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Concealing a Judge's Dissent, Eroding Judiciary's Authority

Context

- **Constitutional democracies are founded** not merely on the authority of written laws but **on a deeper principle**, what South African jurist Etienne Mureinik described as a culture of justification.
- This **principle demands that every exercise of public power must be reasoned**, explained, and defended to the people.
- This **standard of accountability, though often demanded by the judiciary from the legislature and executive, appears strikingly absent within India's own system** of judicial appointments.
- The **controversy surrounding Justice B.V. Nagarathna's reported dissent** against the elevation of Justice Vipul M. Pancholi **highlights the opacity of the Collegium system and exposes its democratic deficit.**

The Problem of Opacity in the Collegium System

- The Supreme Court of India has long positioned itself as the **guardian of transparency and accountability** in governance.
- Yet when it comes to its own internal processes, **particularly the Collegium system** of judicial appointments, it has consistently **resisted disclosure.**
- Established through **judicial decisions in the Second Judges Case (1993)** and the Third Judges Case (1998), the **Collegium vests appointment power in the five senior-most judges of the Supreme Court.**
- These **deliberations occur behind closed doors**, and their outcomes are often published as terse resolutions devoid of explanation.
- **Justice Nagarathna's dissent illustrates the dangers of this secrecy.** Despite her reportedly grave objections, the Collegium's published resolution presented an appearance of unanimity.
- The **public learned of her reservations only through media leaks**, and the note she wrote remains inaccessible.
- The **government, within 48 hours, confirmed the appointment**, leaving unresolved whether her dissent was ever considered.
- This **gulf between what happens in the Collegium and what the public is permitted to know** exemplifies how **secrecy corrodes institutional legitimacy.**

Failed Defences of Secrecy

- The Court has **traditionally defended its opacity on two grounds**: the protection of candidates' reputations and the avoidance of political pressure.
- On closer examination, **both justifications prove unconvincing**. Other democracies have managed to reconcile transparency with fairness.
- **Britain's Judicial Appointments Commission openly discloses criteria and assessments**, while South Africa's Judicial Service Commission debates candidates' suitability in public hearings.
- These systems acknowledge that **legitimacy flows from openness**, even if imperfections remain.
- **By contrast, India's Collegium continues to function as a private conclave**. If reputational harm is a genuine concern, the answer lies not in total secrecy but in carefully structured disclosures that balance Candor with dignity.
- **Likewise, fears of political interference are not alleviated by opacity**, since the executive still delays or obstructs inconvenient appointments despite the Collegium's confidentiality.

The Stakes for Democracy

- The **debate is not limited to the fate of a single judge. Judicial appointments shape constitutional interpretation for generations**, influencing issues from civil liberties to federal balance.
- In **democracies, unelected judges are entrusted with significant power precisely because they are expected to safeguard liberty** and equality against majoritarian excesses.
- They do not undermine democracy; **they enable its deepest commitments**.
- But the **judiciary's moral authority rests on public confidence**.
- When appointments occur without reasons, or when dissents by serving judges are hidden, **the Court undermines its own legitimacy**.
- The principle that **every exercise of public power must be justified** applies with even greater force to an institution tasked with upholding constitutional morality.

Towards Reform: From Concealment to Justification

- If the Indian judiciary is to sustain its authority, **the Collegium must embrace reform**.
- A **system of opaque deliberations is unsustainable in a democracy** that increasingly demands transparency from every organ of the state.
- **Past experiments**, such as the brief period in 2018 when fuller reasons for appointments were disclosed, **should not have been abandoned but improved upon**.
- **To retreat into secrecy is to erode public trust** and, with it, the independence the Court seeks to preserve.
- **A judiciary that subjects itself to the same standards of openness** it demands of others would not weaken its autonomy.
- **On the contrary, it would ground its independence in the confidence of citizens** and reinforce the democratic culture of justification.
- **Only by practicing accountability can the judiciary preserve the legitimacy** essential to its constitutional role.

Conclusion

- The controversy surrounding Justice Nagarathna's dissent **exposes a fundamental contradiction: the Supreme Court of India insists on transparency from the executive and legislature while shielding its own decisions** from scrutiny.
- This **double standard cannot endure**; A judiciary that cloaks itself in secrecy risks eroding the very legitimacy that justifies its power.
- The **Collegium system must evolve to embrace transparency, not retreat from it and to do otherwise is to deny the principle that sustains every constitutional democracy**: that power, however exalted, must always be justified.

Concealing a Judge's Dissent, Eroding Judiciary's Authority FAQs

Q1. What does Etienne Mureinik mean by a "culture of justification"?

Ans. Mureinik means that every exercise of public power must be explained and defended, not enforced through fear or secrecy.

Q2. Why is the Collegium system criticized for opacity?

Ans. The Collegium system is criticized because it makes judicial appointments in secrecy, publishes minimal reasons, and hides internal dissent from the public.

Q3. What example highlights the flaws in the Collegium system?

Ans. Justice B.V. Nagarathna's dissent against Justice Vipul M. Pancholi's elevation, which was concealed from official records, highlights the flaws in the system.

Q4. How do other democracies ensure more transparency in judicial appointments?

Ans. Countries like Britain and South Africa openly disclose criteria, publish reports, and even hold public interviews to explain their judicial selections.

Q5. What must the Collegium do to preserve its legitimacy?

Ans. The Collegium must embrace transparency and accountability, aligning itself with the same standards it demands of other branches of government.

Source: [The Hindu](#)

India's Recent Maritime Reforms Need Course Correction

Context

- The **passage of the Indian Ports Bill, 2025**, in the Rajya Sabha marks **a watershed moment in India's maritime governance**.
- Together with the newly enacted Coastal Shipping Act, 2025, the Carriage of Goods by Sea Bill, 2025, and the Merchant Shipping Act, 2025, **this legislative package aims to modernise India's regulatory framework**, replacing archaic provisions with a system better aligned to international practices.

- While the government hails these reforms as essential to streamlining governance and boosting global competitiveness, **closer scrutiny reveals that the package risks centralising power**, undermining federalism, and **burdening smaller operators in ways that could blunt its long-term effectiveness**.

The Indian Ports Act, 2025: A Step Towards Modernisation

- **India's maritime laws have long been outdated**, with the Indian Ports Act of 1908 and the Merchant Shipping Act of 1958 reflecting a world vastly different from today's globalised shipping industry.
- The **new legislative framework addresses this gap by attempting to bring India in line with international conventions**, modern finance tools, and global liability standards.
- Proponents argue that **the Indian Ports Bill, in particular, is designed to facilitate ease of business, promote sustainable port development**, and provide coherence in an otherwise fragmented regulatory environment.
- **Such steps are essential for India to expand its trade horizons, attract foreign investment**, and enhance its maritime reputation.

A Closer Scrutiny of the Ports Act 2025

• Federalism Undermined

- Its most **contentious feature is the creation of the Maritime State Development Council**, chaired by the Union Minister of Ports, with authority to **compel States to follow centrally issued guidelines**.
- While presented as a tool of cooperative federalism, **critics see it as a mechanism of subordination, forcing coastal States to align with central projects** such as Sagarmala and PM Gati Shakti at the expense of their local priorities.
- This **shift risks reducing the fiscal autonomy and flexibility of States**, while leaving them responsible for the practical burdens of port management.
- In effect, **the legislation consolidates authority in New Delhi**, weakening the federal compact enshrined in India's constitutional order.

• Discretion and Judicial Independence

- Equally **troubling are the provisions that expand discretionary powers** and curtail judicial oversight.
- **Clause 17 of the Ports Bill bars civil courts from hearing port-related disputes**, directing parties instead to internal resolution mechanisms overseen by the very authorities whose decisions are under challenge.
- **Such an arrangement risks eroding impartiality** and deterring private investment, since investors value transparent and independent adjudication.
- **More broadly, the vague and open-ended regulatory powers** conferred by the Bills create the potential for arbitrary enforcement, with smaller operators likely to face the greatest compliance burdens.

Some Other Troubling Aspects of the Ports Act

- **Ownership and Control Concerns**

- The Merchant Shipping Act, 2025, though notable for modernising registration rules, safety standards, and liability frameworks, contains significant loopholes in ownership safeguards.
- Where the **earlier law mandated full Indian ownership of Indian-flagged vessels, the new Act permits partial foreign ownership**, leaving actual thresholds to government notification.
- This **ambiguity grants the executive excessive discretion** and raises fears that India could drift into becoming a flag-of-convenience jurisdiction, where foreign owners effectively control Indian-registered ships.
- **Furthermore, provisions recognising Bareboat Charter-Cum-Demise registrations**, while legitimate in principle, **risk leaving foreign lessors with long-term control absent** clear enforcement rules.

- **Burdening Small Operators**

- The **Coastal Shipping Act, 2025, too, reflects a tension** between strengthening cabotage protections and expanding central discretion.
- On paper, **it reserves coastal trade for Indian-flagged vessels**. Yet it simultaneously empowers the Director General of Shipping to license foreign vessels on sweeping grounds such as national security or strategic alignment.
- **Without precise definitions**, such clauses invite arbitrary use, **potentially undermining domestic operators**.
- **Smaller players, particularly in the fishing industry, may find themselves disproportionately burdened** by onerous reporting requirements and bureaucratic compliance, without corresponding support or clarity.

The Way Forward: A Reform in Need of Reform

- Taken together, **the four laws represent an important recognition of the need to update India's maritime governance**.
- **But their reliance on executive discretion**, their centralising tendencies, and their inadequate safeguards for judicial independence and small operators risk **undermining the very objectives they seek to achieve**.
- **India requires a legal framework that facilitates growth while preserving federal balance** and ensuring fair competition.
- For this, **ownership thresholds and licensing rules must be specified clearly in law** rather than left to administrative notification.
- Likewise, **dispute resolution mechanisms must include impartial judicial oversight**, and States must have a meaningful role in planning.

Conclusion

- **The Indian maritime reform package of 2025** is both a **bold step forward** and a **source of new vulnerabilities**.
- By **repealing century-old laws** and aligning with international practices, **it seeks to propel India into the ranks of modern maritime powers**.
- Yet **the dangers of over-centralisation, executive overreach**, and insufficient protection for small operators cannot be overlooked.
- **Reform is necessary, but it must be inclusive, transparent, and respectful of federal balance** if it is to serve as the foundation for India's maritime future.

India's Recent Maritime Reforms Need Course Correction FAQs

Q1. What is the significance of the Indian Ports Bill, 2025?

Ans. The Indian Ports Bill, 2025 is significant because it replaces outdated colonial-era legislation and forms part of a larger package aimed at modernising India's maritime governance.

Q2. Why has the Ports Act, 2025 been criticised?

Ans. It has been criticised for centralising power in the Union government and limiting the autonomy of coastal States in port development.

Q3. What concern arises from Clause 17 of the Ports Bill?

Ans. Clause 17 raises concern because it bars civil courts from hearing port-related disputes, reducing judicial independence and investor confidence.

Q4. How does the Merchant Shipping Act, 2025 change ownership rules?

Ans. The Act allows partial foreign ownership of Indian-flagged vessels, which critics fear could lead to foreign control and weaken India's maritime sovereignty.

Q5. What risks does the Coastal Shipping Act, 2025 pose for smaller operators?

Ans. The Act risks burdening smaller operators, such as those in the fishing industry, with heavy compliance requirements and arbitrary licensing rules.

Source: [The Hindu](#)

National Sports Governance Act 2025 - Towards Transparency and Accountability in Indian Sports

Context:

- Passed in the Monsoon Session of Parliament 2025, the National Sports Governance Act 2025 **regulates and recognises national sports bodies in India**.
- It aims to end decades of misgovernance, political interference, and litigation in sports administration, **replacing the ad-hoc National Sports Development Code** of India with a comprehensive legislation.

Historical Background:

- While it was under colonial rule, India was the first Asian nation to participate in the **Olympics in 1900**. Yet, it lacked a dedicated sports governance law till 2025.
- **For example**, sports federations became **fiefdoms of political satraps** marked by –
 - Electoral malpractices.
 - Overstaying office bearers.
 - Domination by non-sportspersons (noted by 2014 Parliamentary Standing Committee).
- **More than 350 cases** related to malpractices in the governance of various sporting federations are currently pending before different courts.
- In some cases, the courts were compelled to intervene and appoint a Committee of Administrators (**CoA**) to govern federations as a stop-gap measure.

Global Penalties due to Misgovernance:

- **Global penalties:**
 - **Wrestling Federation of India (2023)**: Suspended for failing to hold timely elections.
 - **Amateur Kabaddi Federation of India (2024)**: Suspended due to absence of elected body.
 - **All India Football Federation (AIFF) (2022)**: Suspended by FIFA for being under court-appointed administrators; impacted Indian Super League 2025–26.
- **Impact of misgovernance:**
 - Career setbacks for sportspersons bound by age and time, while political administrators escaped accountability.

Key Provisions of the National Sports Governance Act 2025:

- **Institutional framework:**
 - **National Sports Board:**
 - The Act empowers the Centre to establish a National Sports Board, which will **grant recognition** to various national sporting federations and their affiliate units.
 - This provision **will put an end to the protracted battles for legitimacy** waged by rival federations within the same sport.
 - **Establishment of** National Olympic Committee, National Paralympic Committee, and National and Regional Sports Federations for each sport.
 - Each of the above mentioned bodies has also been **mandated to establish a code of conduct** in line with the international best practices prevailing in each sport.
 - **Governance norms:**

- The Act also mandates that the **Executive Committee** for every sporting federation must consist of up to 15 members, with at least two outstanding sportspersons and four women.
- Moreover, the **age and tenure limits** are also defined to ensure that fresh talent and vigour is inducted in sports administration.
- **Dispute resolution:**
 - A **National Sports Tribunal** will be constituted to adjudicate disputes pertaining to sporting federations.
 - This is a landmark provision as it would –
 - **Streamline sports-related litigation** by enabling matters to be decided by subject experts.
 - **Reduces litigation delays** as an appeal against a decision of the Tribunal would only lie before the Supreme Court.
 - **Election oversight:**
 - The Act seeks to establish a **national panel** of electoral officers for monitoring elections.
 - Federations are mandated to establish their own election panels for affiliates.
 - **Provision for disqualification** of non-compliant federations.

Significance of the Act:

- **First comprehensive legislation** on sports governance in India.
- **Ends monopoly** of political satraps; promotes accountability, transparency, and inclusivity.
- **Ensures representation** of sportspersons and women in decision-making.
- **Provides legal clarity** to avoid international sanctions.
- **Paves way for India's aspiration** to host Commonwealth Games and Olympics with integrity and robust legal backing.

Conclusion:

- The National Sports Governance Act 2025 lays the **foundation for transparent, accountable, and inclusive sports administration in India**, aligning governance structures with global best practices.
- Going forward, its **effective implementation** can empower sportspersons, restore international credibility, and help India realise its aspiration of becoming a leading sporting nation.

National Sports Governance Act 2025 FAQs

Q1. Why is the National Sports Governance Act, 2025 considered a watershed moment in Indian sports administration?

Ans. It is the first comprehensive legislation that introduces transparency, accountability, and inclusion in sports federations, replacing ad-hoc codes.

Q2. What were the key shortcomings in India's sports governance before the enactment of the Sports Governance Act, 2025?

Ans. Dominance of political satraps, electoral malpractices, absence of tenure limits, exclusion of sportspersons, and frequent court interventions.

Q3. What are the international implications of misgovernance in Indian sports federations in recent years.

Ans. Misgovernance led to suspensions of federations like WFI (2023), AIFF (2022), and Amateur Kabaddi Federation (2024), affecting India's global sporting credibility.

Q4. How does the Sports Governance Act, 2025 ensure representation and inclusivity in sports federations?

Ans. It mandates inclusion of at least two sportspersons, four women members, and imposes age and tenure limits in executive committees.

Q5. What role does the National Sports Tribunal play under the new Act, and why is it significant?

Ans. It provides expert-led, streamlined dispute resolution with appeals only before the Supreme Court, reducing delays and litigation burden.

Source: IE

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