

“in-house mechanism” investigating corruption.

- **Information asymmetry with Judiciary-** Judiciary has virtually kept itself outside the purview of the Right of Information Act.
- **Contempt of Court-** Using the powers under the Contempt of Court Act, judiciary has been alleged to silence the rightful critics also.
- **Judicial Overreach-** Judiciary has been praised on its activism towards resolving citizen's grievances, however, in this process some of the decisions have encroached the line of overreach also.

Implications

- Erosion of **public trust in judges and judicial system** when there are issues of integrity and accountability of Judiciary.
- Impacts the **Independence of Judiciary-** when there is lack of accountability to match it.
- **Against the principles of Natural Justice-** e.g. when the Chief Justice decides the “Master of the Rolls” and himself/herself is a party in any case.
- **Mockery of democracy and rule of law** particularly because of continuance as judge for long after indisciplined behavior.
- It goes against the **freedom of expression**. Stopping media from publishing any statements by any judge, is unreasonable from the point of view of freedom of speech and expression.

Steps taken so far

- **Contempt of Court (Amendment) Bill, 2003** was introduced.
- **Judicial Standards and Accountability Bill, 2010** was introduced.
- Unanimous passing of the **National Judicial Appointments Commission Act** by the Parliament and state legislatures, which was struck down by the Judiciary.
- Draft **Memorandum of Procedure, 2016** is been discussed.

Measures which can be taken

- A more **formal and comprehensive Code of Conduct for Judges** should be put in place, which is enforceable by law.
- The **Contempt of Court Act** could be amended with following provisions-
 - Cases of contempt should not be tried by courts but by an independent commission of concerned district.
 - The Act should be amended to remove words, ‘scandalizing the court or lowering the authority of the court’ from the definition of criminal contempt.
 - However, there must be stringent punishment against its misuse on false and malicious allegations made against honest judges.
- A **two-level judicial discipline model** with first level as a disciplinary system that can reprimand, fine or suspend judges for misdemeanors along with providing them some limited measures of immunity; and, second level as a system of removal of judges for serious misconduct, including corruption must be established.
- **Increasing the transparency in public hearing in the courtrooms-** Last year, the Supreme Court approved the live-streaming of court proceedings of cases of constitutional importance. This provision could be extended to the other cases and High Courts also.
- **Independent judicial Lokpal** may be set up with power to take up complaints and initiate action against judges should be set up to ensure accountability of the judiciary. It should be independent from both the judiciary and the government.

Way Forward

- Bringing a **new Judicial Standards and Accountability bill** along the lines of Judicial Standards and Accountability Bill 2010 (which lapsed) to establish a set of legally enforceable standards to uphold the dignity of superior judiciary and establish a new architecture to process the public complaints leveled against the judges.