being seriously jeopardized by political patronage and personal favour.[31] It must be acknowledged that the NJAC system of judicial appointments held the potential to stand as an active roadblock to democracy if misutilised; which be quite likely given the lack of accountability of the Commission, and thereby making it unconstitutional at its very core.[32]

The involvement of the executive in the appointment process does not necessarily impede judicial independence.[33] A glowing example of this claim is that of the United States of America, where the President nominates the judges, and the nominations must be confirmed by the legislative U.S. Senate.[34] In Canada too, the sole authority of judicial appointments is vested with the executive.[35] Yes, these democratic governments still function smoothly, have a separation of powers, and also maintain an independent judiciary.

While the significantly grave flaws of the NJAC have been exposed, it must also be remembered that the verdict in the NJAC case was not a unanimous one. Given that the alternative method (the Collegium system) has also faced a fair share of criticism, the counter-side to the criticisms of the NJAC case must be given its due consideration. Justice Chelameswar in his dissenting opinion firstly differentiated between the points of "basic feature" and "basic structure". He clarified that the two are notably different, and that the amendment of a "basic feature", depending on the context, does not necessarily destroy the basic structure, in this case being the independence of the judiciary.[36] Moreover, he stated that the basic feature that needed to be focussed on in the context of the NJAC case was that absolute power must not be vested in a single Constitutional functionary. In this regard he referred to the Constituent Assembly Debates[37] in quoting the necessity of clear separation of powers along with the checks and balances afforded by the NJAC prevent the judiciary from carrying complete discretion in its appointments. Therefore, while the NJAC was deeply flawed, it did create a check on the otherwise somewhat unhindered power of the judiciary.[38]

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[31] Khagesh Gautam, *Political Patronage and Judicial Appointments in India*, 4 INDONESIAN JOURNAL OF INTERNATIONAL & COMPARATIVE LAW 653, 658-659 (2017).
[32] Indira Jaising, *National Judicial Appointments Commission: A Critique,* Vol. 49, No. 35 ECONOMIC AND POLITICAL WEEKLY, 16, 19 (Aug. 30, 2014).
[33] Rehan Abeyratne, *Upholding Judicial Supremacy in India: The NJAC Judgment in Comparative Perspective*, 49 THE GEORGE WASHINGTON INTERNATIONAL LAW REVIEW 569, 600 (2017).
[34] U.S. CONST. art. II, § 2, cl. 2.
[35] F.L. Morton*, Judicial Appointments in Post-Charter Canada: A System in Transition*, 56, 57 (Kate Malleson & Peter H. Russell eds., 2006).
[36] *Supreme Court Advocate-on-Record Association. v. Union of India* (2016) 5 SCC 1 at ¶78.
[37] *Constitution Assembly Debates*, VOL. VIII, NO. 3 (LOK SABHA SECRETARIAT) May 24, 1949, 258.
[38] Dr. Anurag Deep & Shambhavi Mishra, *Judicial Appointments in India And The NJAC Judgement: Formal Victory Or Real Defeat?,* VOL. 3, JAMIA LAW JOURNAL, 2018.

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Critical Analysis

While the independence of the judiciary must undoubtedly be preserved at all costs, the Collegium system of appointment of judges is silent on the matter of how the judges would be independent from their own prejudices. It is pertinent to note at this juncture that the two judges who fronted this system have later expressed regret at having done so.[39] While admittedly the Collegium method of appointing judges to the higher judiciary has been successful in maintaining the principle of separation of powers by removing the roadblock of executive interference, it has failed to ensure a process which is transparent and free from bias. By and large, the Collegium is criticized on a few major bases which are herein discussed.

The first major drawback of the Collegium is the lack of transparency. It's procedure of making recommendations for appointment remains closed off from the scrutiny of the public eye. Being an extra-constitutional body[40], there is no publication of the Collegium's records, no codified mode of functioning and no accountability. The opacity further culminates in another dangerous drawback in the form of an opportunistic avenue for nepotism and personal favouritism.[41] Therefore, the criticism on grounds of personal favour was not an exclusive harm presented by the NJAC.

Another point of criticism against the Collegium is that it does not operate within an officially determined framework, and are thereby allowed the use of excessive discretion. The system does not impose any empirical standard of merit-worthiness for appointments to the higher judiciary, thereby allowing for the most appropriate candidates to get overlooked, with their rightful place being handed over to less worthy counterparts. Thus it is clear that the fact that the Collegium is not answerable for its decisions makes it inimical to the spirit of democracy; and this is where the principle of judicial independence is taken over by judicial overreach.

Additionally, and perhaps worst of all, is the gradual erosion of public trust in the judiciary. The judicial branch of the government exists as a guardian of the Constitution and protector of the rights of the masses. Every citizen of a nation relies on the higher judiciary to preserve justice and safeguard democracy. However, when vices such as nepotism and unaccountability creep into the judiciary, the disillusioned masses must begin to doubt its capacity for fair and unbiased judgement. In such a situation, the principle of democracy itself is shaken to the very core, and the citizens no longer believe that justice will rightfully be served by the

[39] Fali Sam Nariman, Before Memory Fades: A Case I Won – But Which I Would Prefer to Have Lost, FABER 390 (2010).
[40] Aparna Tiwari & Ayushi Choudhary, *From 1993-2019: Has Collegium overlived its utility?*, 6(1) NLUJ LAW REVIEW 1 (2019)
[41] Prashant Bhushan, *Judicial Accountability: Asset Disclosures and Beyond*, 44(37) ECONOMIC AND POLITICAL WEEKLY 8, 10 (2009).

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Justices of the SC and the HCs; and the higher judiciary may thus become a discredited and politically fragile institution.

On a positive note, there are a few factors to palliate these criticisms against the Collegium system currently in effect. The first is that the members of the judiciary are held to a much higher ethical standard than most other professions, and particularly more than the members of the legislature or executive. The dignity of the office and the dedication required to reach it go a long way in ensuring that the members of the Collegium take it upon themselves to ensure they make their recommendations in consonance with justice, equity and good conscience. Furthermore, the argument about concentration of power in the hands of one entity may also be challenged; the existence of a five-member Collegium acts as a check on the power of the CJI alone. Therefore, with a due critical analysis, it may be said that although the Collegium system has flaws along with the possibility of grave misuse, it is a significantly lesser harm as compared to the NJAC.

Conclusion and Recommendations

While the pros and cons of both the systems of higher judicial appointments have been explained at length, it has to be accepted that neither is close to faultless. Therefore, the usage of the Collegium is neither impermissible, nor unjustified, until a more suitable alternative is devised.[42] That being established, a number of recommendations are herein proposed in order to improve upon the current situation and to assuage all of its existing drawbacks.

First of all, the Indian democracy must rid itself of the false notion that "judicial accountability" is antithetical to "judicial independence". For the members of the Collegium to be made answerable for their recommendations in case of a clear abuse of position would in and of itself remove the major points of contention with regard to its presently significant drawbacks. The process of selection of a candidate for appointment to a judicial post must not be kept strictly secret, and must be made accessible in the domain of information that is available to the public. In this context it is recommended that the functioning of the Collegium be brought under the ambit of the Right to Information[43], so that the checks and balances that were aspired to under the NJAC are effectively incorporated in the Collegium method through the check in the form of public scrutiny. Moreover, this will also serve to restore public faith in the guardian of the Constitution, while in no manner encroaching on judicial independence.

[42] V.N. SHUKLA, CONSTITUTION OF INDIA 510 (2017).
[43] The Right to Information Act, 2005, No. 22, Acts of Parliament, 2005.

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Furthermore, it is recommended that the Collegium be made a constitutional body, with its composition and scope being mentioned under Article 124. This will grant legitimacy to the body, and largely eradicate the scope for misuse of power. Moreover, to whatever extent possible, certain objective criteria must be spelled out for the collegium to adhere to and consider while selecting a candidate for their recommendation for appointment. This would destroy the scope for nepotism or cronyism, and would make the appointments to the judiciary fairer and more transparent, thereby also further increasing the public trust in the judiciary,

There must be an opportunity for free discourse, and all the affected parties must be allowed to voice their opinions on how the Collegium may be further reformed. Dissenting voices must also be given their due notice, such as the opinion of Justice Chelameswar in the NJAC case wherein certain extremely pertinent points were deliberated upon. Administrative and institutional reforms must be incorporated wherever there is a gap at present, in a manner where no single person or entity can unilaterally manipulate the judicial appointment process.

With the implementation of these recommendations, a fine balance will be attained between accountability and judicial independence. The *bona fide* interests of all the stakeholders will be assured as there will be a continued separation of powers, while the legislature and the executive will be in a better position to hold the Collegium answerable for its recommendations. With this fine balance being struck, the Indian judiciary will be able to reach new heights of success in its dispensation of justice.