

Turkish Online Journal of Qualitative Inquiry (TOJQI)
Volume 12, Issue 5, July, 2021: 4182-4191

Research Article

A Judicial Performance Evaluation for Realization of Transparency and Accountability of The Administration of Justice in India

Alok Kumar

Research Scholar,
ICFAI Law School, The ICFAI University,
Dehradun (Uttarakhand)
Assistant Professor Of Law,
Faculty Of Law, The ICFAI University,
Jharkhand
Email Id: Alkubhu@gmail.com

Dr. Vagish Upadhyay

Assistant Professor Of Law
ICFAI Law School, The ICFAI University,
Dehradun (Uttarakhand)
Email Id: Vagish.Upadhyay@Iudehradun.Edu.In

Prof. (Dr.) Yugal Kishore

Dean & Professor Of Law
ICFAI Law School, The ICFAI University,
Dehradun (Uttarakhand)
Email Id: Vagish.Upadhyay@Iudehradun.Edu.In

ABSTRACT

The Depth Of Proficient And Value Justice Require Consideration To Three Fundamentals: The Legal Norms That Government Is Projected To Implement; The Method In Which Courts Find Facts And Apply Substantive Law To Those Facts; And Judicial Management, The Practice And Measures By Which Courts Take Cognizance Of Disputes And Present Them To Judicial Decision-Makers For Disposition. While These Three Area Are Interconnected And Should Be Considered As A Whole During Reforms, The Essential Focus (Of This Study) Is Judicial Administration. . The Practical Question In The Context Of Judiciary For Us Can Be "How Does A Court Perform?" For The Understanding Of The Hope And Prospect Of Common Men. India Stressing For A New Standard, Judicial Performance Index, To Integrate The Most Excellent Practices Followed Around The World.¹⁰ Also, The "Global Measure Of Court Performance" Set Various "Operational Terms" To Realize "Transparency And Accountability" Of The Administration Of Justice. There Are Differences Between, Judicial Reform, Justice Administration

And Judicial Evaluation. While Judicial Reform Can Be A Set, Management Of Justice And Performance Assessment Of Judges Can Be Sub-Sets. For Each Of These, Different Indicators Should Be In Practice And Those Shall Harmonize Each Other In Various Ways To Make Justice Meaningful. The International Structure For Court Quality For A Excellence Management System Designed By The International Appraise Of Court Performance For The Policymakers Has Identifies 10 Core Court-Values And 11 Measurable Tools. The Significant Question That Arises How Far These Operational Values Are Helpful In Indian Judicial Practice. In Developing A Performance Evaluation Policy For India, There Must Be A Two-Sided Approach: The Assessment Of The Individual Judges, As Well As The Appraisal Of Court Functioning.

INTRODUCTION:

The Judiciary Is An Essential Social Institution, And Like Other Branches Of Government, Contributes To Shaping The Life Of The Community. Expansion Of The Sphere Of Judicial Review Is Another Reason For The Increase In The Importance Of The Role Of The Judiciary. One Of The Most Significant Aspects Of The Part Of The Judiciary In Society Is Its Independence And Impartiality. The Existence Of An Independent Judiciary Is One Of The Core Elements Of Modern Constitutionalism And A Cornerstone Of Democracy And Good Governance. The Rule Of Law Ensures That All Government Officials Are Held Accountable For Their Authority. Accountability Is The Sine Qua Non Of Democracy. The Concept Of Accountability Is Recognized As An Essential Value Of A Democratic Society. Transparency Facilitates Accountability. No Public Institution Or Public Functionary Is Exempt From Accountability. For Any Judicial System To Continuously Evolve And Guarantee Effective Delivery Of Justice To Litigants, It Is Crucial To Build Monitoring And Evaluation Systems That Will Identify Opportunities For Change And Areas For Improvement, Both At The Institutional Level And At The Level Of Individual Judges. Performance Evaluation Has Become Omnipresent In Advanced Judiciaries The World Over, And It Is Undeniable That Higher Judiciary In India Requires A Uniform Mechanism For Judicial Performance Evaluation. In Addition, The System Of Performance Evaluation For Judges In The Subordinate Judiciary Must Also Be Drastically Reformed To Ensure Better Quality Of Justice At All Levels The Judiciary, A Fixed-Wing Of The State And Its Members Being Paid From The Public Exchequer, Are Accountable To The People And Has The Responsibility Of Performing The Functions For Which It Has Been Created.

The Practice Of Appraise Judges To Assess Their Quality And Ability, Most Commonly Known As Judicial Performance Evaluation, Originated In The United States As A Process For Determining Questions Of Elevation In The Judiciary. Since Then, JPE Has Been Adopted In Several Jurisdictions, In Changeable Forms With Differing Degrees Of Complexity To Achieve Different Objectives . In India, There Is A System For Evaluating The Performance Of The Lower Judiciary, Wherein A System Of Annual Confidential Reports Is Used To Evaluate The Performance Of Judges, Based On Various Metrics. India, However, Does Not Have A Formal Performance Evaluation Mechanism To Assess The Functioning Of The Higher Judiciary.

It Is In This Light The Research Paper Tries To Highlight That The Understanding Of The Conceptual Framework Of Judicial Performance Evaluation And Analyse The Broader Spectrum Of Its Core Values Promoting Accountable Judicial System-Rule Of Law, Public Confidence In Court, Judicial Efficiency, Effectiveness And Accessibility, Judicial Transparency And Constitutional Guarantees Of Judicial

Independence . The Judicial Performance Evaluation Conceptualized The Need For Competent, Independent, Transparent Judiciary As An Institution Has Been Recognized And Accepted. Recent Studies On Judicial System Suggest That Assessment Of Quality Of Judicial System Should Judge Minimally On Five Aspects Of Judicial Performance: Independence, Accountability, Efficiency, Effectiveness And Accessibility.

GENESIS AND EVOLUTION OF JUDICIAL PERFORMANCE EVALUATION:

The Earliest JPE Programme Were Codified And Used In The US With The Main Aim Of Providing Voters Information Regarding Judges, Before Voters Decided To Re-Elect Them To Office Or Vote Them Off The Bench (Also Known As ‘Retention Elections’). Over Time, Multiple Jurisdictions Have Adopted The Concept Of JPE, But With Differing Aims And Approaches To Appraise Judges. Generally, JPE Programmes Are Employed To Increase Accountability Of The Judges, Increase Transparency In Justice Systems, Improve The Overall Working Of A Judiciary, Determine The Career Paths Of Judges, Or Achieve A Combination Of All Of These Objectives. JPE Programmes Have Evolved From Informal Methods, And Have Gradually Become Codified And More Organised. The First State-Sponsored JPE Programme In The US Began In 1978 In Alaska, And By 2000, At Several States In The US Had Some JPE Programme In Place Or Under Development. But Even Before JPE Gained Ground As An Institutional Process Of Performance Evaluation In The US, Evaluations Often Happened Informally, Mainly In The Form Of Bar Polls. The First Institutional, State-Sponsored JPE Programme, Started In Alaska, And Sought To Provide More Reliable And Accurate Information Than Bar And Media Polls, To Aid Decision-Making In Retention Elections. Multiple States Adopted JPE For Purposes Ranging From Providing Information To Voters, To Helping Professional Development Of Judges. Performance Evaluation Also Came To Be Increasingly Used As A Managerial Tool To Determine Measurable And Quantifiable Indicators Of Court Performance.

In The Late 1990s, Other Countries Started Formulating Their Own Formal Programmes For Evaluating Judicial Performance As Part Of A Larger Goal Of Judicial Reforms. In Addition To Governments Recognizing The Need For Such Judicial Reforms, Intergovernmental Organisations As Well As Civil Society Organisations Demanded Such Programmes For Increasing Transparency And Accountability Of Judicial Systems. In Europe, The Practice Of JPE Differs Across Member States, Generally, Ministries Of Justice And Judicial Councils Have Introduced Quality Assessment Mechanisms, Complaint Procedures, And Other Managerial Methods To Assess The Performance Of Both Judges And The Courts In Which They Operate. New Public Management (NPM) Tools, Ordinarily Used To Hold Governments More Accountable, Have Also Influenced The Manner In Which Judicial Performance Is Evaluated, And Have Been Adapted To Improve Efficiency, Quality Of Service Delivery, And Overall Functioning Of Justice Services Countries Such As Austria, Belgium, Bulgaria, France, Germany, Hungary, Italy, Lithuania, Portugal, Romania, Spain And Turkey That Follow Civil Law Have, Over Time, Developed Formal Mechanisms For The Evaluation Of The Professional Performance Of Judges.. These Mechanisms, Often Sanctioned By Primary Legislation (E.G., France), And Further Shaped By Internal Regulations Of The Respective Judicial Councils Or Ministries, Vary In Complexity. In Germany, The Evaluation Of Judges Is Done At The Stage Of Recruitment As Well As To Determine Career Progression. In Addition To These Performance Evaluation Systems In Individual Countries, The European Commission For The Efficiency Of Justice (CEPEJ) Collects And Analyses Data From The Member States In The EU To

Evaluate The Functioning Of Judiciaries Across The EU. The CEPEJ Was Set Up By The Committee Of Ministers In 2002. The Organisation Focuses On Collecting Qualitative As Well As Quantitative Data On The Functioning Of European Judicial Systems To Work Towards The Larger Goal Of Judicial Reforms In Europe.

The UK Does Not Have An Evaluation Mechanism For The Higher Judiciary, But Demands For The Performance Evaluation Of Judges Has Risen In The Past Few Years. In 2010, The Report Of The Advisory Panel On Judicial Diversity Said That Judges Must Be Assessed In Order To Identify Talent And Develop Skills In The Pool Of Judicial Officers. The Auld Review Of The Criminal Courts Of England And Wales, Too, Suggested A Performance Appraisal For Judicial Officers At The Trial Court Level. Chapter 6 Of The Report Discussed Why An Appeal Process Was Not Sufficient To Reflect The Day-To-Day Working Of The Trial Court Judges, And Made Out A Case For Regular Performance Reviews Of These Judges. South Africa, Too, Has Undertaken Major Judicial Reforms In The Past Few Years, A Dimension Of Which Deals With Performance Assessment Of The Judiciary. Under Section 165(6) Of The Constitution Of South Africa, The Chief Justice Is Responsible For The Establishment And Monitoring Of Norms And Standards For Exercise Of Judicial Functions By All Courts, And Can Issue Protocols And Directives For The Same. In 2014, The South African Government Released A Notice On “Norms And Standards For The Performance Of Judicial Functions”, Under The Department Of Justice And Constitutional Development. This Notice Lays Down Certain Practices That Judges Must Adhere To For The Efficient Delivery Of Justice. Additionally, It Places A Duty On The Judges To Make An Efficient Use Of Resources.

THE NEEDS AND PURPOSES OF JPE PROGRAMME:

JPE Programmes Have Most Commonly Been Used To Provide Useful Feedback To Judges And The Public, To Increase Transparency, Consistency And Accountability Of The Judicial System, To Improve Case And Court Management, And To Promote Greater Public Understanding Of The Courts. It Is Known That Institutions And Individuals Who Perform Public Functions Fare Better When They Are Subject To A System Of Periodic Checks. In The Same Way, JPE Programmes May Help Promote Judicial Accountability, Leading To A More Transparent And Effective Judiciary, And Are Often Designed With Increased Accountability Of Judicial Systems As One Of The End Purposes. Judicial Performance Evaluations Provide Useful Feedback About The Performance And Ability Of Judges And Often Determine Their Career Paths. JPE Results, In Some Cases, Are Also Used To Determine Promotion Of Judges To Advanced Posts In The Judiciary, Or In Places That Conduct Retention Elections To Ascertain If A Judge’s Performance Warrants Reappointment. For Instance, In Germany, Where Selection For Judicial Office Or Promotion Is Primarily Made Based On Professional Performance And Competence, Evaluation Is Very Important. In Other European Countries, Such As Austria, France And Italy, Performance Assessments And Fulfillment Of Targets Are Relied Upon When Deciding Matters Of Promotion Or Elevation To A Higher Court. Performance Evaluation Has Shown Beneficial Effects Across Different Sectors. It Operates On The Basic Premise Of Improving Human Behavior, That “Desirable Conduct Should Receive Positive Reinforcement And That Areas For Improvement Should Be Identified So That The Individual In Question Can Improve Performance. Evaluating Judicial Performance Periodically Could Thus Have Beneficial Effects On Judicial Behaviour. Performance Assessment Has Become A Fixed Practice In Many Areas Of Public Administration And Is A Crucial

Element In Ensuring Better Quality Of Justice. Performance Evaluation Techniques Can Also Be Utilised As Methods Of Internal Management Of Judicial Activity As Well As Administrative Facets Of A Court System. In Australia, Two Of The Statutory Tribunals Responsible For The Determination Of Judicial Salaries Have Referred Expressly To The Possibility Of Pursuing Inquiries Into Court “Productivity” For The Purpose Of “Linking” Aspects Of Performance To Judicial Salaries.

DIFFERENT TOOLS OF EVALUATION AND THE PARAMETERS USED TO ASSESS JUDICIAL PERFORMANCE:

Methods Of Measuring Judicial Performance Differ Depending On The Purpose Behind Assessing Judges And Courts In A Particular System. Court Administrators And Scholars Have Proposed A Variety Of Quantitative Measures Of Judicial Productivity.

1. **Courtroom Observation Programmes And Narrative Feedback:** Some Judicial Evaluation Programmes Began As Simple Courtroom Observations, Where Citizens Would Be Sent To Observe Court Proceedings And Make Assessments On The Judges’ Performance. These Methods Utilized The Public’s Perception Of Judges And Courts To Evaluate Their Performance. Though Not The Sole Determinant Of The Performance Of A Judge, These Courtroom Observation Programmes Form An Essential Part Of The Evaluation Process. A Qualitative Method Of Performance Evaluation Is Through Narrative Feedback, Which Involves Asking Respondents Open-Ended Questions To Solicit Written Comments About The Judge’s Performance. Sometimes, Such Narrative Feedback On The Performance Of A Judge Is Obtained Through Confidential Written Submissions Or Solicited At Public Hearings. These Traditional Narrative Methods, However, Fall Prey To Bias And Suffer From Various Other Shortcomings.
2. **Evaluating Judges/Court Systems Through Statistics:** Using Statistical Data And Indicators To Study Judicial Performance Is Now A Familiar Practice In Some Systems. The Data Collected Takes Into Account A Wide Variety Of Factors, Including Case Disposal, The Types Of Cases Dealt With By The Court, The Average Time Taken For Proceedings For Different Categories Of Cases, Accessibility Of Justice For The Public, The Time Required For Disposal Of Different Kinds Of Cases, Participation Of Judges In Judicial Training, And Other Similar Parameters. The Scoreboard Pays Great Attention To Detail, In That It Collects Information Mentioned Above For A Variety Of Cases Being Litigated, Such As Civil, Administrative, And Trademark Infringement Cases, And Cases Of Judicial Review Of Decisions Of Competition Authorities. It Also Studies Trends In Gender Diversity On The Bench For Different Member States
3. **Different Variables To Measure Court Performance:** Different And Complex Variables Are Also Becoming A Popular Method Of Understanding Court Performance. This Practice Is Followed On A Country-Wise, As Well As A Cross-Country. The Justice Confidence Index In Brazil Is Good Example Which Is Used To Measure The Performance Of Judges. It Creates An Index Based On Five Variables, Namely Judicial Independence, Efficiency, Access, Effectiveness And Accountability. The Objective Of This Index Is To Gain Insight Into The Public Perception Of The Judiciary’s Performance And Also Gauge How Much Faith The Public Has In The

Judiciary, By Studying, For Example, What Proportion Of The Public Considers The Judiciary To Be The Best Institution They Can Rely On For Conflict Resolution.

STANDARDS, CRITERIA, OR INDICATORS UTILIZED FOR ASSESSING JUDICIAL PERFORMANCE:

There Are Different Guidelines And Recommendations For Evaluation Of Judicial Performance .However This Is Also Challenging To Designing A Complete Framework. There Should Be Quantitative Measurement As Well As Qualitative Assessment .Qualitative Assessment Such As Professional Competence And Personal Competencies Seen To Be Subjective And Based On A Value Judgment And Quantitative Measurement Is Objective And Value Free. In The US, States Follow The Guidelines Of The American Bar Association (ABA). Which Include The Judge’s Legal Abilities, Knowledge Of Substantive Law And Procedure, Treatment Of People Fairly And With Dignity And Respect, Ability To Make Difficult Or Unpopular Decisions, Clarity In The Decisions, Leadership Qualities, And Ability To Inspire Public Confidence In Courts, Amongst Others. Temperament Has Also Been Used As A Criterion For Measuring Judicial Performance. Finally As Regards Parameters That Judges Must Be Measured Against That A Mix Of “Personal And Professional Parameters” Must Be Used For Assessment. Personal Factors Must Include Work Ethic, Interpersonal Relations, Demeanor Towards Court Staff And Lawyers. Professional Parameters , Should Include Knowledge Of Law And Procedure, Ability To Grasp The Facts And Essence Of Cases, Sound Application Of Legal Principles And So On. There Must Be A Mix Of Subjective And Objective Factors To Evaluate The Performance Of Judges. These Subjective Factors Included Similar Parameters As Were Included In The “Personal” Parameters, And The Objective Factors Were Partially Analogous To The “Professional Factors”.

JUDICIAL PERFORMANCE EVALUATION IN INDIA

The Quality And Ability Of Judges In India Has Attracted Much Criticism Over The Years And The Need For Transparency, Independence And Accountability In The Judiciary Has Been Repeatedly Emphasized Currently, No Internal Mechanism To Subject Performance Of Judges To Scrutiny Exists For The Higher Judiciary In India, Even Though Performance Evaluation Of Judges Is A Common Practice Internationally, And In Subordinate Courts In India. The Only Method Of Ousting Under-Performing Judges In The Higher Judiciary Is By Impeachment, But This Is Very Rarely, If Ever, Resorted To. The Indian Constitution Vests With The High Courts The Power Of Administrative Superintendence And Disciplinary Control Of Subordinate Judiciary. Exercising This Power, High Courts Assess The State Of Functioning Of The Subordinate Judiciary Under Their Administrative Jurisdiction. High Courts Mandate And Supervise The Recording Of Annual Confidential Reports (ACRs) Of Judicial Officers In The Subordinate Judiciary. ACRs Are Annual Performance Appraisal Reports That Record Balanced Information Of A Judicial Officer’s Performance In The Evaluation Period, To Periodically Judge The Work, Conduct, Integrity And Capabilities Of The Officer.

High Courts Or State Judicial Services Have Evolved Their Own ACR Templates And The Process Of Recording Assessments Is Not Uniform Across States.¹⁷⁰ However, All ACRs For Judicial Officers Appear To Have Three Distinctive Assessment Methods That Are Employed Collectively:

- I. Self-Assessment By Judicial Officers,
- ii. Assessment By A Reporting Authority, And

iii. Supervisory Remarks By The Accepting Authority

Self-Assessment Reports Ensure Transparency Regarding Parameters For Assessment Of Judges Being Evaluated, And Has Been Recommended For Adoption In All Acrs By The Supreme Court. Even If The Self-Assessment Form Is Not Recorded By The Judicial Officer, The Reporting Authority Is Required To Record Assessments Of An Officer's Integrity, Work Performance, Conduct And Attitude Towards Superiors, Subordinates And Members Of The Bar. Reporting Authorities (Sometimes Termed Initiating Authorities) Are Generally Subordinate Investigating Judges Or District Judges Who Are Required To Have Experienced At Least 3 Months Of The Judicial Officer's Work. The Entries Of The Reporting Authority Are Further Inspected By The Accepting Authority Who Is Usually A Judge Of The Concerned High Court. Acrs Record Assessments On A Variety Of Subjective And Objective Criteria, Ranging From Relationship Shared By The Officer With Seniors, Subordinates, Bar Members And Court Staff To Rate Of Disposal And Quality Of Judgments Passed. This Assessment Of Merit Seems To Determine The Officer's Career Advancement.

While Assessments Based On Acrs Are The Only Institutional Form Of JPE Programme To Be Administered In India, There Are Several Challenges To And Issues With Its Implementation.

(A) Variance In ACR Documentation And Usage Across High Courts: Individual High Courts Have Independent ACR Templates To Record Assessments Of Judicial Officers Serving In Their Respective Subordinate Judiciary. As A Result, Parameters On Which Judges Are Assessed Vary Across The Country, And Lack Of Uniformity In Evaluation Is A Cause For Concern.

(B) Bias And Subjectivity Hampering Evaluation: An Oft-Quoted Problem With Acrs Is Their Lack Of Objectivity. Judicial Officers Frequently State That Their Grading Is Based On Their Likeability Among Bar Association Leaders Who Can Pressurise The Supervising Judge And Adversely Affect Entries In Acrs. Supervising Judges Functioning As Reporting Authorities Who Record Assessments Have Also Been Accused Of Falsifying ACR Documentation To Further Their Vested Interests. In 2011, 17 Judges Of The Chhattisgarh Subordinate Judiciary Belonging To Scheduled Castes And Scheduled Tribes, Who Were Compulsorily Retired, Alleged Caste-Based Discrimination By Supervising Higher-Caste Judges In The Recording Of Their Acrs.

(C) Negligence In Timely Recording Of ACR Entries: Elaborate And Timely Recording Of Acrs Is Necessary And Mandatory To Ensure That Grading Is Accurate And Fair But Acrs Are Frequently Recorded Or Graded By Judges In A Hurried And Chaotic Manner, Sometimes Well After The Expiry Of The Evaluation Period. Sometimes, Acrs Are Not Even Recorded. This Is Severely Problematic As Non-Recording Of Acrs Is Unfair To A Judicial Officer And Indicates An Unhealthy State Of Functioning Of The State Judicial Service. Sometimes, Entries In The ACR Are Not Communicated To The Judicial Officer Within A Reasonable Time, Robbing The Judicial Officer An Opportunity To Make A Representation For Upgrading The Entry To Ensure Due Process And Fairness. The Supreme Court Has Noted That There Is An Urgent Need To Reform Acrs To Ensure Uniformity, Objectivity And Standardization In The Process, So As To Leave Little Room For Bias Or Mismanagement.

Although More Accurate, Objective, And Scientific Methods Are Yet To Evolve To Assess Judges In The Lower Judiciary, Acrs Have Managed To Set Measurable Performance Standards In The Lower

Judiciary. When It Comes To Performance Evaluation Of Judges, The Higher Judiciary In India Must Do Away With Its Reluctance To Evaluate Its Own And Evolve A JPE Mechanism.

CHALLENGES IN IMPLEMENTING JUDICIAL PERFORMANCE EVALUATION IN INDIAN SCENARIO:

While There Are Several Reasons Why A JPE Programme Would Be Beneficial To The Judiciary, Performance Evaluation Of Judges Is Fraught With Several Issues. JPE Programmes Across The World Have Been Criticised For Being Biased, Opaque Or Impinging On Judicial Independence. Additionally, There Are Challenges Associated With The Process Of Implementing A New JPE Programme Relating To The Parameters That Will Be Used, Deciding How Frequently The Programme Will Be Conducted, Ensuring That There Are No Clashes With The Present Existing System Of Appointment Of Judges And Other Such Concerns. These Are Discussed In Detail Below:

1. Judicial Independence

Deep-Seated Resistance To Evaluation Of Judicial Institutions And Independent Judges Across The World Has Stemmed From The Fear Of The Threat Posed To Judicial Independence, A Cornerstone Of Any Democracy. In India, Too, Legislative Attempts To Define Judicial Standards Have Been Criticized For Impinging On Judicial Independence. Several Jurisdictions, However, Have Managed To Introduce JPE Programmes Without Compromising Judicial Independence And Integrity. However, The Judicial System In India Has A Unique Manner Of Selection And Appointments, And It Is Crucial To Keep Concerns Of Judicial Independence In Mind Before Assessment Of The Higher Judiciary Can Become A Reality.

2. Bias

Some Subjective Factors Are Especially Vulnerable To Criticism, As They May Be Open To Bias. This Has Already Been Seen When Results Of Acrs In The Subordinate Judiciary Are Challenged In The Courts. Additionally, Factors Such As Quality Of Judgments And Behaviour In The Courtroom Are Largely Dependent On The Perception Of An Individual. In A Performance Evaluation, These Factors May Have Adverse Consequences For One Judge, And Have No Consequence For Another, Merely By Virtue Of Different Perceptions Of Whoever Is Evaluating Them. Keeping This In Mind, A Performance Evaluation Programme Must Be Weary Of Making The Process Subjective, And Incorporate A Balanced Mix Of Qualitative And Quantitative Factors To Accurately Assess The Quality Of A Judge's Performance.

3. Conflict With Existing Systems

Creating A System Of Performance Evaluation For The Higher Judiciary In India Is Bound To Create Conflicts With The Existing Systems Of Promotion And Transfers That Exist For The Higher Judiciary In India. Additionally, Consequences Of Performance Evaluation That Reflects That A Judge Has Performed. Poorly, Must Be Thought About Carefully, So That They Do Not Conflict With Currently Existing Mechanisms In Place For Dealing With Errant Judges, And Are Harmonized With The Current System.

4. Lack Of Clear Standards For Judicial Accountability

It Must Be Kept In Mind That India Does Not Yet Have A Law On Or Mechanisms To Ensure Judicial Accountability. A Performance Evaluation Mechanism In The Absence Of Accountability Measures Would Not Serve Its Purpose. Lack Of Accountability Measures Would Also Lead To Questions About The Consequences Of Poor Evaluation Results And Thus, There Would Be No Tangible Difference That The Evaluation Would Make. In The Past, Several Attempts At Introducing Accountability Mechanisms In India Have Failed. The Absence Of Clear Standards For Judicial Standards And Accountability Has Led To An Absence Of Groundwork On Which Metrics And Methods For Performance Evaluation Can Be Developed.

These Concerns Must Be Addressed Before And While Designing A JPE Programme For India. The Best Way To Initiate A Discussion On JPE Would Be From Within The Judiciary Itself, Which Is More Acceptable, Evidenced By Other Jurisdictions That Have Embarked On The Path Of Developing JPE Programmes. Further, The Resulting Performance Evaluation Process Needs To Be Harmonised With The Present Methods In Place For Removal Of Errant Judges At The Level Of The Higher Judiciary. This Could Also Mean A Re-Look At The Process Of Removal Of Judges. There Are, Thus, Many Areas Relating To The Functioning Of The Judiciary That May Need Reconsideration Before India Embarks On The Path Of Developing JPE Programmes For Its Higher Judiciary

CONCLUSION AND SUGGESTIONS:

Performance Evaluation Has Become Ubiquitous In Advanced Judiciaries The World Over, And It Is Undeniable That Higher Judiciary In India Requires A Uniform Mechanism For Judicial Performance Evaluation. In Addition, The System Of Performance Evaluation For Judges In The Subordinate Judiciary Must Also Be Drastically Reformed To Ensure Better Quality Of Justice At All Levels. In Developing A Performance Evaluation Programme For India, There Must Be A Two-Pronged Approach: The Evaluation Of The Individual Judges, As Well As The Evaluation Of Court Functioning. The Following Sections Detail A Workable JPE Model For India, Elucidating On The Object Of Evaluation, Detailing Performance Metrics That Will Be Employed To Assess Judge Or Court Performance, And The Manner In Which This Evaluation Should Be Conducted. Finally, The Specific Risks Of The Proposed Model Of Evaluation Of Judicial Performance In India Will Be Identified And Dealt With. JPE Programmes, Whether Formal Or Informal, Seek To Provide Information On The Performance Of Judges To Litigants And Policy Makers, And Ensure Judges Are Publicly Accountable For Their Performance In The Field Of Justice Delivery. Considering The Distance That Exists Between The Common Person And The Judiciary, Performance Evaluation Would Help In Increased Public Faith In The Transparency Of The Judiciary. A System Of Self-Appraisals By The Judges Can Help Individual Judges Identify Their Strengths And Weaknesses, Such As Areas Of Specialization Which Can Also Help In Deciding Caseload Allocation. It Would Be Prudent To Create A System Of Performance Evaluation That Also Addresses The Persistent And Growing Problem Of Backlogs And Delays In India's Legal System, Which Directly Impacts Litigants' Access To Justice.

From The Interview Responses, It Was Evident That The Support For JPE In The Higher Judiciary Seemed To Stem From The Fact That Currently, Judges In The Higher Levels Of The Judiciary In India Are Not Subject To Any Performance Evaluation And Therefore, Lack A Formal System Of Checks And Balances. One Interviewee Opined That A JPE Model Would Ascribe More Transparency To The

Currently Opaque System Of Elevations. For These Broad Reasons Of Increased Transparency And Accountability, All Interviewees Suggested That Performance Evaluation Will Be Useful For The Higher Judiciary In India And Preferred That A Balanced JPE Model Be Evolved.

Acknowledgment: I Sincerely Acknowledge The Vidhi Centre For Legal Policy For Giving Insight Of Judicial Performance Standard. I Am Also Thankful To My Research Guide And Dean, ICFAI Law School, Dehradun For Guiding And Inspiring Me To Write A Paper On This Contemporary Challenge Of The Judicial System.

Reference:

1. Michael L. Rubenstein (1977), 'Alaska's Judicial Evaluation Programme: A Poll The Voters Rejected', *Judicature* 60, P. 478.
2. J. McIntyre (2014), 'Evaluating Judicial Performance Evaluation: A Conceptual Analysis' *Oñati Socio-Legal Series* [Online] 4 (5), 898-926, Available At Accessed On 21.04.2016.
3. Kearney (1999), 'Judicial Performance Evaluation In The States', *Public Affairs Quarterly*, Winter 1999.
4. Richard J. Young, 'The New Jersey Judicial Performance Evaluation Programme: An Assessment Of The Programme's Impact On Judicial Performance' [Institute For Court Management, Court Executive Development Programme, Phase III Project (May 1997)].
5. Seth S. Andersen (2001), 'Judicial Retention Evaluation Programmes', *Loy. L.A. L. Rev.* 34, 1375, P. 1377.
6. Rebecca Love Kourlis, Jordan M. Singer (2009), 'A Strategy For Judicial Performance Evaluation In New York' *Albany Law Review*, Vol. 72 P. 657.
7. Penny J. White (2009), 'Using Judicial Performance Evaluations To Supplement Inappropriate Voter Cues And Enhance Judicial Legitimacy', *Missouri Law Review* 74 (3), Art. 11, P. 654.
8. Dakolias, Maria (1999), 'Court Performance Around The World: A Comparative Perspective', *Yale Human Rights And Development Journal*: 2 (1), Article 2, Available At Accessed On 21.03.2021.
9. Wallace, Anleu, Mack (2015), 'Evaluating Judicial Performance For Caseload Allocation', *Monash University Law Review* 41(2), 445, P. 447, Fn. 4
10. Stephen Colbran (2006), 'A Comparative Analysis Of Judicial Performance Evaluation Programmes', *Journal Of Commonwealth Law And Legal Education* 4(1).
11. Bhairav Acharya (2017), 'The Evolution Of Judicial Accountability In India', *Journal Of Public Affairs And Change* 1(1) Winter 2017, Pp. 82-83.
12. Shakthi Kumar Gupta V. State Of Jammu And Kashmir, AIR 2016 SC. 832.
13. High Court Of Punjab & Haryana Vs. Ishwar Chand Jain, (1999) 4 SCC.
14. Bishwanath Prasad Singh Vs State Of Bihar & Ors, 1994 Supp (3) SCC 97.
15. All India Judges' Association And Others Vs Union Of India And Others, (1993) 4 SCC 288.
16. Registrar General, Patna High Court Vs. Pandey Gajendra Prasad & Ors, 2012(6) SCC 357.
17. Kazia Mohammed Muzzammil Vs. State Of Karnataka, (2010) 8 SCC 155.
18. Dev Dutt Vs Union Of India & Ors, AIR 2008 SC 2513.
19. Registrar General, Patna High Court Vs. Pandey Gajendra Prasad & Ors, 2012(6) SCC 357.