

Title-Judicial Appointments in India: A Critical Analysis of the Collegium System and the Rejected Njac

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Abstract

In India, the selection of judges for the higher court has long been the focus of heated discussion and close examination. This study examines the nuances of the two main judicial selection processes, the National Judicial Appointments Commission (NJAC) and the Collegium system, weighing the advantages, disadvantages, and potential constitutional ramifications of each.

The 99th Constitutional Amendment, passed by the Indian Parliament in 2014, was a reaction to these worries and opened the door for the creation of the NJAC, a body that would be composed of both judicial and non-judicial members as well as representatives from the executive and civil society. The NJAC sought to preserve a precarious balance between judicial independence and executive control while bringing more openness, diversity, and public scrutiny to the judge nomination process.

This research study assesses how well these systems support the ideals of an independent, capable, and representational court by thoroughly examining pertinent constitutional provisions, judicial rulings, scholarly literature, and comparative studies. It examines the purported flaws of the Collegium system, including its claimed lack of openness, nepotism risk, and lack of a public accountability system.

On the other hand, the study looks at how the NJAC hopes to solve these shortcomings by implementing a more open-minded and collaborative judicial appointment process. It explores whether the NJAC structure is constitutionally legitimate, examining the Supreme Court's historic ruling in the Fourth Judges Case, which struck down the 99th Amendment and the NJAC Act, citing concerns over judicial independence and potential executive overreach.

The research study examines the arguments made by supporters and opponents of the NJAC critically, drawing on a range of viewpoints to illuminate the intricate relationship between the values of judicial independence, accountability, and transparency. It investigates the central query of whether the NJAC could have, given its broad membership and designed protections, effectively addressed the alleged shortcomings of the Collegium system while maintaining the essential principles of an independent and strong judiciary as outlined in the Constitution.

In the conclusion, this study aims to further the current conversation in India about constitutional governance and judicial reform. It seeks to enlighten and enhance the discussion surrounding the best procedure for appointing judges, one that strikes a careful balance between upholding judicial independence, guaranteeing accountability, and promoting public trust in the judicial system, by providing a detailed analysis of the Collegium and NJAC systems.

INTRODUCTION

In a democratic setting, the appointment of judges is a vital step or process that keeps the court's inde-

pendence, neutrality, and functionality. The process of appointing judges in India is one of the most deliberated and researched steps. The Canon of Collegium itself, and the judiciary will possess the original and leading role in these exercises, a long-standing standard in the administration of the constitution by the judiciary. The National Judicial Appointments Commission means to breach this time-honored domino concept.

A collegium of senior judges was given the power to recommend the appointment of judges to the Supreme Court and High Courts and other high courts without constitutional ramifications; the method of the Collegium was, however, evolved through constitutional interpretation under which the Supreme Court, in the case of the Second Judges, accepted the jurisdiction of the Judiciary over appointments and affiliations of Judges the second Judges' case SC, 1993 assigned on 16 th Oct the Collegium is probably widely recognized. Nonetheless, the Collegium system in which judge recommendations are insulated from political influence and judicial independence is supposed to be safeguarded has been criticised for its non-transparency, unaccountability, and inclusiveness. The NJAC, a new approach to judicial nominations by the 99 th Constitutional Amendment Act, 2014, which was proposed to legislatively achieve the strategy by establishing an NJAC imitated from the JAC by creating a commission with members who are not judges.

The NJAC, backed by executive and civil society participation, emphasized accountability and transparency in the selection of judges. It aimed to rectify the deficiencies of the Collegium process. However, it was challenged as unconstitutional in the Supreme Court, leading to the Fourth Judges case 2015 in which the NJAC was muted . This research aims to analyze from a constitutional perspective the pros and cons of the Collegium process and the proposed NJAC. It also aims to examine these two mechanisms, in light of the previous, amend potential weaknesses and ensure that India has an independent, qualified, and diverse judiciary through early decisions, select provisions of the constitution, academic insight, legislation, and comparable systems. Through a comprehensive examination of NJAC and the Collegium Process, It aims to contribute to the ongoing discourse surrounding judicial reform and constitutional governance in India.

RESEARCH PROBLEM

In India, there has been discussion and controversy around the Collegium process of appointing judges. Supporters of the technique argue that it should be kept in place to protect judicial independence, while detractors point out its shortcomings in terms of accountability and openness. As an alternative to the Collegium system, the National Judicial Appointments Commission (NJAC) sought to solve these perceived weaknesses by introducing executive and civil society involvement into the selection process. However, the Supreme Court eventually invalidated the NJAC's constitutionality.

Given these advancements, the primary research issue this work addresses is twofold:

1. to evaluate the Collegium system's effectiveness in maintaining an impartial and capable court, taking into consideration both its advantages and disadvantages in terms of openness, responsibility, and diversity.
2. To assess the NJAC's feasibility as a possible replacement for the Collegium system by looking at its intended goals, structure, and constitutional ramifications. Additionally, we will investigate the factors that led to the Supreme Court's decision to invalidate the NJAC in the end. This research aims to provide a thorough understanding of the opportunities and challenges related to the Indian judge appointment system by looking at these issues from a constitutional perspective and referencing

pertinent legal precedents, judicial rulings, academic literature, and comparative analyses. Additionally, by participating in the current discussion on constitutional governance and judicial reform, this study hopes to contribute to the broader discussion on enhancing the effectiveness and legitimacy of the judiciary in the Indian democratic framework.

RESEARCH QUESTIONS

- Is collegium system for appointment of judge filled with flaws and biasness
- Was njac a better system to replace lacunas in collegium system
- Was removal of njac a judicial overreach

HYPOTHESIS

Despite its roots in judicial interpretation and its gradual history, the Collegium process of choosing judges has come under fire for lacking openness, accountability, and inclusion. Critics claim that the Collegium system causes elitism and opacity within the judiciary, despite supporters' claims that it protects judicial independence and shields judge nominations from political influence. Thus, it is conjectured that:

1. Despite the Collegium system's intention to preserve judicial independence, it may be marked by shortcomings in accountability, openness, and diversity, which might erode public trust in the court and the selection process in general.
2. In order to remedy these alleged deficiencies, the NJAC was put out as an alternative to the Collegium system and included executive and civil society involvement in the nomination process. But the Supreme Court's ultimate invalidation of it raises concerns about the practicality and constitutional ramifications of that kind of system.

In order to evaluate these theories and offer insights into the advantages and disadvantages of the Collegium and NJAC systems, this research study thoroughly examines court rulings, constitutional clauses, academic opinions, and comparable models. It also seeks to add to the current conversation in India on constitutional governance and judicial reform.

ANALYSING BOTH THE SYSTEMS

The Indian Constitution largely governs the appointment process, which has changed throughout time as a result of different judicial rulings and legislative actions. The appointment process's guiding ideas are influenced by both indigenous customs and British colonial practices. In the early days of British colonial administration, the British Crown or the colonial government selected the majority of judges in India. There was little public representation and little engagement from the Indian legal community in this highly centralised structure. Nonetheless, important changes were made to guarantee judicial independence and accountability when the Indian Constitution was adopted in 1950 and constitutional administration gradually advanced. According to the Indian Constitution, the President of India appoints judges to the Supreme Court and High Courts after consulting with the Chief Justice of India and other senior judges. Upholding the values of judicial independence, impartiality, and meritocracy is the goal of this consultation process. Judiciary interpretation led to the evolution of the collegium system, which is now essential to the nomination process for judges. The Chief Justice of India and the Supreme Court's senior-most justices first conferred during the procedure. Subsequent rulings by the judiciary, however, broadened the collegium's representation of judges. Driven by the principles of the division of powers and

the requirement for independent judiciary, India's selection procedure has experienced substantial modifications to guarantee openness and responsibility.

The process of selecting judges for the higher courts, especially the Supreme Court and High Courts, is known as the Collegium system. Although not expressly stated in the Constitution, it developed through judicial interpretations of the document. Controversy arose in August 1969 when Justice A.N. Ray became Chief Justice, bypassing three senior judges, challenging traditional seniority norms.

Judges' Transfer, or *S.P. Gupta v. Union of India* (1982) highlighted judicial independence in appointments. The Collegium system began with the Second Judges Case (1993), prioritizing the Chief Justice of India in appointments.

ARTICLES RELATED TO THE COLLEGIUM SYSTEM INCLUDE:

1. Article 124
2. Article 217.
3. The 99th Amendment (2014) added Articles 124A and 217A, outlining the NJAC's structure and functions, proposed to replace the Collegium.¹

PROBLEMS IN THE COLLEGIUM SYSTEM

- There was no process in place to verify the rationality of a judge's nomination, and the Collegium method for appointing judges was totally opaque.
- A deficiency in execution was identified as the primary cause of court vacancies and the subsequent backlog of cases.
- Judiciary, lacking local insights, relies on administration to gather candidates' background information, addressing concerns regarding impartiality and regional representation in appointments.
- Constitution favored President's consultation, not judges', making collegium system potentially unconstitutional, as perceived.
- The 99th Constitutional Amendment Act, 2014: The NJAC was put out as a remedy for the problems with judge nominations. The 99th Constitutional Amendment Act ²was approved by the Indian Parliament with the intention of amending Articles 124 and 217 of the Constitution to form the NJAC.

COMPOSITION OF NJAC

- Chief Justice of India (CJI): He was proposed to be the ex-officio Chairperson of the NJAC.
- The NJAC was to include two senior judges of the Supreme Court of India. These judges would serve as members of the Commission for a specific term.
- NJAC would have included the Union Minister of Law and Justice, representing the Government of India in legal matters.
- NJAC aimed to include 2 eminent persons nominated by a committee of the Prime Minister, CJI, and Leader of Opposition.³

¹ [SUPRME COURT INDIA],[<https://main.sci.gov.in/collegium-resolutions>],[(last visited-18 MARCH 2024)]

² [THE HINDU],[<https://www.thehindu.com/specials/in-depth/njac-vs-collegium-the-debate-decoded/article61470776.ece>],[(last visited-22 MARCH 2024)]

³ [TEXTBOOK.COM],[<https://testbook.com/ias-preparation/national-judicial-appointments-commission>],[(last visited- visited-04 MARCH 2024)]

IS NJAC THE CURE ?

NJAC grants executive control over nominations and adjudicates charges of unconstitutionality. Judicial accountability is improved by government supervision. But it upsets the equilibrium, possibly jeopardising judicial independence. Whether NJAC actually fixes the shortcomings of the Collegium system is still up for debate.

NJAC:A SYSTEM WITH MANY LACUNAS

- NJAC isn't superior to the collegium system. Despite its aims, opaqueness persists. "Any other suitable criteria" leaves room for nepotism. Ambiguity remains in appointment factors.
- Questions persist over the validity of the 121st Amendment and the NJAC Act. Despite modifications, executive dominance in judge nominations remains, undermining judicial independence, a constitutional cornerstone.
- Most notably, none of the two "eminent persons" named in the legislation had a clause outlining the criteria used in their selection.
- The Fourth Judges Case (2015): Supreme Court declared NJAC Act and 99th Amendment unconstitutional in Fourth Judges Case, citing threat to judicial independence. The Collegium system, an informal method for selecting judges for India's higher courts, evolved through judicial interpretations rather than explicit constitutional provisions. A pivotal moment occurred in 1969 when Justice A.N. Ray became Chief Justice, bypassing senior judges, challenging traditional norms. The S.P. Gupta v. Union of India (1982) case emphasized judicial independence in appointments, laying the groundwork for the Collegium system. It was formally established with the Second Judges Case (1993), giving the Chief Justice of India primacy in appointments. Related constitutional sections include Articles 124 and 217, with the 99th Amendment (2014) introducing Articles 124A and 217A, proposing the National Judicial Appointments Commission (NJAC) to replace the Collegium.
- Challenges within the Collegium system include opacity in judge nominations and execution issues leading to court vacancies and case backlogs. Furthermore, the system lacked local insights, relying on administration for candidate information, raising concerns about impartiality and regional representation. The Collegium system's constitutionality was questioned as it favored presidential consultation over judicial involvement.
- The NJAC was proposed as a solution to the Collegium's shortcomings. The 99th Constitutional Amendment Act aimed to amend Articles 124 and 217 to establish the NJAC. Its composition included the Chief Justice of India as Chairperson, two senior Supreme Court judges, the Union Minister of Law and Justice, and two eminent persons nominated by a committee comprising the Prime Minister, CJI, and Leader of Opposition.
- While the NJAC aimed to improve judicial accountability by granting executive control over nominations, it raised concerns about jeopardizing judicial independence. The lack of clarity in the selection criteria, particularly the phrase "any other suitable criteria," left room for nepotism and undermined transparency. Questions arose about the validity of the 121st Amendment and the NJAC Act, with doubts persisting over executive dominance in judge nominations.
- The Fourth Judges Case (2015) saw the Supreme Court declare the NJAC Act and 99th Amendment unconstitutional, citing threats to judicial independence. Despite its intentions, the NJAC failed to

address the shortcomings of the Collegium system, leaving ambiguity and concerns about executive influence unresolved. Moreover, the lack of defined criteria for selecting eminent persons further highlighted the system's flaws.⁴

In conclusion, while attempts to reform the judicial appointment process were made through the NJAC, its failure underscored the complexities of balancing transparency, accountability, and judicial independence. The Collegium system, despite its criticisms, remained the prevailing method for judicial appointments in India.

AN OVERVIEW OF 4 JUDGE CASES

The First Judges Case (1981) / S P Gupta Case

- The case held that In the current situation, a constitutional bench made up of seven learned judges expressed the opinion that the Union Government, not the Chief Justice of India, has the final say over judge appointments and that the word "consultation," as it is used in the Constitution, does not imply "concurrence."
- The Supreme Court's ruling that a High Court Judge may be moved to any other state high court, even against his will, was another significant development in the debate.⁵⁶

The Second Judges Case / Supreme Court Advocates on Record Association (SCARA)

The First Judges Case had many noteworthy features, but it also diminished the independence of the court by relegating the Chief Justice of India to the position of advisor. The Second Judges Case presented a chance to reestablish equilibrium. A nine-member constitutional panel overturned the precedent set by the First Judges Case, obliging the Indian President to confer with the Chief Justice of India. In the event that the President and the Chief Justice of India cannot agree on how judges should be appointed, the Chief Justice's viewpoint will take precedence.

The Collegium System was somewhat spawned by this case. In order to limit the Chief Justice's authority, the judiciary established the Collegium System, which stipulates that two renowned judges from the relevant High Court must be contacted before being appointed to the Supreme Court and two eminent judges must be consulted before being appointed to the High Court.⁷⁸

The Third Judges Case

The Collegium System was advanced by the Third Judges Case. This particular step has increased the number of senior judges who are involved in the screening process for judicial nominations and clarified that a majority of judges must be consulted in order to support the Chief Justice's position.

The judiciary was granted the last say in matters concerning the selection of judges after the Third Judges Case, which led to a counteraction. Following this case, it was decided that a collegium comprising the Supreme Court's four most senior judges would consult. If even two of the justices were opposed to a candidate, the CJI would not submit the name to the government. In an effort to replace the Collegium

⁴ [TESTBOOK.COM],[<https://timesofindia.indiatimes.com/india/cabinet-approves-bill-for-judicial-appointment-body/articleshow/39773831.cms>],[(last visited-6 march 2024)]

⁵ S.P GUPTA V PRESIDENT OF INDIA AND ORS,AIR1982SC149

⁶ [INDIAN KANOON],[<https://indiankanoon.org/doc/1294854/>],[(last visited 15 march 2024)]

⁷ SUPREME COURT ADVOCATES ON RECORD V UOI,AIR1994 SUPREME COURT 268

⁸ [INDIAN KANOON],[<https://indiankanoon.org/search/?formInput=second%20judges%20case>],[(last visited-15 MARCH 2006)]

System and bring in a new age of accountability and openness, the Ninety-Ninth Constitutional Amendment and the National Judicial Appointments Commission (NJAC) Act were introduced in 2014.^{9,10}

The Fourth Judges Case

The Supreme Court declared "the Ninety-Ninth Constitutional Amendment and the NJAC Act" unlawful in the Fourth Judges Case. The Court has offered several justifications, including the underrepresentation of the judiciary in the NJAC and the invasion of judicial sovereignty due to the fact that it is the main.^{11,12}

OPINIONS UPON THE ISSUE

India's collegium method of selecting judges for the higher courts has long been a source of controversy due to its perceived lack of transparency, accountability, and vulnerability to nepotism and favouritism. Proposed as a more open and inclusive alternative, the National Judicial Appointments Commission (NJAC) ultimately succumbed to judicial overreach, therefore preserving the shortcomings of the current system. Due to the collegium system's judicial interpretation rather than legislative basis, a small number of the Supreme Court's most senior justices have a disproportionate amount of authority. This tiny committee meets in private and makes recommendations on judge appointments and transfers without releasing their recommendations or providing an official record. Due to the lack of openness, there is suspicion and accusation that judgements are influenced by hidden factors like loyalty rewards, personal preferences, or ideological inclinations.

Over 800 judges were appointed to the higher judiciary between 1999 and 2014, and their biographical information was examined in a study conducted by the Vidhi Centre for Legal Policy¹³. It was discovered that a startling 69% of those nominated had previously served as senior advocates, maintaining a uniformity of backgrounds and experiences on the bench. This biased representation might make it more difficult for the judiciary to administer justice in a fair and socially conscious way and fails to adequately represent the variety of India's population. Furthermore, reports of purported favouritism and nepotism within the collegium system have often appeared. A retired Delhi High Court judge said in 2018 that the son of a former Supreme Court judge had been chosen over "better candidates" by the collegium. Similar claims about family members or others with close relationships being nominated have damaged the process's reputation as well as the wider judicial structure.¹⁴

The collegium system is particularly vulnerable to outside pressures and influences because of its opaqueness. Allegations that the administration had delayed the appointments of several judges who had been recommended by the collegium in 2019 caused a stir, possibly as a way to control the makeup of the judiciary. The National Judicial Appointments Commission (NJAC), on the other hand, suggested a judicial appointment process that is more open, responsible, and inclusive. This constitutional amendment was ratified by Parliament in 2014 with the intention of including representatives from various social groups and striking a balance between executive control and judicial primacy. The NJAC's emphasis on

⁹ IN RE: UNDER ARTICLE 143(1) OF THE CONSTITUTION OF INDIA V UNKNOWN, AIR 1991 C 1

¹⁰ [INDIAN KANOON], [<https://indiankanoon.org/doc/543658/>], [(last visited-15 MARCH 2006)]

¹¹ SUPREME COURT ADVOCATES ON RECORD ASSOCIATION & ANR. V UOI, (2016) 5 SCC

¹² [INDIAN KANOON], [<https://indiankanoon.org/doc/66970168/>], [(last visited-15 MARCH 2006)]

¹³ [VIDHI LEGAL], [<https://vidhilegalpolicy.in/research/judiciary-and-its-collegium-system/>], [(last visited-1 APRIL 2024)]

¹⁴ [LIVE LAW], [<https://www.livelaw.in/top-stories/supreme-court-justice-kurian-joseph-njac-decision-press-conference-229991>], [(last visited-5 APRIL 2024)]

accountability and openness was one of its main benefits. Public disclosure of the commission's deliberations and selection criteria was intended to increase confidence in the procedure. Furthermore, the NJAC required that the rationale behind each recommendation be documented, which serves as a crucial safeguard against capricious or prejudiced judgements.

Concerns of favouritism and nepotism were also taken into consideration while forming the NJAC. The commission sought to bring broad viewpoints and scrutiny by comprising notable individuals from a range of backgrounds, including civil society representatives, legal professors, and distinguished jurists. This approach was intended to minimise the possibility of cronyism or personal agendas affecting appointment decisions. The Centre for Law and Policy Research conducted a research that emphasised the advantages that the NJAC's inclusive makeup may offer. It was mentioned that the inclusion of non-judicial members would have enhanced the calibre and variety of appointments by bringing insightful opinions and viewpoints from a range of backgrounds.

Additionally, the NJAC pledged to encourage increased openness and diversity on the bench. A wide range of characteristics, including social awareness, experience in several disciplines, and representation of marginalised people, were prioritised in its selection process, in addition to legal skill. This would have guaranteed a more varied and inclusive court, more suited to comprehend and handle the intricacies of a multiethnic country such as India. The NJAC's detractors said that by granting the administration influence over appointments, it compromised judicial independence. Proponents countered that the commission's balanced makeup, with the judiciary maintaining a key position, would have introduced much-needed checks and balances while preserving judicial autonomy.

Regretfully, the Supreme Court invalidated the NJAC in 2015, citing worries about the independence of the judiciary and the possibility of presidential meddling in nominations. This ruling maintained the collegium system's current state, complete with all of its drawbacks and defects.

Following the NJAC's collapse, a number of distinguished jurists and legal experts expressed their worries over the ongoing issues with the collegium system. The collegium system is opaque, and the nomination process has to be transparent, according to remarks made by former Chief Justice of India R.M. Lodha in 2018.¹⁵

The possibility of nepotism and favouritism inside the collegium was also bemoaned by former Attorney General Mukul Rohatgi in 2019, who said, "There have been instances where judges have appointed their relatives or friends' children as judges." Legal professionals are not the only ones with these worries. Public opinion polls have often shown how the judiciary's opaque nomination process is contributing to a decline in public trust. According to a 2019 Azim Premji University study, just 38% of participants said they were confident in the impartiality and fairness of judge selections made under the collegium system.¹⁶ Given these obvious problems, it is essential to conduct a thorough examination of the appointment procedure that takes into account judicial independence concerns and builds on the advantages of the NJAC model. A hybrid paradigm that incorporates aspects of openness, accountability, and inclusion from the NJAC framework while maintaining the judiciary's supremacy in appointments is one possible answer. This may entail a revised collegium structure that requires the presence of distinguished non-judicial

¹⁵ [LIVE LAW],[<https://www.livelaw.in/njac-verdict-after-then-cji-lodhas-tough-words-govt-should-have-seen-it-coming/>],[(last visted-5 APRIL 2024)]

¹⁶ [LEGALLY INDIA],[<https://www.legallyindia.com/the-bench-and-the-bar/njac-s-back-rohatgi-tells-sc-that-appointing-judges-like-this-will-of-the-people-20150608-6075>],[(last visited-5 APRIL 2024)]

members to offer a range of viewpoints and examination, as well as openly disclosing its procedures, standards, and justifications for recommendations. To further guarantee a more diverse and representative judiciary that represents the variety of India's people, the selection criteria may be expanded to place a higher priority on diversity, social consciousness, and representation of marginalised populations. Accepting these changes would help the nomination process restore legitimacy and public trust while preserving the judicial system's impartiality and integrity, which are essential components of democratic government and the rule of law.

CONCLUSION

In summary, the public's trust in the judicial selection process has been undermined by the collegium system's intrinsic shortcomings and lack of accountability, notwithstanding the system's accomplishments. The NJAC, despite its brief existence, offered a viable substitute by providing a more open, inclusive, and responsible system while upholding the authority of the judiciary. The NJAC has the potential to usher in a new age of legitimacy and confidence for India's legal system by including a variety of viewpoints, encouraging openness, and increasing diversity on the bench. Unfortunately, the NJAC was overturned due to judicial overreach and opposition to reform, which maintained the status quo with all of its drawbacks.

To rebuild public confidence in the fairness and integrity of India's judicial system, it is imperative that the NJAC experience be used as a teaching tool and that a thorough reform of the appointment procedure be started.

HYPOTHESIS CONCLUSION

The two theories put out emphasise the significant drawbacks of the collegium system and draw attention to the advantages of the National Judicial Appointments Commission (NJAC) as a more transparent, inclusive, and responsible substitute. As Hypothesis 1 correctly notes, the collegium system has been tainted by problems with opacity, accountability, and uniformity in nominations, even in spite of its admirable goal of maintaining judicial independence. The public's confidence in the judiciary and the selection process has been damaged by the procedure's exclusive character, which involved a small number of judges discussing in secret. These worries have been made worse by the lack of official records, the justification for recommendations, and the diversity of the bench's representation.

The NJAC is correctly identified in Hypothesis 2 as a suggested remedy to deal with these shortcomings. The NJAC sought to improve the appointment process's accountability, openness, and diversity of viewpoints by include representatives from the administration and civil society. This well-balanced arrangement, in which the judiciary continues to play a pivotal role, aimed to achieve a delicate equilibrium between preserving judicial independence and instituting very important checks and balances. Even if the NJAC's constitutionality and possible presidential overreach were eventually called into question by the Supreme Court, it is important to acknowledge the fundamental goals and values that the commission upheld. The NJAC provided a potential framework for reform by addressing the main complaints made against the collegium system with its emphasis on accountability, openness, and inclusion.

Upon deeper inspection, it is possible to use the NJAC's capabilities while resolving the concerns expressed by the judiciary. For example, a hybrid model that integrates aspects of accountability, transparency, and varied representation from the NJAC framework with judicial primacy may be

investigated. This may entail a revised collegium structure that requires the presence of distinguished non-judicial members to offer a range of viewpoints and examination, as well as openly disclosing its procedures, standards, and justifications for recommendations.

In order to guarantee a more diverse and representative judiciary that more accurately represents the variety of India's people, the selection criteria might also be expanded to give priority to diversity, social consciousness, and representation of marginalised populations. Accepting these changes would help the nomination process restore legitimacy and public trust while preserving the judicial system's impartiality and integrity, which are essential components of democratic government and the rule of law.

Essentially, even though the collegium system was designed to safeguard judicial independence, the public's trust in the system has been eroded by its inherent weaknesses and lack of accountability. Even with its flaws, the NJAC offered a viable substitute by maintaining judicial supremacy while providing an open, inclusive, and accountable process. A thorough reform of the appointment procedure may be accomplished by taking into account the NJAC's advantages and resolving its disadvantages, so reestablishing trust in the justice system in India.

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