

Judicial Oral Remarks and Institutional Limits of Courts in India

May 21, 2026 • vajiramandravi.com



Judicial Oral Remarks Latest News

- Recent remarks by the Chief Justice of India from the Bench have reignited debate on the limits of judicial oral observations and the standards of judicial conduct.

Judicial Oral Remarks and Institutional Limits of Courts

- Courts frequently make **oral observations during hearings** to test arguments, clarify legal positions, and engage lawyers in meaningful debate.
- However, when such remarks become controversial or appear excessive, questions arise about the **institutional limits of judicial speech** and the distinction between a judge's oral comments and a court's final judgment.
- The recent controversy over remarks made by the Chief Justice of India has revived an important constitutional question: **How far can judges go in their oral observations from the Bench?**

About Judicial Oral Remarks

- Judicial oral remarks are comments, questions, or observations made by judges during court proceedings. These remarks help judges:
 - Test the strength of legal arguments.
 - Clarify facts and legal principles.
 - Examine possible implications of a legal position.
 - Understand competing viewpoints before delivering a judgment.
- Importantly, oral observations are **not legally binding**. The official position of a court is reflected only in its written judgments and formal orders.
- This distinction was strongly emphasised by the Supreme Court in the Chief Election Commissioner vs M.R. Vijayabhaskar (2021) case.

The Vijayabhaskar Judgment and Judicial Standards

- The issue gained prominence during the **COVID-19 pandemic in 2021**, when the Madras High Court criticised the Election Commission for permitting political rallies during elections and orally remarked that officials should perhaps face “murder charges”.
- The Election Commission approached the Supreme Court seeking restrictions on media reporting of such oral remarks.
- However, the Supreme Court rejected this demand and upheld the importance of courtroom openness.
- At the same time, the Court clarified an important principle:
 - The formal opinion of a judicial institution is expressed through judgments and orders, not oral observations made during hearings.
 - The judgment also warned judges against using “scathing” or “inappropriate” language directed at individuals or institutions.
- Thus, the Supreme Court recognised two dimensions of oral remarks:
 - The bench question that tests arguments.
 - The remark that wounds or unnecessarily harms.

The Role of Bench Questions

- Judges often ask difficult or provocative questions to evaluate legal arguments. These questions may not necessarily reflect the final opinion of the court.
- For example, during hearings on **same-sex marriage in Supriyo vs Union of India (2023)**, oral observations of the Bench suggested openness to broader recognition of gender identity. However, the final judgment adopted a different legal position.
- This demonstrates that courtroom questioning is often a method of **legal testing rather than judicial endorsement**.
- In constitutional democracies, judges are expected to challenge lawyers rigorously before arriving at a considered conclusion.

Institutional Limits on Judicial Speech

- While judges enjoy freedom to ask searching questions, judicial conduct is constrained by constitutional morality, institutional discipline, and public trust.
- India's **Restatement of Values of Judicial Life (1997)**, adopted by the Supreme Court, provides ethical guidance for judges.
- It cautions judges against entering public controversies or expressing opinions in ways that may compromise judicial neutrality.
- Similarly, legal scholar and judge Benjamin Cardozo argued that judicial discretion must be guided by tradition, legal reasoning, and institutional order rather than impulsive emotion.
- The concern becomes serious when judges use language that may appear:
 - Dehumanising or offensive.
 - Politically charged.
 - Excessively personal or emotional.
 - Capable of undermining institutional dignity.
- Because courts derive legitimacy from public confidence, judicial speech must remain measured and restrained.

The Recent Controversy and Institutional Concerns

- The recent controversy arose when the Chief Justice reportedly referred to some individuals using strong expressions while hearing matters related to senior advocate designations. A later clarification attempted to limit the scope of the criticism.
 - Hearing applications relating to the designation of senior advocates, the Chief Justice remarked that “there are youngsters like cockroaches” and that some advocates were “parasites of society.”
 - The clarification confined the criticism to fake-degree-holding designees.
- However, the episode revived concerns over whether controversial oral remarks, particularly when amplified instantly through media and social platforms, can weaken institutional credibility.
- Unlike earlier decades, oral observations today spread rapidly into the public sphere even before formal judgments are delivered. This creates a tension between:
 - The need for **free and spontaneous courtroom discussion**.
 - The obligation to maintain **judicial restraint and institutional dignity**.
- Many legal experts argue that clarifications alone may not fully address concerns if the original remarks appear inconsistent with established judicial standards.

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