BALANCING JUDICIAL ACCOUNTABILITY AND JUDICIAL INDEPENDENCE: AN ANALYSIS OF THE COLLEGIUM SYSTEM OF JUDICIAL APPOINTMENTS

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ABSTRACT

Judicial independence is one of the most important batons of our democracy, where the judiciary functions without the intervention of the executive. The drafters of the Indian Constitution envisaged a judiciary independent of undue influence and pressures of the legislature and executive[1]. For some, this means that judges, who are responsible for justice being delivered, are appointed without the intervention of the executive to preserve the integrity of the democracy and protect the rights of citizens. This research paper addresses the long debated issue of the opacity of the Collegium, the introduction of the National Judicial Appointment Commission, focussing on potential reforms that can be made to existing structures. The paper attempts to locate a balance between preserving judicial independence and enhancing the transparency and accountability of the appointment process by taking into account mechanisms adopted by other democracies. Key findings lead to the conclusion that an efficient mechanism can be developed by adapting rational components from foreign appointment commissions to align with the constitutional commitment to judicial impartiality and independence.

[1] C Raj Kumar & Khagesh Gautam, *Questions of Constitutionality*, 50, EPW, 42, 43 (2015).

1.0 Introduction to the Collegium System

The Collegium system has been operational for about three decades, with appointments to the higher judiciary and transfers being recommended by the Chief Justice along with four senior-most judges of the Supreme Court. This grants the judiciary significant autonomy to appoint and transfer judges, limiting the intervention of the legislature and the executive, in line with the concept of separation of powers. Although this system preserves judicial independence at its core and is a robust framework that prevents potential political bias in judicial appointments, it is faced with contentions by critics, policy makers as well as judges,

Although this system is not mentioned in the Constitution itself, it has evolved through legal precedent and judgments of the Supreme Court, commonly known as the 'Three Judges Cases'[2].

1.1 Origin and Evolution of the Collegium System

First Judges Case

In S.P. Gupta v Union of India, the Supreme Court dealt with the question of whether the term "consultation" under article 124(2) and 217(1) with the Chief Justice warranted a concurrence of opinion, thereby making the recommendations of the judiciary binding on the executive[3].

It was held that recommendations made by the Chief Justice are not binding on the President, as consultation does not mean concurrence. This led to a scenario where the government had more discretion in terms of appointing judges, shifting the concentration of power towards the executive[4].

Second Judges Case

The decision in S.P. Gupta vs. Union of India was overruled in Supreme Court Advocates-on-Record Association vs. Union of India (1993). Here, the Court held that primacy would be

[2] The Hindu, *NJAC vs collegium: the debate decoded,* THG PUBLISHING PVT LTD. (Oct. 22, 2024, 7:08 PM), https://www.thehindu.com/specials/in-depth/njac-vs-collegium-the-debate-decoded/article61470776.ece.
[3] S.P. Gupta v Union of India, (1981) Supp SCC 87.
[4] Indira Jaising, *National Judicial Appointments Commission: A Critique,* 49(35) EPW 16, 18 (2014).

granted to the Chief Justice in matters of appointments and transfers, holding consultation to mean concurrence. This led to the establishment of the Collegium system[5].

The Court also clarified the following conclusions:

(1) "The process of appointment of Judges to the Supreme Court and the High Courts is an integrated 'participatory consultative process' for selecting the best and most suitable persons available for appointment; and all the constitutional functionaries must perform this duty collectively with a view primarily to reach an agreed decision, subserving the constitutional purpose, so that the occasion of primacy does not arise.

(2) Initiation of the proposal for appointment in the case of the Supreme Court must be by the Chief Justice of India, and in the case of a High Court by the Chief Justice of that High Court. This is the manner in which proposals for appointments to the Supreme Court and the High Courts and transfers of Judges/Chief Justices of the High Courts must invariably be made.

(3) In the event of conflicting opinions by the constitutional functionaries, the opinion of the judiciary 'symbolised by the view of the Chief Justice of India', and formed in the manner indicated, has primacy.

(4) No appointment of any Judge to the Supreme Court or any High Court can be made, unless it is in conformity with the opinion of the Chief Justice of India.

(5) In exceptional cases alone, for stated strong cogent reasons, disclosed to the Chief Justice of India, indicating that the recommendee is not suitable for appointment, that appointment recommended by the Chief Justice of India may not be made. However, if the stated reasons are not accepted by the Chief Justice of India and the other Judges of the Supreme Court who have been consulted in the matter, on reiteration of the recommendation by the

[5] Seema Jain, *Judicial Appointments in India,* LOK SABHA DOCS (Oct. 18, 2024, 2:56 PM), https://loksabhadocs.nic.in/Refinput/New_Reference_Notes/English/14032023_111226_102120526.pdf

Chief Justice of India, the appointment should be made as a healthy convention.

(6) Appointment to the office of the Chief Justice of India should be of the seniormost Judge of the Supreme Court considered fit to hold the office.[6]"

Third Judges Case

In re Special Reference 1 of 1998 was a Presidential reference delivered by the Supreme Court, reaffirming the decision in Advocates-on- Record Association vs. Union of India[7]. This led to an increase in the number of senior judges participating in the consultation process alongside the Chief Justice, thus bestowing the power of appointments and transfers solely on the Judiciary[8].

Fourth Judges Case

In 2014, the National Judicial Appointments Commission Act was passed, leading to the Ninety Ninth Constitutional Amendment, in efforts to substitute the Collegium and make up for the lack of transparency existing with the system[9]. In Supreme Court Advocates-on-record Association & Anr. vs. Union of India (2015), the Supreme Court invalidated the amendment and the NJAC Act was struck down as unconstitutional[10].

2.0 Analysing the Collegium System

2.1 Exploring arguments against the Collegium

Presently, judicial appointments are made through the Collegium system, consisting of The Chief Justice of India as well as four senior-most judges of the Supreme Court. This collegium system has evolved through judgments and its structure, powers or functioning are not outlined

[6] Supreme Court Advocates-on- Record Association vs. Union of India (1993) 4 SCC 441.
[7] The Hindu, *supra* note 2.
[8] Indrashish Majumder, *Appointment of Judges in India: Analysis of the 4 Judges Case and the Collegium System,* LAWCTOPUS (Oct. 7, 2024, 3:18 AM), https://lawctopus.com/clatalogue/clat-ug/appointment-of-judges-in-india-analysis-of-the-4-judges-case/.
[9] *Id.*
[10] Privacy Law Library, *Supreme Court Advocates-on-record Association & Anr. vs. Union of India,* NLU DELHI, (Oct. 7, 2024, 4:15 PM), https://privacylibrary.ccgnlud.org/case/supreme-court-advocates-on-record-assn-vs-union-of-india

in the Indian Constitution.

The Collegium System has been widely critiqued for a lack of transparency due to secrecy pertaining to the appointment of judges. No clarity has been provided with respect to the criteria or procedure followed for appointments and remains unknown to those outside the members of the Collegium. It is a common practice for seniority of the candidate being granted primacy as a criteria for merit in the appointment process[11]. Mere assurances that judges will be appointed in a fair manner does not suffice to make the operation and existence of this system credible and leads to a situation wherein there is scarce insight into the judicial appointment process. The selection procedure needs to be outlined in order for stakeholders to assess the legitimacy of the process, especially in democratic states where the integrity of the democracy itself hinges upon principles of accountability and public trust[12]. This lack of checks and balances confers excessive power in the hands of the judiciary, creating potential for misuse in absence of any public scrutiny.

While the Collegium's origination can be viewed as a response to abuse of power by the executive and the need to preserve judicial independence, also following the instance of the abandonment of the seniority rule in appointing the Chief Justice of India and supersession of judges that acted against the interests of the government during Indira Gandhi's tenure[13]. The primacy accorded to CJI's recommendation becomes imperative to eliminate political motivations from corrupting the judiciary and ensuring a true separation of powers between these organs. Though this system prevents executive interference, it also creates a vacuum wherein power is centralised among a select few judges holding membership in the Collegium, generating appointments of those judges reflecting a limited perspective of what the Collegium believes is acceptable and concerns of personal loyalty and connections preceding merit[14].

Furthermore, lack of diversity when it comes to the higher judiciary is also a paramount concern well acknowledged by critics. The Collegium System has failed to ensure gender diversity in

[11] Centre for law & Policy Research, *Recasting the Judicial Appointments Debate: Constitutional Amendment (120th Amendment) Bill, 2013 and Judicial Appointments Commissioner Bill, 2013*, CENTRE FOR LAW & POLICY RESEARCH (Oct. 9, 2024, 1:25 AM), https://clpr.org.in/wp-content/uploads/2014/02/Judicial-Appointments-Debate.pdf.
[12] C Raj Kumar, *Future of Collegium System: Transforming Judicial Appointments for Transparency,* 50(48) EPW, 31, 33 (2015).
[13] S.P. Sathe, *Appointment of Judges: The Issues,* 33(32), EPW, 2155, 2155 (1998).
[14] Drishti IAS*, A Call for Reform in Judicial Appointments,* DRISHTI IAS (Oct. 14, 2024, 9:09 PM), https://www.drishtiias.com/daily-updates/daily-news-editorials/a-call-for-reform-in-judicial-appointments.

judicial appointments. There were 51 female judges in the Supreme Court and High Courts as of 2009, out of a total of 649 judges. This amounts to only 8% of female judges in the Supreme Court and High Courts[15].

Recent data indicates that while there has been some improvement over the years, the representation of women judges remains low. By December 2023, only 3 out of 32 judges in the Supreme Court were women, which is approximately 9.4%. As for the High Court judges, a marginal increase from 10% in 2018 to 13.4% in 2023 is again demonstrative of the Collegium System's failure to promote appointment of qualified female judges to the higher judiciary[16].

In addition, the Collegium has also faced a multiplicity of allegations pertaining to conflicts of interest among judges promoted/appointed to High Courts and the Supreme Court. In a panel discussion on the Collegium System, former chief justice A.P. Shah of the Delhi High Court expressed his concerns with respect to nepotism and favouritism in the appointment process. He commented,

"The fact is that many judges are related to former judges… Consequently, the system comprises judges mainly from the upper caste and the middle class… Effectively, the members of the collegium are basically appointing more people like themselves. So, every successive collegium is practically a mirror of its predecessor."[17]

There is an urgent need for establishment of clear rules and regulations, accessible to the public, to manage any such conflicts that may arise. The collegium must implement a framework to prevent prejudice or any other forms of favouritism stemming from personal relationships or familiarity in the appointment process[18].

2.2 Assertions in favour of the Collegium

Despite the criticisms considered above, this system does prevent politically motivated

[15] C Raj Kumar, *supra* note 12.
[16] Shweta Routh, *Indian courts see increase in women judges between 2018-2023,* THE HINDU BUSINESS LINE (Oct. 17, 2024, 7:44 PM), https://www.thehindubusinessline.com/data-stories/data-focus/proportion-of-women-judges-in-indian-courts-shows-improvement-between-2018-and-2023/article68153379.ece.
[17] Tushar Kohli, *How to make the Collegium more transparent? Former judges, experts talk in near unison,* THE LEAFLET (Oct. 25, 2024, 2:19 PM), https://theleaflet.in/how-to-make-the-collegium-more-transparent-former-judges-experts-talk-in-near-unison/
[18] C Raj Kumar, *supra* note 12, at 33.

appointments and is in line with the concept of separation of powers. Since the judiciary adjudicates cases that involve the government, it is essential that the executive does not institute judges that will deliver biassed judgments in favour of the government to further political agenda. Allowing the judiciary to self-regulate appointments also propagates judicial primacy as established in Supreme Court Advocates-on- Record Association vs. Union of India[19].

Independence of the judiciary is an essential feature of a democracy and allowing the executive to thwart its influence can potentially lead to failure of delivery of justice and undermining of the judicial organ's capacity as an independent arbiter in Indian democracy.

It can also be argued that scrupulous procedural frameworks and stringent selection criteria in appointments would result in inflexibility and inadaptability, impeding the Collegium from considering a multitude of factors and would restrict the selection of candidates to a similar pool, further exacerbating the issue of lack of diversity.

3.0 Analysing Alternatives: The NJAC Debate - A Worthwhile Replacement?

Article 124 of the Indian Constitution stipulates the establishment and constitution of the Supreme Court, consisting of the Chief Justice of India and not more than thirty three other judges (unless the Parliament by law establishes otherwise). The Ninety-Ninth Amendment Act, 2014 introduced the National Judicial Appointments Commission vide the National Judicial Appointment Commission Act, 2014, consisting of the Chief Justice of India, two senior-most judges of the Supreme Court, Minister of Law & Justice along with two nominated ("eminent") members (nominated by a selection committee consisting of the Prime Minister, the Chief Justice of India and the Leader of the Opposition in the Lok Sabha)[20].

The functions of the National Judicial Appointments Commission (or NJAC) as mentioned above were enlisted so as to recommend persons for appointment as Chief Justice of India and of High Courts, Judges of the Supreme Court and High Courts. The NJAC was also entrusted with the power to recommend transfer of Chief Justices and other judges from one High Court to another as it may deem fit[21]. NJAC was introduced to supplant the existing Collegium System, incorporating a greater level of involvement of the executive to which is claimed to

[19] Supreme Court Advocates-on- Record Association vs. Union of India (1993) 4 SCC 441.
[20] INDIA CONST. art. 124.
[21] INDIA CONST. art. 124.

expiate the lack of accountability and transparency in the former system[22]. However, this amendment and the concept of NJAC was struck down by the Supreme Court in Supreme Court Advocates- on-Record Association and another Vs Union of India[23].

Although it was claimed that the NJAC would introduce transparency and accountability lacking in the Collegium system, there were several structural flaws within the Act that led to a deadlock where it failed to address the very issues it was designed to resolve. The NJAC suffered from an absence of measures that would ensure transparency as well as operational guidelines that explicitly mentioned and elaborated upon the functioning of the Commission, the prioritised criteria and the deliberation process. The second proviso to S.5(2) of the Act specifies that if two members out of the six in the Commission disagree with a particular recommendation, the appointment cannot be made, which effectively means that the executive has control over and can veto recommendations[24]. Furthermore S.5(2) also outlines that recommendations shall be made on the basis of "ability, merit and any other criteria of suitability as may be specified by regulations", however, the Act does not provide explanations as to what is defined as merit or a suitable criteria[25].

An imminent concern was also the ambiguity regarding the term "eminent" persons, which was not defined in the Act. It was feared that such nominations could lead to abuse of process of judicial appointments as these members may potentially hold the deciding vote, given a lack of required qualifications or those with political connections. The lack of essential details again, renders the NJAC equally as opaque and obscure as the Collegium System.

A relevant contention in holding the NJAC unconstitutional was the inclusion of the Minister of Law & Justice as an ex-officio member of the Commission, which impinges upon the principle of separation of powers as well as judicial independence[26]. Political motivation will thus play a key role for the Minister as a political representative to push for appointments of candidates aligned with the government, vetoing others on non-meritocratic grounds, such as likely to dissent/deliver judgments unfavourable to the government[27].

[22] Privacy Law Library, *supra* note 10.
[23] Supreme Court Advocates- on-Record Association and another Vs Union of India, AIR 2016 SC 117.
[24] The National Judicial Appointment Commision Act, 2014, No. 40, Acts of Parliament,2014 §5 (2).
[25] Aashna Mansata, *COLLEGIUM V. NJAC – RE-EVALUATING JUDICIAL APPOINTMENTS,* 2582 IJLPA 1,7 (2022).
[26] Seema Jain, *supra* note 5.
[27]Aashna Mansata, *supra* note 25, at 9.

> "In NJAC, the Union Minister in charge of Law and Justice would be a party to all final selections and appointments of Judges to the higher judiciary. It may be difficult for Judges approved by NJAC to resist a plea of conflict of interest (if such a plea was to be raised, and pressed) where the political-executive is a party to the lis. The above would have the inevitable effect of undermining the independence of the judiciary even where such a plea is repulsed. Therefore, the role assigned to the political-executive can at best be limited to a collaborative participation, excluding any role in the final determination. Therefore, merely the participation of the Union Minister in charge of Law and Justice in the final process of selection as an ex officio Member of NJAC would render the amended provision of Article 124-A(1)(c) as ultra vires the Constitution as it impinges on the principles of independence of the judiciary and separation of powers."[28]

This view expressed by the bench is not an uncommon concern, with the dangers of politicisation being acknowledged by several legal scholars worldwide, including James Allan, where he observed:

> "Where judges are much less likely to defer to the elected politicians on major social policy issues, politicians are in turn more likely to consider a candidate's views on these issues and to opt for seemingly like-minded judges, at least to some extent. If this be granted, then the danger of a direct (what I will call 'status quo') appointments process is of over-politicization of the process."[29]

The National Judicial Appointment Commission was introduced as a pathway to address the shortcomings of the Collegium system, however unsuccessfully. While it was discarded due to legal and structural complications, if reformed, may provide an effective gateway to a credible appointment system without compromising on the separation of powers between the two organs in conflict. If reformed after due contemplation, this could also address the long standing demand for better diversity and representation for minorities, scheduled castes and

[28] Supreme Court Advocates-on- Record Association vs. Union of India (1993) 4 SCC 441.
[29] JAMES ALLAN, APPOINTING JUDGES IN AN AGE OF JUDICIAL POWER: CRITICAL PERSPECTIVES FROM AROUND THE WORLD 109-10 (2006).

tribes as well as women[30].

Despite the critiques, one advantage that the NJAC could potentially offer is a swifter and quicker appointment of judges, reducing the load on the present judiciary by filling up vacancies due to expedited deliberations between the two organs[31].

4.0 NJAC vs Collegium: Reformations and the Way Forward, Learning from Foreign Jurisdictions.

Inspired by global judicial appointment models while considering the unique features of the Indian democracy, it is imperative to develop a model which promotes for collaborate deliberation with a plurality of perspectives from different branches, without compromising on judicial independence[32].

The ideation behind NJAC comes with certain advantages that can be honed once it is reformed to make judicial appointments more transparent and efficient while simultaneously ensuring it does not disturb the balance between the executive and judiciary. NJAC's establishment of a system hinging upon meritocracy can be further refined to precisely outline the criteria that a candidate must satisfy while allowing room for adjudging other achievements to reduce the possibility of personal biases in appointments. The selection process must be made accessible to the public, while ensuring safeguards for candidates' privacy to restore public's faith in this operation[33].

During 1993-1994, Australia saw an increase in judicial scrutiny owing to several problematic commentaries being delivered by judges pertaining to women in cases of sexual violence. In response, the Senate referred to its Standing Committee on Legal and Constitutional Affairs for an inquiry, the report for which was published subsequently. The recommendations made by this Committee included suggestions including:

a) Determination of the relevant selection criteria and for the same to be made available

[30] Indira Jaising, *supra* note 4, at 19.
[31] Fahad Nahvi & Yagnesh Sharma, *The Collegium Vs The Njac: Navigating Judicial Independence Amidst Judicial Appointments,* SOCIAL POLICY RESEARCH FOUNDATION (Oct. 19, 2024, 7:22 PM), *https://sprf.in/w*p-content/uploads/2023/07/njac-July23.pdf.
[32]Centre for Law & Policy Research, *supra* note 11.
[33] Aashna Mansata, *supra* note 25, at 10.

to the public, so as to adjudge the competence of the candidate.

b) Establishment of an advisory committee with judicial officers, those belonging to the legal fraternity as well as those outside of, to aid the Attorney General.

c) That all jurisdictions should aim to improve diversity of candidates appointed as judges while choosing them on the basis of merit.

A fascinating element of this report is the contribution of the general public, with their written submissions being incorporated into the same as well as public hearings being conducted across three states[34].

Following Australia's example, deliberations on reforming the appointments system should irrefutably encompass the perspectives, criticisms and suggestions of the Indian public, so as to restore the public's confidence with respect to competence and integrity of appointed judges. As for publicly disclosing selection criteria, factors such as one's capability to uphold the rule of law in an independent manner, administrative skills as well as personal qualities (integrity, gender and cultural sensitivity, high moral character) can be considered as a starting point[35].

The reformed judicial appointment system must also have a grievance redressal mechanism, absent in the proposed version of NJAC. Judicial accountability is not a threat to its independence and all organs must be placed under strict scrutiny in exercising their powers. Conducting the operations of reformed system with a more transparency and accountability based approach in itself will significantly eliminate the probability of arbitrary decisions/biassed appointments[36].

Moreover, South Africa's Judicial Service Commission (JSC) is composed of 23 members, with the details of its membership outlined below:

> "Eleven of the JSC's members are appointed by the President: The presiding Chief Justice of the Constitutional Court, the President of the Supreme Court of Appeal, the Minister of Justice, two practicing advocates and two practicing

[34] ELIZABETH HANDSLEY, APPOINTING JUDGES IN AN AGE OF JUDICIAL POWER: CRITICAL PERSPECTIVES FROM AROUND THE WORLD 133-35 (2006).
[35] *Id.*
[36] Johannes Riedel, *Judicial Review of Judicial Appointments in Germany,* 11(1) IACA 1, 15 (2020).

> attorneys (who are appointed by the President after being nominated by their respective professions) and four laypersons selected after consultation with the leaders of all parties represented in the National Assembly (Article 178(1)). Six of the remaining 12 members of the JSC are chosen from among members of the National Assembly, the lower house of Parliament. At least half of those six must be members of opposition parties (Article 178(1)(h)). Another four members are chosen from among the permanent delegates to the National Council of Provinces, the upper house of Parliament (Article 178(1)(i)). The remaining two members must be a law professor designated by his or her peers at South African universities, and one judge president, also designated by his or her judicial peers (Articles 178(1)(g) and (c), respectively)."[37]

The South African JSC functions with a level of transparency that is currently, utopian for the existing Collegium/NJAC. Any vacancies are published and candidates are allowed to apply, short-listed applicants are interviewed (these interviews are accessible to the general population). Any applicant data obtained from third parties is kept confidential to maintain privacy. These interviews are also subjected to commentaries of the media, enhancing accountability and transparency[38].

The JSC is structured and functions on a different footing compared with India's existing system. Keeping in mind that judicial primacy and judicial independence are at the core of the Indian judiciary, these mechanisms must be altered so as to not merely transpose foreign systems without modifications and disturb the fundamental balance of the democratic organs. Given the lack of diversity and representation in the higher judiciary, India could greatly benefit from an open-call system similar to that of South Africa. Publishing the list of selected applicants will enhance public confidence owing to increased participation and consideration of the public's opinion. Implementing this system would generate increased pressure on the Commission to recruit candidates belonging to underrepresented communities, including

[37] Sujit Choudhry & Katherine Glenn Bass, *Constitutional Courts after the Arab Spring: Appointment mechanisms and relative judicial independence,* INTERNATIONAL IDEA (Oct. 27, 2024, 8:14 PM), https://www.idea.int/publications/catalogue/constitutional-courts-after-arab-spring-appointment-mechanisms-and-relative#:~:text=This%20includes%20establishing%20constitutional%20courts,to%20a%20democratically%20elected%20government.

[38] *Id.*

religious minorities, women, scheduled castes and tribes, etc.

Another component that can be duplicated from the JSC is allowing the public and the media to access the interviews of shortlisted candidates. This will allow stakeholders to raise any concerns pertaining to an applicant's competence/integrity or other relevant factors and create a more participative democracy where citizens can actively engage in deliberations. Simultaneously, publicly available information will also act as a deterrent and prevent Commission members from making politically motivated or biassed appointments.

While we cannot possibly extrapolate and utilise most features borrowed from foreign jurisdictions owing to the complexity and distinctiveness of Indian democracy, the aforementioned propositions serve as a soft starting point likely to address several shortcomings of the NJAC/Collegium system. The most significant issue that arises when trying to model these foreign systems is the intricacy of the development and the relationship between the judicial, legislative and executive organs. India is perhaps one of the only countries where the judiciary is given complete autonomy over the appointments process. Other nations including Germany, France, South Africa, Canada and Australia have judicial appointment systems where the members of the executive have a sizable role to play in terms of vetting, recommending and shortlisting candidates. Involvement of the executive in the Indian context is frowned upon, with several critics viewing the same as over politicisation and executive overreach. In the dissenting opinion in the Fourth Judges Case by Justice Chelameshwar, he pointed out that judicial primacy was not an imperative or fundamental aspect of the Constitution, however the same was not accepted by the majority[39]. Demonstrating this difference in opinion could also strengthen the argument that other democracies do not prioritise this primacy and have a multiplicity of representatives from different branches appointing judges and still boast successful and effective judicial bodies.

5.0 Conclusion

It is well acknowledged that the present appointment machinery is imperfect and can be revamped to better suit Indian constitutional principles. While the NJAC was a well-intended legislation, it suffered from several lacunae that led to its invalidation by the apex court. However, deriving from the Australian and South African examples, a new commission can be

[39] Supreme Court Advocates-on- Record Association vs. Union of India (1993) 4 SCC 441.

introduced so as to improve the existing apparatus. Public dialogue as well as disclosure of criteria based on merit while ensuring diversity are components that can safely be embodied in the appointment process. A more diverse panel of experts in the selection committee with primacy being granted to members of the judiciary could be a successful composition to establish checks on executive power without diluting the judiciary's primacy.

Transparency in this process could be amplified by publishing vacancy announcements, shortlisting candidates openly, and conducting public interviews for higher judicial positions. Integrating safeguards to protect candidates' privacy while allowing public participation grants more credibility to the process.

That being said, utmost caution has to be exercised while borrowing components from other jurisdictions so as to not violate or compromise on India's constitutional principles given that each democracy differs from the other and has differing fundamental values. A restructured appointment commission that is guided by better representation, managed transparency and criteria based on merit can achieve the two-fold objective of ensuring judicial accountability while protecting judicial independence to foster public confidence while respecting India's constitutional framework.