



Standing Committee Report Summary

The Judicial Standards and Accountability Bill, 2010

- The Departmentally Related Standing Committee on Personnel, Public Grievances, Law and Justice submitted its 47th Report on 'The Judicial Standards and Accountability Bill, 2010' on August 30, 2011. The Chairperson was Dr. Abhishek Manu Singhvi.
- The Bill seeks to (a) lay down judicial standards, (b) provide for the accountability of judges, (c) establish mechanisms for investigating individual complaints for misbehaviour or incapacity of a judge of the Supreme Court or High Courts, and (d) provide a mechanism for the removal of judges. The Bill also seeks to repeal the Judges Inquiry Act, 1968.
- The Committee recommended that the judicial standards laid down in the bill include that judges restrain themselves from making unwarranted comments against other constitutional bodies, statutory bodies, institutions, or persons while hearing cases in court.
- Clause 3(2)b of the Bill provides that no judge shall have close association with individual members of the Bar. The Committee expressed its opinion that the phrase 'close association' is vague, and recommended it be replaced by the phrase 'close social interactions'.
- The Bill bars judges from expressing views in public on political matters or matters which are pending or likely to be decided by the judge. A proviso to this clause states that it will not apply to "views expressed by the judge in his individual capacity on issues of public interest (other than as a Judge) during discussion in private forum or academic forum". The Committee recommended that this proviso be redone to clearly articulate the meanings of 'individual capacity', 'private forum', and 'academic forum'.
- While endorsing the Bill's requirement for judges to declare their assets, the Committee opined that a mechanism should be included to ensure scrutiny of the declaration. The Committee suggested that this could involve a designated executive agency which may report to the Complaints Scrutiny Panel or Oversight Committee set up by the Bill.
- The Committee strongly recommended that the National Judicial Oversight Committee established by the Bill be more broad based. Specifically, the Committee recommended amending clause 18 of the Bill to enable the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha to nominate a Member of Parliament from their respective Houses.
- The Bill creates a Complaints Scrutiny Panel in the Supreme Court and each High Court to scrutinize complaints against judges. The Scrutiny Panel is to consist of a former Chief Justice and two sitting judges of that court. The Committee recommended that the Scrutiny Panel be made more broad based by enabling the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha to nominate a Member of Parliament from their respective Houses. In addition, the Committee recommended that instead of two sitting judges of the same Court, the Scrutiny Panel should include two judges of another Court.
- The Committee observed that clauses 9 and 19 both provide for reference of a complaint by the Oversight Committee to the Scrutiny Panel. The Committee recommended that these be reviewed for the sake of coherence.
- The Bill does not explicitly provide that hearings of the Scrutiny Panel be held *in camera*. The Committee expressed its opinion that such a provision is required to protect judges from unwarranted defamation. Accordingly, the Committee recommended that the term "in camera" be added in clause 12 or 14 of the Bill.
- The Bill provides for the National Oversight Committee to set up an Investigation Committee to inquire in to complaints against a judge, but does not specify guidelines for its composition. The Committee recommended that such guidelines should be included in the Bill.
- Clause 39 of the Bill bans those participating in the scrutiny or investigation of a complaint against a judge from divulging details of the complaint without the approval of the Oversight Committee. The Committee recommended that a provision be included barring the media from divulging such details also.
- The Bill provides that the punishment for frivolous or vexatious complaints may be up to 5 years imprisonment and a fine of Rs 5 lakh. The Committee recommended that the quantum of punishment be substantially reduced.

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