WHO ARE OUR JUDGES? ASSESSING THE INFORMATION DISCLOSURE PRACTICE OF INDIAN SUPREME COURT JUDGES

Rangin Pallav Tripathy & Chandni Kaur Bagga[†]

Abstract

Judges in India often expect the public to trust their capacity and integrity. The requirement of public trust in judges is not simply a question of what the judges desire but is an essential element of the democratic structure. We argue that it is insincere to expect the public to trust judges when people have limited information about them. Just as voters deserve information about the candidates to make an informed choice, people need information about the judges they are expected to trust. We contend that judges have the primary responsibility to adopt robust disclosure practices and share more about themselves. It is based on a simple premise that the people are not obligated to trust a public functionary and it is the job of the public functionary to generate trust. In this paper, we have examined the disclosure practices of the judges in the Supreme Court of India and have found a pervasive reluctance in judges to disclose essential educational and professional details.

Keywords: Judges, Supreme Court, public functionary, disclosure, trust.

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1. The Rhetoric of Trust

The Indian judiciary in general and the Supreme Court in particular have quite often exalted idea of trust- trust in the judiciary. There seems to be almost a sense of entitlement in this regard. The message is that we should trust our judges to be honest individuals who will never abuse or misuse their power. The most categorical assertion of this rhetoric can be seen in *Supreme Court Advocates of Record Association* v. *Union of India*[1] (the Fourth Judges' case) wherein the Supreme Court struck down the constitutional amendment concerning the National Judicial Appointments Commission.[2] In the judgement, the court highlighted multiple instances of moral compromise by the political executive to assert that it cannot be trusted to handle the power of judicial appointments in an appropriate manner.[3] The other part of the narrative was that while the executive cannot be trusted, judges can be. This reliance on the idea of trust can also be seen whenever there is any request for a judge to be recused from a judicial, quasi-judicial or even administrative capacity.[4] Such requests, whether accepted or not, are frequently met with a sense of bewilderment among the judges that their capacity to put aside all human failings is being doubted by the public. The sanctioned narrative from the judiciary seems to be that we should never doubt the honesty, integrity, impartiality, and moral character of our judges.

2. The Idea of Trust

Trusting someone is not the same as relying on someone. Reliance may be placed on people without having a clear expectation that they will fulfil their commitment.[5] This is not the case with

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1 Supreme Court Advocates on Record Association v. Union of India, (2016) 5 SCC 1.

2 The amendments sought to abolish the collegium system of appointment which has been in place since 1993 through a series of judicial decisions. Under the collegium system, The Chief Justice of the Supreme Court and four senior-most judges in the Supreme Court constitute the collegium which decides on the appointment of judges to the Supreme Court. For the High Court judges, the collegium consists of the Chief Justice and two senior-most judges in the Supreme Court. The executive has mostly a formal role in this process as the collegium has the final authority on all judicial appointments.

3 Supra 1, at 394-396.

4 In April 2019, the Chief Justice of India, J. Ranjan Gogoi was accused of sexual harassment. In response, an in-house committee of three judges was constituted (by J. Gogoi) to examine the matter. The complainant objected to the presence of J. N.V. Ramanna in the committee on the ground that he shared a close personal relationship with J. Gogoi. While J. Ramanna recused himself from the committee, he was stern in his recusal letter that his capacity to be impartial could be doubted. He considered the apprehensions of the complainant as aspersions. He categorically stated that he is not recusing due to the complainant's concerns but because of the extra-ordinary situation. While the entire is issue is highly sensitive and possibly involves intricate political machinations from unknown actors, it is important to note that a concern regarding possible conflict of interest reflects a very natural human concern. Such concerns need not be based on a belief regarding the malice of a judge but may also be based on an understanding of how a normal person is likely to behave in a given situation.
See *Full Text of Justice N.V. Ramana's Letter To Recuse Himself From The Judges Committee To Probe Against The CJI*, The Hindu (25.04.2019), available at https://www.thehindu.com/news/resources/full-text-of-justice-nv-ramanas-letter-to-recuse-himself-from-the-judges-committee-to-probe-complaint-against-cji/article26945616.ece, last seen on 04.08.2019.

5 Katherine Hawley, *Trust: A Very Short Introduction* 5 (1st ed., 2012).

trust. Often, the test of trust is in the feeling of being betrayed when the person/institution fails to honour a commitment. Trust can also be contextual and purposive. A person who might be trusted in relation to a specific task might not be trusted in relation to another one.

Trust can either be a leap of faith or based on evidence. There are people we trust because we have known them to be trustworthy in their dealings, with us or with others. We know details about them which allow us to harbour a favourable opinion towards them. However, there is often no designated benchmark of knowledge about someone's skills or character which triggers trust in our minds.[6] A completely thorough and verified account of all aspects of a person's qualifications is not always essential for him/her to be trusted.[7] It also may not be important to know more than what is related to the specific assignment or responsibility for which the person is being trusted. However, a minimal degree of information can be considered indispensable.

On certain other occasions, trust is not based on adequate evidentiary support. We decide to trust even though we do not have compelling reasons to do so. The reasons for such a leap of faith can be many- intuition, compulsion, assessment of risk involved, impatience etc.

3. An Element of Democratic Structure-The Context of Trusting Judges

When we trust someone, it may be because of their competence or character or both.[8] The rhetoric of trust by the judiciary touches upon both, especially while asserting the primacy of judiciary in matters concerning judicial appointments. Generally, the judiciary insists on the ethical credentials of judges in all their official capacities. The contention about competence of judges does not fit within the framework of this paper and is best addressed separately. We are concerned about the context in which judges expect to be trusted by the public in good faith.

As outlined in the beginning of the paper, judges expect that they should be trusted not to abuse their office and position, to decide impartially under all official capacities and to operate in good faith. However, in this paradigm, it is equally important to consider the expectations of the other side- the general public. This is because public trust and confidence in the judiciary is an indispensable element of any democratic structure.[9] That judges should be trustworthy is an essential social requirement for the operation of constitutional democracies.[10] The foundation of a civilized democracy is the non-violent resolution of disputes. If people turn away from courts and judges having lost their faith in the possibility of an impartial and just resolution of disputes, the core of our societal existence is threatened.[11]

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6 T Peperzak, *Trust: Who or What Might Support Us?* 18 (1st ed., 2013).

7 Ibid.

8 Supra 5, at 7.

9 Shimon Shetreet, *Judicial Independence and Accountability: Core values in Liberal Democracies* 1, 6 in) *Judiciaries in Comparative Perspective* (H.P. Lee, 1st ed., 2011).

10 See Edward J. Schoenbaum, *Improving Public Trust and Confidence in Administrative Adjudication: What an Administrative Law Judge Can Do*, (21) 1 Journal of the National Association of Administrative Law Judiciary 1,1 (2001).

11 Rangin Pallav Tripathy, *Access to Justice and Judicial Performance Evaluation*, 2 (1) NLUO Law Journal Special Edition on Access to Justice 106,110 (2015).

Furthermore, judges need to secure the obedience of their decisions. It is well established that there is a limit to the degree of compliance which can be secured through coercive methods. Under normal circumstances, governmental agencies depend on the voluntary acceptance from people to ensure that their decision are obeyed.[12] Such voluntary acceptance is strongly linked to the measure of trust that the public reposes on such authorities.[13] In any case, as the least powerful of the three organs,[14] the judiciary does not have a wide or incisive range of coercive methods at its disposal. Thus, the need to establish trustworthiness is more fundamental to the existence of judicial institution than it is to the existence of the executive or the legislature.[15]

In this regard, it is interesting to note the judiciary's approach regarding information disclosure requirements for candidates contesting elections to the parliament and the state legislatures. The Supreme Court has quite clearly established the right of the voters to know about the antecedents of the candidates so that they can make an informed choice.[16] Voters repose their faith in the candidate to discharge his/her duties and to keep his/her promises. The court has emphasized that before they vote, the voters have a right to know about various aspects of the candidates' past, including their criminal antecedents, educational qualifications, assets etc.

Undoubtedly, the act of voting in elections is on a different footing as compared with the act of trusting judges. While the former is an active assertion of choice guaranteed under the constitution, the latter is in the form of a passive acceptance which is not officially tracked. Voting for a candidate operates as an act of entrustment. Similarly, reposing confidence in the judiciary and in individual judges is also an act of entrustment. Voting merely happens to be a more formal, regulated, and protected exercise of entrustment when compared with the act of reposing faith in judges. Both acts are built on the foundation of entrustment. Politicians play a vital role in actualizing the political demands of the voters. Thus, the disclosure by politicians helps voters make more informed choices about the individual on who they wish to entrust their political demands. The same rationale is equally applicable to judges. Judges adjudicate disputes spanning across various segments of the society and maintain peace in the society. Thus, disclosure by judges will help individuals, whether they are citizens or not, to repose trust in their adjudicators.

Thus, if the public deserves to be aware about antecedents of a candidate before trusting him/her with their vote, then surely the public deserves to know about the judges before trusting them to be fair and impartial. In this regard, a distinction must be drawn between the extent of informational need of a voter and that of a common person being asked to trust judges. Voting is an active choice and it would be reasonable to argue that the voters need more information about the candidates. Thus, it could be argued that electoral candidates must discharge a greater

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12 Tom R Tyler, *Trust and Democratic Governance*, 1, 271 in V. Braithwaite and M. Levi, *Trust and Governance* (1st ed., 2003).

13 Supra 12, at 273. See also Russell Hardin, *Trust in Government*, 1, 10 in V. Braithwaite and M. Levi, *Trust and Governance* (1st ed., 2003).

14 Hamilton describes the judiciary as the most innocuous with regards to the danger it poses to the rights of people. This is a direct reflection of the limited power the judiciary has to affect the lives of people against their will. See Alexander Hamilton, *The Federalist No. 78*, available at http://www.constitution.org/fed/federa78.htm, last seen 05.08.2019.

15 James L Gibson, Gregory A Caldeira and Vanessa A Baird, *On the Legitimacy of National High Courts*, (92) 2 The American Political Science Review 343, 350 (1998).

16 Union of India v. Association for Democratic Reforms, 2002 (3) SCR 294; People's Union for Civil Liberties v. Union of India, 2003 (2) SCR 1136.

informational burden than judges. However, this does not refute the fact that judges do need to discharge an informational burden, albeit lower than that of politicians.

The Supreme Court has also emphasized on the significance of transparency in enhancing the credibility of the judiciary. In *CPIO, Supreme Court of India* v. *Subhash Chandra Agarwal*[17] the court held that the Chief Justice of India is a "public authority" under the under the Right to Information Act, 2005 and is thus, liable to the share relevant information in their possession when a request is placed under the Right to Information Act, 2005. In the judgement, the court has emphasized on the rights of citizens to access information concerning the judiciary.[18] The court has also categorically asserted that the idea of an open and transparent government does not simply concern the executive but also includes the judicial apparatus.[19] The court observed that transparency in functioning is one the surest ways to generate assurance in the minds of the people regarding the quality of the administration.[20] The court agreed with the proposition that public perception towards the independence of the judiciary is affected by the standards of transparency adhered to by the judiciary currently.[21] The court established a clear connection between lack of transparency and a corrosion in public trust towards the judiciary's impartiality.[22]

There have also been sufficient empirical enquiries establishing a positive relation between judicial transparency and the trust of the public in the judges.[23] While the effect of transparency does seem to get influenced by the prior disposition that people might have towards the judiciary, the positive effect of transparency has been proved to be tangible. Although there has been some literature on the negative impact of transparency on public perception in relation to other political institutions[24], the evidence in relation to the judiciary suggests that the judicial system stands to benefit greatly when people know more about the institution and its functioning.[25]

Thus, if the question regarding antecedents of candidates is wedded into the democratic form of government,[26] the issue regarding antecedents of judges can be characterized as being wedded into the idea of an independent judiciary which enjoys public confidence.

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17 CPIO, Supreme Court of India v. Subhash Chandra Agarwal, Civil Appeal No 10044 of 2010 (Supreme Court of India, 13.11.2019).

18 Ibid, at 11.

19 Supra 17, at 100.

20 Supra 17, at 78.

21 Supra 17, at 57.

22 Supra 17, at 58.

23 Stephan Grimmelikhuijsen and Albert Klijn, *The Effect of Judicial Transparency on Public Trust: Evidence from a Field* Experiment, (93) 4 Public Administration 995, 997 (2015).

24 B Worthy, *More Open but Not More Trusted? The Effect of the Freedom of Information Act 2000 on the United Kingdom Central Government*, (23) 4 Governance 561, 570 (2010); J. De Fine Licht, *Do We Really Want to Know? The Potentially Negative Effect of Transparency in Decision Making on Perceived Legitimacy*, (34) 3 Scandinavian Political Studies 183, 195 (2011).

25 See JL Gibson and GA Caldeira, *Citizens, Courts, and Confirmations: Positivity Theory and the Judgments of the American People* (1st ed., 2009).

26 See Union of India v. Association for Democratic Reforms, 2002 (3) SCR 294, at 3.

4. Who are our Judges?

Trust in judges is essential. However, does not mean it is inevitable. Trust, as the adage goes, must be earned. The argument for trustworthiness that is being used by the judiciary at present, per the logic of the Fourth Judges' case,[27] is an exercise in relativity. The reason in the minds of the judges for them to be trusted upon seems to be that they are more trustworthy than others. It is not based on any threshold of trustworthiness which they have acquired. A construct of trust on such precarious foundation is likely to collapse sooner or later. We do not think it requires persuasion to argue that our trust in public officials, including judges, should have an evidentiary foundation and should not be a leap of faith. That public officials should not expect public trust as a matter of entitlement seems too obvious a point to elaborate.

An evidentiary foundation, as discussed, is usually built on knowledge about the person who is being trusted.[28] Admittedly, there is no objective benchmark about the extent of such knowledge.[29] However, a minimal level of knowledge seems to be an obvious requirement.

This begs the question: what do we know about our judges? To trust someone requires trustworthiness on the part of that person.[30] Do we know enough about our judges to enable us to reasonably assess their trustworthiness?

Which college did Judge A go to? How good a student had Judge B been? How many relatives of Judge C are also in the legal profession? Is Judge D the first person in his/her family to become a judge? Has there been a change in the assets of Judge E after assuming judgeship? Have the relatives of Judge F become wealthier after F became a judge? Which private companies had Judge G on their payroll before he/she became a judge? Has Judge H ever been an active member of a political party before assuming judgeship? How many cases did Judge J win when he/she was a lawyer? When was Judge K was a lower judicial officer, how many decisions by him/her were overturned on appeal?

These are just a few things which may seem relevant when we are trying to believe in the impartiality of a person. Some of these pieces of information is in the form of innocuous biographical detail. Some others touch upon our understanding of an individual in terms of his/her conflict of interest and the sphere of influence they wield and are subject to.

There can be an argument that we learn the most about our judges from the judgements authored by them. This argument has limited utility. Firstly, the judgements of the court are accessible to only a minority that is well versed in the language of the court and the study of law. Secondly, it is difficult to understand a judge from him/her judgements without a substantial body of work forming the foundation of such an analysis. This body of work will necessarily have to include the biographical and personal information stated above.

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27 Supra 1.
28 Supra 6.
29 Supra 6.
30 Supra 5, at 1.

5. Should Judges Practice Information Disclosure?

Once we agree on the need to know at least something about our judges, we need to identify the source(s) from which we should expect that information. Is it incumbent on the judges to share information about themselves as a matter of practice without members of the public having to look for it? Standards of transparency suggest that instead of the public having to search for information, information ought to be provided to them as part of a streamlined information disclosure practice.[31] Also, as judges have established the rhetoric of trust in their favour, it is incumbent on them to facilitate an assessment of their trustworthiness. They also stand to lose the most if the public does not place its trust in them. Public confidence in their capacity and impartiality is the most critical asset of judges. The judiciary loses its indispensability as soon as the public decisively refuses to put its faith in the judges.

The appointment process of judges in India is shrouded in secrecy. There is no official notification about vacancies based on which people can apply for the job. Though there are some broad eligibility criteria, there is no clarity on the parameters for selection. Though the Supreme Court Collegium has started the practice of publishing the resolutions of its meetings,[32] the resolutions are opaque and uninformative. If there was a public event in the nature of the confirmation hearings in the United States of America,[33] it would provide the public with an open platform to be aware about the credentials of a judge. However, the overall secrecy of the process means that the judges seen on the bench are strangers to the public.

While other stakeholders (government, academic researchers, bar associations etc.) are free to take steps to make more information about our judges available to the public,[34] judges themselves should do so in their own self-interest and in the interest of the institution. In order to do so, it might not be a great idea for judges to give wide-ranging interviews like politicians or celebrities. Without a doubt, the lives of judges cannot be subject to a similar public scrutiny. Judges also cannot always afford to be definitively vocal about contentious issues as it might affect litigant behavior and it might also compromise their own decision -making in future cases.

However, at the least, judges could provide a professional and comprehensive account of themselves in the profiles that are uploaded in court websites. For most of the people in the country, the official profile of a judge provides the only insight they have about the judge. One can enquire about a judge among lawyers but that would be akin to canvassing opinions and not to soliciting facts. Furthermore, one's impression would be governed by the lawyer or group of lawyers that the person speaks to. Thus, it is important that judges maintain an informative profile. The kind of information judges share and do not share in their profiles may speak about their casual approach

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31 JM Balkin, *How mass media simulate political transparency*, (3) 4 Journal for Cultural Research 393, 398 (1999).

32 Available at https://sci.gov.in/pdf/collegium/2017.10.03-Minutes-Transparency.pdf, last seen on 04.08.2019.

33 Mark Tushnet, *Judicial Selection, Removal and Discipline in the United States*, 135, 147 in *Judiciaries in Comparative Perspective* (H.P. Lee, 1st ed., 2011).

34 The most seminal work in this respect has been done by George Gadbois Jr. In his book titled "*Judges of the Supreme Court of India 1950-1989*", one can find detailed biographic and professional information of all Supreme Court judges in India who were appointed between 1950 and 1989. See George H. Gadbois Jr., *Judges of the Supreme Court of India (1950-1989)*, (1st ed., 2011).

to the issue amidst the various other matters of importance which occupy their attention. It may also speak about a deliberate reluctance to share details of their professional life. While the first is easier to redress, the second is more problematic. A deliberate reluctance would create more suspicion about the reasons for such reluctance. Judges, as much as possible, should not be seen as wanting to conceal more information than what they are willing to disclose.

In the rest of the paper, we will be looking at the information disclosure practices of judges in the Supreme Court of India.

6. Source and Limitation of Data

For this study, we have looked at the information shared by the judges in the Supreme Court in their official profiles on the court website.[35] We have only considered judges who have held office on or after July 11, 2000. This is the date of the oldest archived page of the Supreme Court website that we could trace. It is known with certainty that on July 11, 2000 , the Supreme Court had a website with a specific link for the profiles of the sitting judges.[36] Thus, every individual who has been a judge on and after the said date has had clear knowledge that their profiles will be uploaded on the court website. Similar knowledge cannot be attributed to the judges who held office before July 11, 2000.

The purpose of this study is not to check the level of information otherwise available in relation to an individual judges or judges in general, especially in scholarly research. The purpose of this study is to analyze the kind of information that the judges themselves are willing to share in public. For example, one will find excellently detailed account of all the supreme court judges from 1950 to 1989 in the book by George Gadbois Jr.[37] However, it is safe to presume that the book is known mostly among niche legal scholars and is not in the reference list of a common person.

Before we looked into the profiles, we set a minimalist threshold. We established the minimum expectation that we hoped to secure through this study was that of being informed about the basic educational and professional details about the judges. We had no expectation of finding more nuanced information such as track record as a lawyer or ratio of overturned decisions as a judicial officer. We expected the following details about the educational and professional background to be included as a standard disclosure in the profiles:

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35 Available at https://sci.gov.in/chief-justice-judges, last seen on accessed 08.08.2019.

36 Available at http://web.archive.org/web/20000711065648/http://supremecourtofindia.nic.in/new_s/wl_p1.htm, last seen on 08.08.2019. Earlier, the website had the domain name of supremecourtofindia.nic.in which was later changed to https://main.sci.gov.in/.

37 Supra 34.

EDUCATIONAL DETAILS	PROFESSIONAL DETAILS
Schooling Institution We expect to be informed about the name(s) of the school(s) attended by the judge. We have not taken cognizance of profiles which mention only the name of the district or city, without mentioning the name of the school.	**Year of Enrolment at the Bar** In relation to the judges who practised in the courts before becoming a judge,[38] we thought it would be natural to share the year in which they enrolled with the Bar.
Graduating Institution Similarly, we have taken into cognizance only those profiles in which the graduating institution has been clearly identified, and not those profiles in which only the name of the town, district etc. has been mentioned.	**Area of Practice** It is understood that the practice of many lawyers is not unidimensional and spreads into multiple areas of law. Even then, most lawyers often affirm their predominant expertise in certain areas more than they do in other areas. Thus, the areas in which the judges practised and gained expertise was considered by us as an important professional detail.
Graduation Specialization Under this field, we expect to be informed not simply about the graduation degree (B.A, B.SC etc.) but also about the subject (History, Accounting, Physics) in which the judges have specialized in.	**Chamber Details** The traditional path for an aspiring lawyer in India has been to join the offices of a senior counsel and learn the nuances of the profession. This is generally known as joining a chamber. The chamber a lawyer joins can be safely categorized as part of his/her employment history, although the typical arrangement is not always formal. Thus, it is an essential professional detail which a judge can be expected to share.
Institution attended for 'qualifying law degree' The qualifying law degree is the degree without which a person cannot enter the legal profession in any capacity. For lawyers and judicial officers, it is the degree of LL.B. For academics, it is LL.M. Thus, we hoped to know the institution from which a judge secured their qualifying law degree.	**Government Empanelment** Over the course of their careers, successful lawyers tend to be empaneled with government departments, public sector undertakings and statutory bodies. Such empanelment is usually a recognition of a lawyer's stature or ability and at times, good connections. Information about such empanelment also sheds light on possible conflicts of interest which a judge

[38] This covers almost all the judges. There has hardly been a judge in the supreme court who was in judicial service only without having a practice. Also, no jurist has ever been appointed to the Supreme Court till date.

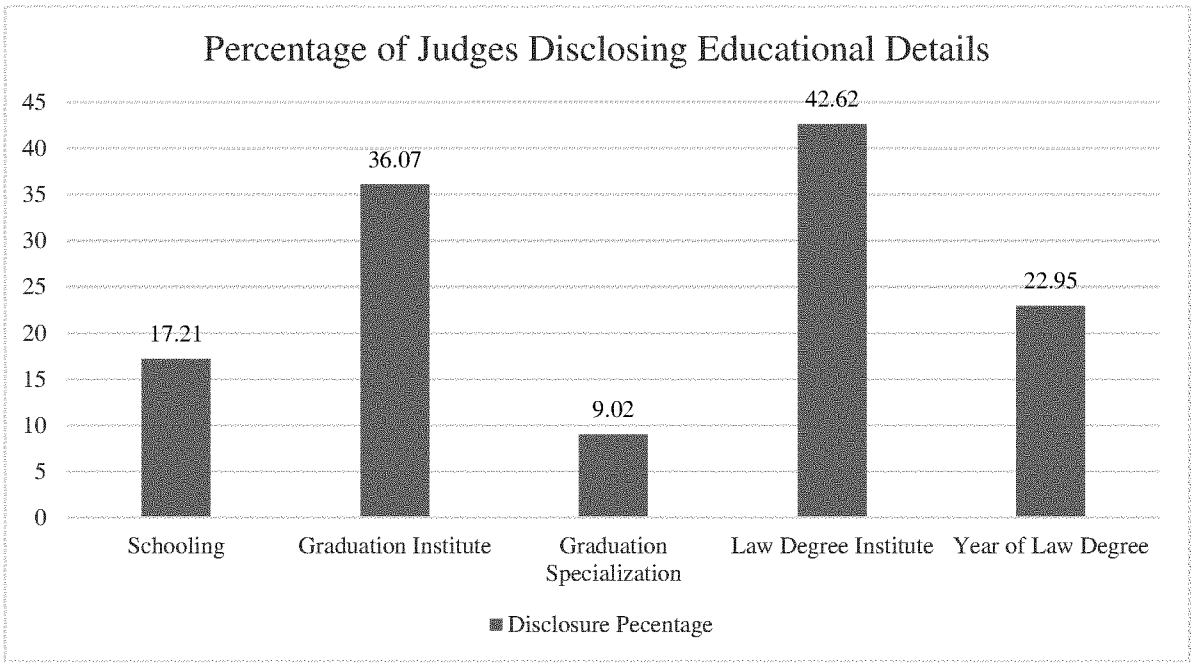
Year of being awarded the law degree Apart from the institution which they attended for their qualifying law degree; we also expect the judges to share with us the year in which they degree was awarded.	might encounter. Thus, one would hope that such important professional information would be shared by the judges.
	Private Empanelment Apart from being empaneled with government departments, lawyers are also often on the payroll of private companies and banks. From the perspective of possible conflicts of interest, information about a judge's past private employment as a lawyer is an important information for the public.

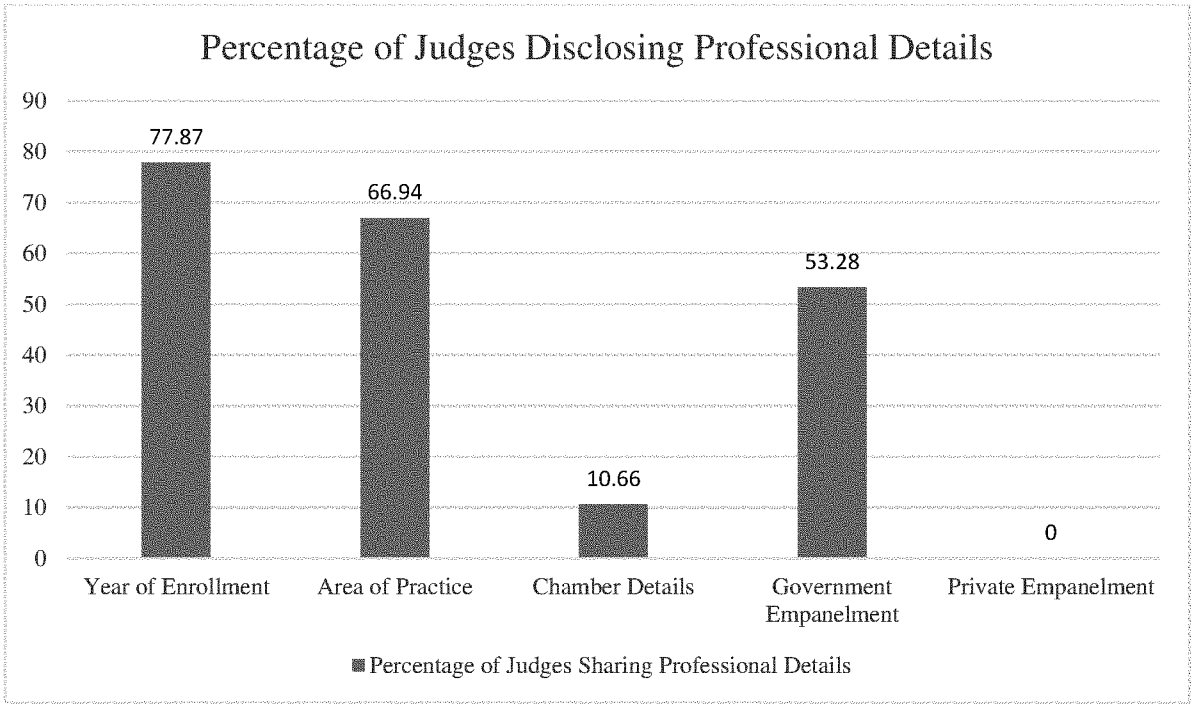
7. A Practice of Non-Disclosure?

It is evident from the data that most judges are reluctant to share even the most innocuous details about their lives. The only three indicators where more than 50% of the judges have disclosed affirmative information are the 'Year of Enrollment', 'Area of Practice' and 'Government Empanelment'.

The pattern of disclosure in relation to education details is relatively even across various indicators and the variation is not as steep as it is in case of professional details. The difference between the indicators related to educational details having the highest of percentage and the lowest percentage of disclosure from judges is 33.6 (42.62% of judges have disclosed information about the institute which awarded their law degree and 9.02% of judges have disclosed their subject of specialization during graduate studies). In case of indicators related to professional details, the difference is 77.87 (77.87% of judges have disclosed information on 'year of enrollment' and not a single judge has disclosed information on private empanelment).

It is important to note that even when judges have disclosed information in relation to an indicator, the extent of information shared is often minimal. For example, when judges have disclosed the details of their Government Empanelment, the disclosure is not exhaustive. Judges seem to be most reluctant about revealing the names of the private companies, banks etc. on whose payroll they were on. Not a single judge has shared any detail pertaining to his/her empanelment in the private sector. This is especially interesting in the context of judges who were appointed to the Supreme Court directly for the Bar and had no experience of High Court judgeship. Their appointment is, presumably, based entirely on their record as lawyers. Even such judges have not disclosed a single instance of private empanelment. There also seems to be a great reluctance to share details about the chambers the judges practiced in previously. Only 13 out of the 122 judges have shed any light on this aspect.



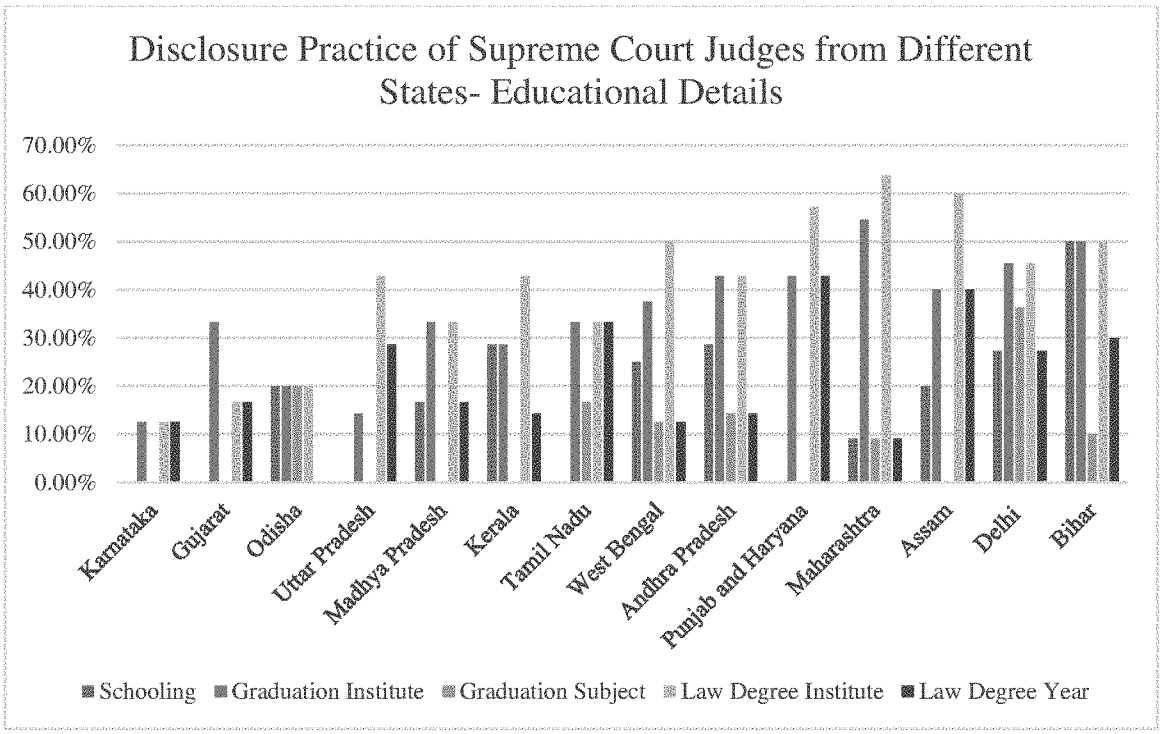


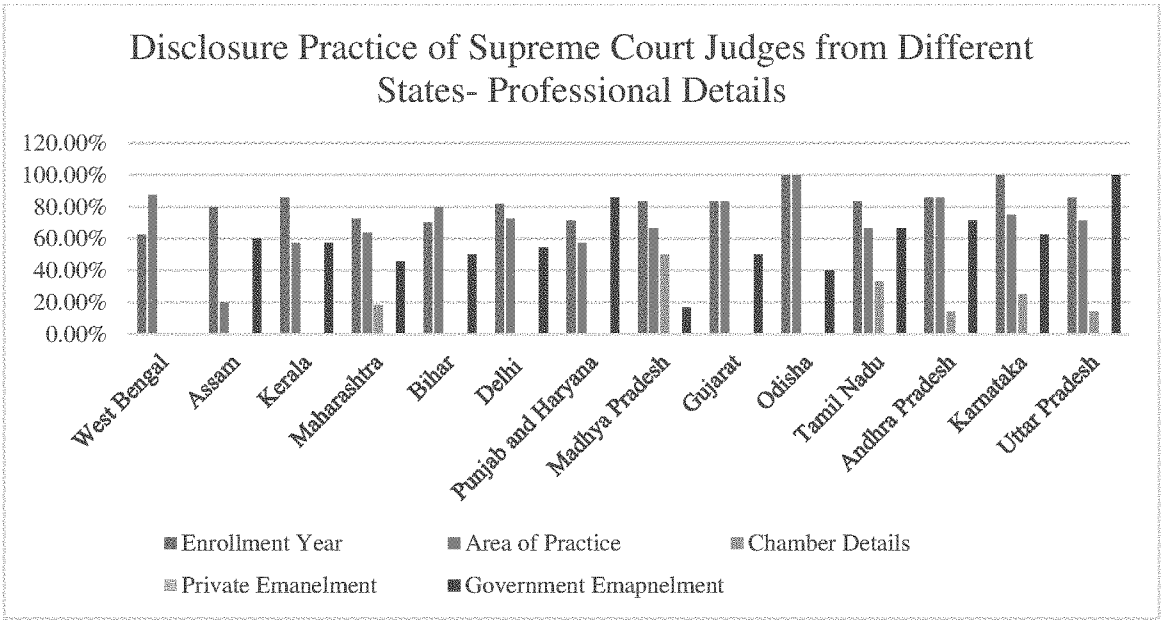
8. Regional Trends

For looking at the regional trends, we have considered only the states from where there have been at least 5 judges in the Supreme Court. In relative terms, judges from Karnataka, Gujarat,

Odisha and Uttar Pradesh disclose the least amount of information pertaining to their academic background. Interestingly, judges from Karnataka and Uttar Pradesh top the charts in disclosing professional details.

The percentage of disclosure in relation to professional details must be understood precisely. It is primarily determined by three indicators- year of enrollment, area of practice and government empanelment. Most of the judges have not shared any details about the chambers in which they practiced prior to their appointment in the judiciary and not a single judge has shared details of their empanelment with the private sector. Judges from six states (Madhya Pradesh, Tamil Nadu, Karnataka, Maharashtra, Andhra Pradesh and Uttar Pradesh) have disclosed details of the chambers where they practiced previously. The number of judges from each state making such disclosures is so small that it has negligible impact while calculating the overall figures in relation to the states. Of the four southern states which have had representation among the Supreme Court judges, only the judges from Kerala have not shared the details of the chambers that they practiced in.





9. The Missing Judges

As stated earlier, the inadequacy of information disclosed by judges may be because of various reasons. It may be because judges accord lesser importance to disclosure of personal information as compared to their other responsibilities. It may also be because judges are deliberately reluctant. While the first scenario is slightly easier to address than the second, both reflect a disregard for the right of the public to know about their judges.

Profiles of three judges are completely blank. No information whatsoever is available about these judges on the Supreme Court website. The data for this article is based on the data available on the Supreme Court website as on August 8, 2019. One of the judges with a blank profile had assumed office in January 2019. The other two judges had assumed office in July 2018. Thus, for months and years, not even basic biographical information is available in relation to these judges, even as they have assumed office and continue to decide on the rights and liabilities of people.

10. Conclusion

There is nothing inherently wrong in a person's belief that he/she should be trusted. However, the belief is misplaced if the person does not take any steps to earn it. This is especially true for public functionaries. Public functionaries cannot take public trust for granted and expect it to be based on anything other than an evidentiary foundation. It is the job of the public functionaries to generate trust and not the duty of the public to repose it.

While deliberating on the extent of information that candidates in elections should disclose, the Supreme Court has made some interesting observations regarding privacy and public interest. The court stressed that while imposing disclosure requirements on the candidates, their right to privacy cannot be ignored. At the same time, the court insisted that such claim to privacy is always subject to the "overriding public interest".[39]

Judges can, no doubt, assert their right to privacy in relation to many aspects of their lives. Due to the nature of the job, a judge's claim to privacy can possibly be more expansive than that of a politician. At the same time, it is difficult to ignore the overriding public interest of ensuring public confidence in the judges. Judges need to generate trust in a much wider constituency than the politicians. While politicians can confine their focus to voters, judges need to remember that they cater to the people at large- citizens, including voters and those eligible not eligible to vote, and non-citizens.

It would be wrong to assume the existence of such trust with the fragmented pieces of information that judges are willing to disclose about themselves. There is no sense in not disclosing information which will help the public understand the judges better. As the data suggests, judges are not habituated to disclosing even basic education and professional details about themselves. In such a scenario, other vital information like the assets of the judges and their family members, their income tax returns, list of family members practicing in the same court and their disciplinary records as students are far from being available for public scrutiny.

A rhetoric of trust is empty without the earnestness to earn it. If judges continue to be hidden and obscure personalities, there is not much possibility of continued trust in the judges. Judges cannot expect unwavering public faith to be reposed on them faith while being secretive about even the most basic aspects of their lives.

Judges need to recognize that the onus of earning public trust is on them. People are not obligated to trust the judges or any other public functionary. Public functionaries must make an effort to convince the people of their trustworthiness. Judges could mark the beginning of this effort by telling us a bit more about who they are.

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[39] See People's Union for Civil Liberties v. Union of India, 2003 (2) SCR 1136, at 10.at