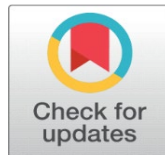
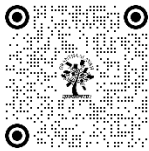


AN ANALYTICAL STUDY ON THE IMPACT OF INDIAN COLLEGIUM SYSTEM IN JUDICIAL APPOINTMENTS WITH RESPECT TO OTHER DEMOCRACIES

Gangadhara S¹, Dr. K R Aithal²

¹ Research Scholar, School of Law, Presidency University, Bengaluru, Karnataka, India

² Professor, School of Law, Presidency University, Bengaluru, Karnataka, India



DOI

[10.29121/shodhkosh.v5.i4.2024.2722](https://doi.org/10.29121/shodhkosh.v5.i4.2024.2722)

Funding: This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Copyright: © 2024 The Author(s). This work is licensed under a [Creative Commons Attribution 4.0 International License](#).

With the license CC-BY, authors retain the copyright, allowing anyone to download, reuse, re-print, modify, distribute, and/or copy their contribution. The work must be properly attributed to its author.



ABSTRACT

The etymology of the word ‘court’ denotes an enclosed place. Be it an enclosed yard as derived from the French term Cour or a garden of horticulture or orchard as descended from the Latin word ‘hortus’ or an ancient Greek word ‘Khortos’, which gives the significance of the roles and responsibilities assigned to or vested with the court systems in the world. The judicial assembly since its inception from the 12th Century designates the sovereign and his/her entourage to adjudicate disputes in an enclosed yard or a space. Judiciaries being the collective system of courts interpret and apply laws of the land. A Bench is formed by a Judge or body of judges whereas a Bar is structured by attorneys and barristers.

The ‘venue’ is a place where the court sits. If the administration of justice could be handled well with utmost efficiency and effectiveness by the first known democratic administration in the world, the Water Court at Valencia, an ancient coastal city in the Western Spain. It would be an eyeopener for the judiciary to see how efficiently the irrigators of the Valencia plain could manage their water resources. The researchers try to highlight the very purpose for which the courts, even in the ancient times, were established and the way they functioned by the sovereign and his / her team of experts and competent administrators. The reflections clearly indicate the need for preserving the sanctity of free and fair principles without compromising impartial and unbiased decrees as pronounced or expected to be promulgated by the judges while upholding the democratic integrity and republican values.

Keywords: Appointments and Transfer of Judges, Supreme Court, High Courts, Judicial Independence, Democracies, The Collegium System, The National Judicial Appointment Commission (NJAC)

1. INTRODUCTION

BACKGROUND OF COLLEGIUM SYSTEM

It has rightly been said that innovation is the process of seeking and finding from bad to good or to the extreme from worst to best, but the reverse couldn’t be set aside, though with less intensity or severity. The case of the establishment of the Collegium System for appointments and transfer of judges to the higher judicial offices in India is not different.

The collegium system in India has recently been attracted towards widespread criticisms and serious deliberations besides allegations. Such voices that leveled against transparency, accountability, lack of participation coupled with favoritism and nepotism. The inadequate participation and non-involvement of the wide spectrum of society through public opinion have added much ire to the controversy. Caste and gender disparity and lack of judicial review for ensuring judicial independence for a fair, effective and impartial judiciary as perceived and expected by the society at large.

One of the reasons for such a widespread controversy is the so-called judicial activism, which has been facilitated by the Collegium System by giving judicial predominance in appointments and transfer of judges to the higher judiciary, making the executive (the President) a mere actor without discernment.

ADVANTAGES OF COLLEGIUM SYSTEM OVER NJAC

The proponents of the need and necessity of a Collegium System validated the fact that the appointments of judges to the higher judiciary, being an integral part of judicial freedom in the administration of justice, judges should be free from any kinds of biases and influences whether direct and indirect or political and non-political.

The pondering on such statements have widespread ramifications and cause to interrogate as-Is it really possible to have such a system where Judiciary is ethically free from any political or non-political biases or influence? Do we have such a judicial system that is absolutely free from any such nexus? Does such a system yield 'fair and transparent' legal persona in our democracy?

Does such checks and balance or Judicial Review really matter for the judicious use of each organ or branch of the Government? However, sensible, logical and cautious answers to these questions will suffice the matter by proving the validity of the facts, as mentioned in the beginning.

In nutshell, the proponents of collegium have the justification of supporting their views and perceptions with a strong sense of impartial collegium as it makes the judiciary independent from the politics and also renders a functional isolation from both the executive and the legislature.

ADVANTAGES OF NJAC OVER THE COLLEGIUM

The opponents of the Collegium System have logical perspectives in vehemently opposing the same and in supporting the NJAC. The moment Justice Madan Lokur, Justice J.S. Khehar, Justice Adarsh Kumar Goel and Justice Kurian Joseph found the NJAC Act to be unconstitutional, Justice Jasti Chelameshwar was extremely vocal in supporting the Act. Though these judges are having similar educational backgrounds or identical experiences in the same domain of legal prudence, their views and perceptions might have slight variations and differences might be because the situations that were confronted by them in their lives as the same are subjective or individual specific. Since the inception of the Collegium System in 1993 by Justice P.N in the landmark Second Judge Case, the collegium system has been a subject of great deliberations (positively) and concern (negatively). The supporters of the NJAC have strong reflections of prudence as the Executive has the power to frame regulations that are suitable and conducive to the appointment of judges to the Supreme Court and the respective High Courts. When the parliament has the power to nullify these regulations, it gives overriding powers to the legislature over the Judiciary.

The main advantage of the NJAC is that it keeps all the three branches of government away from enjoying absolute freedom. It enables the system to have a balance between and among these three branches of the government in their functioning, which inturn is utmost important for smooth functioning of democracy. It is important to note that the non-formal and opaque collegium system cannot give a more formal and transparent system without nepotism, but the NJAC could.

The positive impact of the functioning of the NJAC as reflected by the proponents is that it keeps all the three organs of the Government away from enjoying absolute freedom. It enables striking a balance between and among these branches which is utmost important for true functioning of the democracy. It is unlikely to the non-formal and opaque collegium system that it gives a more formal, transparent system without any mark of nepotism. These checks-and-balances in the Judicial appointments create public confidence in the Judiciary. Since the Chief Justice of India being the Chairperson of the NJAC, it could retain the basic structure of separation of powers and the independence of judiciary from the executive.

2. METHODOLOGY

RESEARCH DESIGN: A mixed method design - an experimental and a quantitative design - has been used by the researchers in this research.

RESEARCH PHILOSOPHY: The research philosophy, pragmatism has been applied in this research by combining the objective observation of positivism and subjective understanding of interpretivism.

RESEARCH APPROACH: In this research, the researchers have made use of the deductive methods (general to specific) by analyzing, testing and validating the set hypothesis instead of the inductive methods (specific to general).

RESEARCH STRATEGY: The researchers have given emphasis on Secondary data that were collected by employing systematic literature review coupled with Meta-Analysis. A schema was structured by collecting, collating, and systemic analysis of Secondary Data and subsequently a design was made out of and applied as given in this manuscript.

DATA COLLECTION: The primary data were collected by own observations and expert opinions by way of conducting interviews among faculty members of Law Colleges / Universities, senior advocates and retired judges located in and around Bangalore city.

SAMPLING: Convenience Sampling method with purposive technique was used to represent the larger population viz: experts in the domain to understand their perceptions.

DATA ANALYSIS: The researchers made use of Qualitative Analysis (by way of Sentiment Analysis - applying all the three broad categories of like **(1)** fine grained sentiment analysis - opinion polarity - positive, neutral, and negative, **(2)** emotion detection sentiment analysis - words associated with specific emotional state such as happiness, anger, frustration and excitement,, and **(3)** aspect based sentiment analysis such as particular system or component of such system eg. Collegium or NJAC is so annoying that the existing system gives negative sentiments and also the specific object towards such sentiments).

VALIDITY AND RELIABILITY were ensured by testing the collected data using statistical tools in MS Excel and SPSS.

ETHICAL CONSIDERATION: Utmost care has been taken to keep the primary data confidential as the participants involved were of senior advocates and retired judges besides a few professors of Law from different colleges and universities in and around the city, Bangalore.

3. PROBLEM STATEMENT

Can the Collegium System for the appointment and transfer of judges to the highest judiciaries in the country, in the existing form function well with and conducive to satisfy all the democratic principles and judicial values in a free and fair manner?

Does the question of elitism, nepotism, favoritism, and opacity be leveled against the integrity of the Collegium System and seeking for a more refined form of the erstwhile NJAC relevant?' **(Vora, Prabha, 2024)**.

Is it practically possible to have such a nexus-free refined system of absolute separation of powers and checks-and-balances between the three branches of government and judicial independence to fine tune the democracy?

What combination and to what extent such a system of NJAC coupled with Collegium would give a hybrid system of appointment to have an effective and allegation free appointment and transfer system for judges?

To find the answers to these questions, the researchers have set a few objectives as outlined hereafter.

4. OBJECTIVES

1. To explore a fair and transparent system of judicial appointments and transfer of judges to the higher judicial offices like the Supreme Court and the High Courts.
2. To examine how effective is the prevailing system of judicial appointments and transfer of judges in other democracies of the world?
3. To investigate the factors that are needed to incorporate in making a refined judicial appointment agency or body different from the one that were established so far, by incorporating all the positive experiences and learning from the hurdles of all the previous systems.
4. To examine the various ways and means other democracies or system of governments adopted for forming an unbiased yet impartial judicial appointment system by satisfying all the segments and stratas of society with respect to the Judicial appointments and transfer of judges to the higher judiciary like the Supreme Court and the High Courts.

HYPOTHESIS TESTING AND VALIDATION:

H_N: The NJAC with adequate flexibility in modifying the body for imbibing the adequate representation of various segments of society for its exclusivity would have given a more robust Judicial appointment body than the rigid and opaque collegium system.

H_A: The prevailing Collegium System with adequate inclusion of politically impartial and intellectually elite personnel like retired Civil Servants - belonging to both civil and defense systems of the country for the Judicial Appointments to and transfers for the higher judicial offices - the Supreme Court & the High Courts in India would be a right choice to have more ethical, free, and fair system.

Acceptance of the H_A: Findings of the data collected by way of reviewing related literature,, observations by the researchers and the expert opinions collected by way of interviews conducted and the subsequent responses obtained from the respondents along with further analysis of the results by way of Qualitative Analysis (Sentiment Analysis - applying all the three broad categories of like **(1)** fine grained sentiment analysis - opinion polarity - positive, neutral, and negative, **(2)** emotion detection sentiment analysis - words associated with specific emotional state such as happiness, anger, frustration and excitement,, and **(3)** aspect based sentiment analysis such as particular system or component of such system eg. Collegium or NJAC is so annoying that the existing system gives negative sentiments and also the specific object towards such sentiments) shows that out of the total 150 respondents 95 (63%) preferred a refined National Judicial Appointment Agency (could be a collegium with adequate representation of intelligent and impartial personnel), whereas 30 (20%) respondents were of the opinion that since the existing collegium assures of an independent judicial system without any favor or fear neither of Legislature nor of Executive is conducive to give exclusive separation of powers and checks-and-balances. Meanwhile, 25 (17%) were of the opinion that a robust system of public participation through Secret Ballot (weightage of 50% votes) + NJAC with adequate representation of experts and intelligent public servants from different walks of life (weightage of remaining 50% votes) in the Fine-grained Sentiment Analysis towards positive aspects. Since the Opinion Polarity is towards Positive to the Alternative Hypothesis (H_A) it is accepted. Similar results with less than 5% variation were observed in other analyses such as emotion detection and aspect based sentiment analysis.

In view of the results of the primary data of the current research, which has adequately been substantiated by the relevant review of related literature (the secondary data) in the domain that the researchers have validated and accepted the Alternate Hypothesis (H_A) and thereby rejected the Null Hypothesis (H_N) taking into consideration of the value of accepted level of confidence and statistical significance (>95%).

5. RESEARCH FRAMEWORK DESIGN

THEORETICAL FRAMEWORK

The theoretical framework was designed with the support of strong resources of adequate numbers of related literature that were reviewed besides collecting, collating and analyzing the expert opinions (by way of open ended and close ended questions). Current trends of the functioning of various judiciaries were made available by archiving updated online resources.

The concepts, structures, schemas and perceptions were taken into consideration and were given utmost care and attention while designing the framework for the current study.

CONCEPTUAL FRAMEWORK

The significance of Collegium System over NJAC and predominance of NJAC over the existing Collegium System were taken for analysis. The first and the foremost arguments against the collegium system is that the very inception itself is unconstitutional since the constitution is silent on such set up. Meanwhile, the proponents have their logic in supporting the establishment of NJAC for ensuring more transparent, inclusive and wider participation of different segments and strata of society. This could ensure the predominance of Articles 124, 217, and avoid the controversial appointment of Justice A.N. Ray became the Chief Justice of India in Aug 1969 surpassing three senior Judges by setting aside the sanctity of hitherto applied traditional seniority norms.

6. DATA COLLECTION, SAMPLE DESIGN, SAMPLING, AND METHODOLOGY

METHOD: PRIMARY DATA COLLECTION

The current research was carried out in between Jan 31, 2022 and Feb , 25 2023, by conducting various rounds of discussions and opinions gatherings by way of interviews and data collection by circulating pre designed questionnaires (having both open ended and closed ended questions) among eminent academicians, expert professors of Law, eminent advocates, and a few retired judges from the Supreme Court and the High Courts (names are being kept confidential as promised to be) for the very purpose of this research. The researchers focused the location in and around Bangalore city to get the responses of their views and opinions about the robustness of the existing system of Collegium in the Judicial appointments and transfers of judges to the highest judiciaries of the Country - The Supreme Court and the High Courts.

In order to make the research validated with statistical significance, the researchers applied Qualitative Analysis (Sentiment Analysis - applying all the three broad categories like **(1)** fine grained sentiment analysis - opinion polarity -

positive, neutral, and negative, **(2)** emotion detection sentiment analysis - words associated with specific emotional state such as happiness, anger, frustration and excitement,, and **(3)** aspect based sentiment analysis such as particular system or component of such system eg. Collegium or NJAC is so annoying that the existing system gives negative sentiments and also the specific object towards such sentiments). Meanwhile, the results obtained were converted the facts into figures - i.e., qualitative analysis from quantitative one so as to tabulate the analyzed results for proper interpretation that are enumerated under the head Data Analysis and interpretation.

The responses have given insightful evidence and that also reflect neither the existing system of Collegium nor the previously established NJAC gives any complete solution to have a free and fair system of Judicial appointment and transfer of Judges to the highest Judiciaries of the Country.

SECONDARY DATA COLLECTION

The researchers also made use of an adequate number of updated data from the secondary sources like related literature from open access sources of journals accessed at ScienceDirect, Elsevier, Google Scholar, Research Gate, web of science and various theses besides a few references obtained from various websites, blogs and other online sources.

This strong foundation of secondary sources of data has made the current study with a robust theoretical foundation as a base in initiating the academic pursuit of the research and also connects the findings with the rich lineage of previous researchers that were already carried out on the domain.

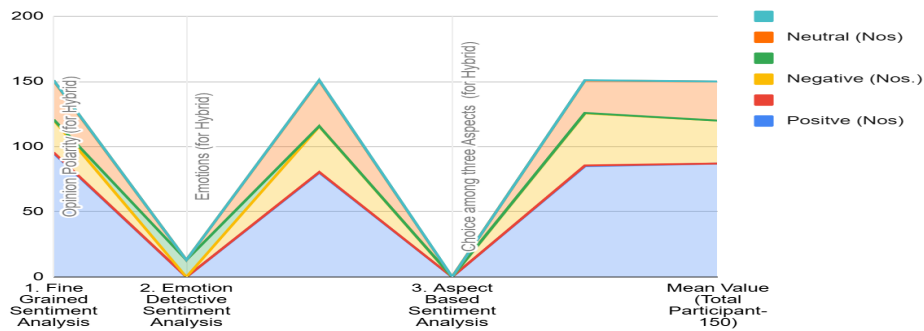
7. DATA ANALYSIS AND INTERPRETATIONS:

Acceptance of the H_A: Findings of the data collected by way of reviewing related literature,, observations by the researchers and the expert opinions collected by way of interviews conducted and the subsequent responses obtained from the respondents along with further analysis of the results by way of Qualitative Analysis (Sentiment Analysis - applying all the three broad categories of like **(1)** fine grained sentiment analysis - opinion polarity - positive, neutral, and negative, **(2)** emotion detection sentiment analysis - words associated with specific emotional state such as happiness, anger, frustration and excitement,, and **(3)** aspect based sentiment analysis such as particular system or component of such system eg. Collegium or NJAC is so annoying that the existing system gives negative sentiments and also the specific object towards such sentiments) shows that out of the total 150 respondents 95 (63%) preferred a refined National Judicial Appointment Agency (could be a collegium with adequate representation of intelligent and impartial personnel), whereas 30 (20%) respondents were of the opinion that since the existing collegium assures of an independent judicial system without any favor or fear neither of Legislature nor of Executive is conducive to give exclusive separation of powers and checks-and-balances. Meanwhile, 25 (17%) were of the opinion that a robust system of public participation through Secret Ballot (weightage of 50% votes) + NJAC with adequate representation of experts and intelligent public servants from different walks of life (weightage of remaining 50% votes) in the Fine-grained Sentiment Analysis towards positive aspects. Since the Opinion Polarity is towards Positive to the Alternative Hypothesis (H_A) it is accepted. Similar results with less than 5% variation were observed in other analyses such as emotion detection

Sentiment Analysis - Results - An Analytical Study of Collegium, NJAC V/s. A Hybrid Model (Participants = 150)								
Sentiment Analysis	Sub-Category	Positive (Nos)		Negative (Nos.)		Neutral (Nos)		
1. Fine Grained Sentiment Analysis	Opinion Polarity (for Hybrid)	95	63%	25	17%	30	20%	
2. Emotion Detective Sentiment Analysis	Emotions (for Hybrid)	Excitement (Nos)		Frustration	13	Satisfied		
		80	53%	35	24%	35	24%	
3. Aspect Based Sentiment Analysis	Choice among three Aspects	Hybrid		NJAC		Collegium		
		85	57%	40	27%	25	17%	
Mean Value (Total Participant-150)		87		33		30		

[Table:1 Responses of order of preferences on the basis of Sentiment Analysis - Fine Grained (Opinion Polarity - Positive-Negative-Neutral), Emotion Detection Sentiment Analysis - Happiness, Sad state of Affairs, Frustration, Excitement, & Aspects Based Sentiment Analysis - Opinion for or against specific choice or option) Differences on the variables as reasons

of selecting the specific model for the appointment and transfer of judges - collected, collated, tabulated and exhibited by the researchers - Period of Data Collection-Jan 31, 2022 - Feb 25, 2023]



[Chart:1 Responses of order of preferences on the basis of Sentiment Analysis - Fine Grained (Opinion Polarity - Positive-Negative-Neutral), Emotion Detection Sentiment Analysis - Happiness, Sad state of Affairs, Frustration, Excitement, & Aspects Based Sentiment Analysis - Opinion for or against specific choice or option) Differences on the variables as reasons of selecting the specific model for the appointment and transfer of judges - collected, collated, tabulated and exhibited by the researchers - Period of Data Collection-Jan 31, 2022 - Feb 25, 2023]

PROCEDURE FOLLOWED: The participants viz: Academicians, Professors of Law, Senior Advocates and Retired Judges) were asked to respond to the pre-designed questionnaire with multiple variables (to obtain their choices of best practices for the judicial appointment/Transfer of Judges to the higher judiciaries in India under the Sentiment Analysis with three (3) subcategories comprised of three (3) variables each:

Sentiment Analysis - Results - An Analytical Study of Collegium, NJAC V/s. A Hybrid Model (Participants = 150)				
Sentiment Analysis	Sub-Category	Variables (Under Subcategories)		
1. Fine Grained Sentiment Analysis	Opinion Polarity	Positive	Negative	Neutral
2. Emotion Detective Sentiment Analysis	Emotions	Excitement	Frustration	Satisfied
3. Aspect Based Sentiment Analysis	Choice among three Aspects	Hybrid	NJAC	Collegium

[Table:2 Depicts the Variables under the Subcategories of Sentiment Analysis - Fine Grained (Opinion Polarity - Positive-Negative-Neutral), Emotion Detection Sentiment Analysis - Excited, Frustrated, or Satisfied, & Aspects Based Sentiment Analysis - Opinion for or against specific choice or options such as Hybrid, NJAC & Collegium) for the appointment and transfer of judges - collected, collated, tabulated and exhibited by the researchers - Period of Data Collection-Jan 31, 2022 - Feb 25, 2023]

8. RESULTS AND DISCUSSION

The data collected and collated were tabulated under the Statistical Tool with Qualitative Technique of Sentiment Analysis. There were a total One Hundred & Fifty Participants (150 Nos.) who took active participation in the survey and expressed their valuable opinions and feedback through the predesigned questionnaire.

The three categories of the Sentiments viz: Fine Grained Analysis of Opinion Polarity having three variables - Positive, Negative & Neutral towards the preference of a Hybrid Model for judicial appointments - ninety five (95 Nos.) participants (63%) expressed their opinion towards positive pole, whereas twenty five (25 Nos.) participants (17%) expressed their opinions towards the negative pole and the remaining thirty (30 Nos.) were neutral.

As far as the Emotion Detective Sentiment Analysis, eighty (80 Nos.) participants (53%) were excited to have a Hybrid Model (a refined model having certain qualities of both NJAC & Collegium + the inclusion of Expert Intelligencia, thirty five (35 Nos.) of them (24%) were fed up of the Hybrid (as they don't have any hope even in a refined one) and the

remaining thirty five (35 Nos.) (24%) expressed their satisfaction of having a Hybrid Model instead of the existing Collegium.

The Third Category of the Sentiment Analysis i.e., the Aspect Based Sentiment Analysis, Eighty Five Participants (85 Nos.) i.e., (57%) expressed their sentiment of having a Hybrid Model of Judicial appointment system in Place, whereas forty (40 Nos.) i.e., 27 % were supportive of having the previous NJAC with modification as and when required and the remaining twenty five participants (i.e., 16%) were having the opinion of pure Collegium System in place.

The analysis and interpretations of Secondary data have strong bias towards having a refined system of judicial appointments and transfers of judges on the basis of the prevalent system of judicial appointments in other democracies of the world. The researchers have analyzed the data tabulated of other prevalent democracies and have and depicted here:

Appointment and Transfer of Judges - System, followed by Major Countries		
Country	Method Adopted	Officials Involved
The United Kingdom	Judges to the Supreme Court are appointed by a 5 member Selection Commission	SC President + His Deputy + 1 Member each appointed by JAC from England, Scotland and Northern Ireland
Canada	By the Governor in Council	Selection Panel (of 5 MPs from the Govt. and the Opposition) post-reviewing the list submits 3 names to the Prime Minister.
The United States of America	Appointments are made by the President	Judges to the Supreme Court are nominated by the President and confirmed by the US Senate
Germany	Appointments are made by Election	50% members of the Federal Constitutional Courts are elected by the Executive and the remaining 50% by the Legislature.
France	Appointments are made by the President	President receives proposals for appointments from Conseil Supérieur de la Magistrature.
South Africa	a. Appointment of President & the Vice President of the Supreme Court of Appeal Supreme Court Judges	National President upon the consultation of the Joint Service Commission President after consultation with the Chief Justice & Leaders of the National Assembly for 12 Yr non-renewable term
Brazil	Judges are appointed by	The President and approved by the Federal Senate - Can serve until mandatory retirement of 70 yrs
Australia	Appointment of Judges is the Sole responsibility Justices in Australia are appointed by	Of the Executive Branch does not require any approval of the Legislative Branch The Governor General in Council for life with Mandatory Retirement at the age of 70
Belgium	Justice of Peace, Judges of the Supreme Court & Judges of the Court of Cassation	The King (Active Monarchy) - appointment is done by the King but nominations is done either by the legislature or the Judicial Branch depending on the Judges
Bolivia	Model of Judicial Elections	As adopted in 2011 - Bolivia is the only country in the world that elects its top judges.
Cuba	Judges are elected (Art 75) of the constitution	by the Legislative Branch
Argentina	Federal Court Judges (9 Nos.) are appointed by Lower Federal Court Judges are appointed by	The President with the approval of the Senate A Council of Magistrates and chosen by the President

[Table 3: Depicts a comparative Analysis of Judicial appointment of different democracies in the world]

9. SUGGESTIONS AND RECOMMENDATIONS

The best practices and procedures as prevailed in the world have been analyzed by the researchers and judicial practitioners from time to time. It is noteworthy to mention here that it is futile and irrelevant to follow the methods and practices just for the sake of judicial independence setting aside the transparency and inclusiveness with wider

participation and involvement of the society (Vohra, Prabha (Mar-Apr, 2024) in appointments and transfer of judges to the highest judicial system.

The stagnation in appointments and transfers of judges to the highest courts in the country is a tendency of jeopardizing the very purpose of the established judicial supremacy and predominance. Such delay could be eliminated with a responsible and accountable system of nomination and appointment. (Ankit, Veeipriya. (Mar, 2024)

Most of the cases the appointments and transfers happen in close circuits of the judiciary without airing the methods, processes and procedures followed to the public. This nepotism eventually deteriorates the trust and faith of the society on the judiciary and its decrees and pronouncements. (DasLegal, 2023).

It is utmost important to take a serious look at the derived results of the analyzed Secondary data with respect to participation and inclusive method of appointments and transfers of the judges to the highest judiciary. In Germany, the appointment of judges is made by the executive and the legislature both. Meanwhile, a certain degree of participation is ensured by the Judiciary as well with the involvement of two bodies viz: The Judicial Electoral Committees & the Advisory Bodies. However, the involvement of non-political experts like experienced top notch, uninfluenced or an inexorable civil servant for a more refined and hybrid model of Judicial appointment system.

10. CONCLUSION

The current research has made an analysis of the prevailing Collegium System and made its recommendation for adequate inclusion of politically impartial and intellectually elite personnel like retired Civil Servants - belonging to both civil and defense systems of the country for the Judicial Appointments to and transfers for the higher judicial offices - the Supreme Court & the High Courts in India would be a right choice to have more ethical, free, and fair system. The qualitative analysis titled the three categories of the Sentiments viz: Fine Grained Analysis, Emotion Detective Sentiment Analysis, and the Aspect Based Sentiment Analysis, has clearly depicted the need for a hybrid model for the appointments and transfers of judges to the highest judiciary.

Moreover, the results of the secondary data have strongly and significantly substantiated the review of literature wherein the five models proposed by Plascencia, Iveth A., in the manuscript "Judicial Appointments: A Comparative Study of Four Judicial Appointments Models Used by Sovereigns Around the World" states that none of the single model is apt and gives a complete solution for a robust, fair, impartial, independent, and free Judicial system hence strongly recommends for a Hybrid Model taking the traits of two or three models together to have one such appointment system in place. The first model being the appointments by the Judiciary itself as in the case of China & Saudi Arabia, the second model depicts the appointments by the Judicial Council, as in the case of Argentina, the third model, appointments by Political Institutions as in the case of respective Bar Association (BA in countries like USA, South Africa, Australia, Belgium, Brazil and Mexico, where as in the Fourth Model, the selection through an electoral system which gained its popularity in the 19th century as in the case of Bolivia which had undergone a transition from a Judicial Council Model to an Election Model through a significant referendum by giving opportunities to the marginalized civic society to strengthen their participation and strong say in the judicial appointments. Cuba does the judicial election.

In view of the sound and cautious analysis of various data, models, schemas and the existing judicial appointment systems that are prevalent across the world, a hybrid - a triad of components - A collegium with transparency and fixed criteria + Memorandum of Procedure (a document as created by the Government & the Judiciary jointly in 1999 + Non-Judicial Representation (comprised of non-judges, lawyers, and eminent government officials) is apt to apply.

AUTHORS' CONTRIBUTION STATEMENT

The author has evolved and created the conceptualization of the current research on the basis of the theoretical framework. It was designed in line with the problem statement, observations and interviews conducted among the Professors of Law, senior advocates and retired judges, besides the adequate secondary sources of data collected by structuring the paper collecting relevant data - the facts and figures. Meantime, the co-author has analyzed the data, interpreted the results, and also done overall modifications from time to time.

FUNDING STATEMENT

The researchers have neither availed nor utilized any research funding / financial assistance / monetary support from any agencies / organizations / institutions / firms / corporate houses of government / public / private or not-for-profit organizations for carrying out this research work. This research was carried out by the researchers themselves on their own costs and expenses.

COMPETING INTEREST STATEMENT

The authors have not confronted or declared any conflicting interest/s from any corners in this paper.

ADDITIONAL INFORMATION, IF ANY

The researchers have not concealed or made unavailable or inaccessible any information, facts or figures other than those given in this chapter.

CONFLICT OF INTERESTS

None.

ACKNOWLEDGEMENTS

We, the authors, express our heartfelt gratitude to the professors of different Law colleges and Universities in and around Bangalore City, senior advocates and retired judges (whom we approached) located adjacent to Bangalore city for their active participation by expressing their opinions, perceptions and views on the predesigned questionnaire by providing their valuable feedback for making this research work a constructive one.

Meanwhile, the authors express their sincere thanks to those authors, the publishers, academicians, researchers and bloggers including those netizens, whose works and publications were the base upon which the authors relied on for the collection and collation of the secondary data sources for this research, which in turn enabled them to have a robust conceptual and theoretical framework.

REFERENCES

JOURNAL REFERENCES

- Ankit, Veepriya. (Mar, 2024) 'Judicial Independence and the Collegium System in India', International Journal of Research Publication and Reviews, ISSN2582-7421, Vol-5, No.3, pp5149-5157
<https://doi.org/10.55248/gengpi.5.0324.0818>
- Mahima Makhija & J Lalith Kumar (2017): '*Collegium System: The Unveiled Darkness*', *International Journal Of Advance Research And Innovative Ideas In Education, IJARIIIE*, e-ISSN: 2395-4396, Volume 3 Issue 4 2017, Vol.3, Issue.4
- vPlascencia, Iveth A., "Judicial Appointments: A Comparative Study of Four Judicial Appointment Models Used by Sovereigns Around the World" (2015). Law School Student Scholarship. 666.
<https://dx.doi.org/10.29121/shodhkosh.v5.i4.2024.2722>
- Sapna Kumari (2023): 'Understanding the Collegium System in India', International Journal of Law, Management & Humanities, ISSN 2581-5369, Vol. 6, Issue. 2, IJLMH 3104, 3110. DoI:<https://doi.org/10.1000/IJLMH.114752>
- Soni, Shifali & Rautdesai, Rupal (Jan, 2023): 'An Empirical Assessment of the Collegium's Impact on Composition of the Indian Supreme Court', National Law School of India Review, Article 6, Volume 32, Issue-I, <https://doi.org/10.2139/ssrn.4605849>
- Tripathy, Rangin and Dhanee, Soumendra (2020) "An Empirical Assessment of the Collegium's Impact on Composition of the Indian Supreme Court," National Law School of India Review: Vol. 32: Iss. 1, Article 6. Available at: <https://repository.nls.ac.in/nlsir/vol32/iss1/6>
- Vohra, Prabha (Mar-Apr, 2024): 'Judicial Appointments in india: A Critical Analysis of the Collegium System and the Rejected NJAC', International Journal for Multidisciplinary Research (IJFMR) E-ISSN:2582-2160, Vol 6, Issue 2, Mar-Apr 2024 (IJFMR-240217606
<https://www.livelaw.in/top-stories/good-judges-are-not-being-appointed-collegium-system-not-functioning-properly-sr-adv-dushyant-dave-247765>
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3894130
<https://articles.manupatra.com/article-details/Debating-the-Collegium-System-A-Comparative-Analysis>
<https://www.legalserviceindia.com/legal/article-3681-collegium-system-in-india.html>
https://cms.rajyasabha.nic.in/documents/1631111946243.11_Soumitra_Sen_Judge.pdf
<https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081028.pdf>

<https://legalaffairs.gov.in/national-commission-review-working-constitution-ncrwc-report>

<https://www.indiacode.nic.in/bitstream/123456789/2142/1/A2014-40.pdf>

<https://legislative.gov.in/sites/default/files/99th.pdf>