Recent orders for contempt of courts against writers who have criticised the judges or their judgments have brought into focus the tension between the courts and writers who have been critical of judges and judgments. It has been said that the present law of contempt of court requires to be changed to allow free expression to criticise courts and judges without fear of being punished for contempt of court. How valid is this demand?

Scandalising the court—its origin Section 2(c)(1) of the Contempt of Courts Act, 1971 defines criminal contempt inter alia as a publication which "scandalises or tends to scandalise the court or lowers the authority of any court". This archaic and quaint expression of "scandalising" is derived from the historic times in England when a strong measure of awe and respect for the status of the sovereign and his judge was considered essential to his maintenance of public order. The crime of scandalising the court has been described "as any act done or writing published calculated to bring a court or judge of a court into contempt or to lower its authority". The need for this kind of punishment for contempt is the theory that it is in the public interest that confidence in the administration of justice should not be undermined by scurrilous abuse or attacks on the independence and integrity of judges or any writing or action which brings them into disrepute.

Publication of a disparaging statement regarding the judge or court is an injury to the public as it tends to create an apprehension in the minds of the people regarding the integrity, ability and fairness of the judge or to deter actual and perspective litigants from placing complete reliance upon the court's administration of justice or if it is likely to cause embarrassment in the mind of the judge himself in the discharge of his judicial duties.

Its relevance today Several questions arise regarding maintaining the offence of scandalising the court in this day and age of constitutional democracy. Is the offence of scandalising the court consistent with values of a democratic and open society in which every organ of the State including the judiciary is accountable for its actions? It is said that the judiciary as a democratic institution can be made accountable only if there is complete freedom to criticise courts and judges without the chilling effect of a potential proceeding for contempt of the court. If legislatures and the executive can be criticised freely and brought into dispute without fear of punishment, why not the judiciary? Standards of honesty and integrity which have fallen in public life in India have not bypassed the judges. A former Chief Justice of India bemoaned that twenty per cent of judicial officers in India were corrupt and there were no adequate mechanisms for the removal of judges of the higher judiciary in whose case the only mechanism of removal, impeachment has proved to be cumbrous and political in nature, as was shown in the example of a Supreme Court Judge, Mr Justice V. Ramaswamy. The so-called in-house disciplining of errant judges prescribed by the Supreme Court also does not inspire confidence and lacks transparency. It is argued that there must be total freedom to criticise the conduct of a judge at the bar of public opinion without the fear of summary punishment by the court.

Summary methods of punishment The method and procedure by which courts punish contemnors for scandalising them also does not inspire confidence. The method is inquisitorial not adversarial. Judges are perceived to sit in judgment over their own cause and to punish the contemnors in a summary way without the usual procedures of a criminal trial. The burden of proving innocence is cast on the alleged contemnor. Oral evidence cannot be produced by the contemnor and under the present rulings of the Supreme Court he cannot justify the truth of his statements regarding the conduct of the judge or judges in contempt of court proceedings.

All this adds to a serious and legitimate dissatisfaction with this branch of law of contempt.

Scandalising obsolete in England In England the last time a publication was held to be in contempt for scandalising the court was in 1931. The editor of Truth was punished for contempt because of comments on a decision of the Court of Appeal dealing with trade union law. Commenting on the judgment of Lord Justice Slesser, who had once been a law officer in a Labour Government, Truth wrote:
"Lord Justice Slesser, who can hardly be altogether unbiased about legislation of this type maintained that really it is a very nice provisional order or as good as a one as can be expected in this vale of tears."

The Court ruled that these comments were a contempt and ordered the editor of Truth to pay a fine of £100 and costs. The Law Quarterly Review strongly criticised the ruling.

It may be safely said that today nothing but the most intolerable cases of contempt would be taken note of by the court in England. Judges prefer to ignore even outrageous insults to them, as when the Daily Mirror ridiculed the injunction issued by the House of Lords in 1987 in Spycatcher case by exhibiting the inverted photographs of Law Lords below the headline "You fools", and that sober institution of the English establishment, The Times editorially said of the order, "Yesterday morning the law looked simply to be an ass" and that the conduct of the judges was "wild seemingly responsible only to autocratic whims". Perhaps this gross insult was tolerated because the judges in issuing an injunction to stop publication of a book in UK when it was freely circulating elsewhere in the world were so hopelessly wrong that they considered discretion the better part of valour and avoided taking umbrage at the insult.

No scandalising of the court in USA In the United States, there is no such offence as scandalising the court. To constitute contempt in the US the conduct complained of must relate to pending proceedings and even then there must be a clear and imminent danger of prejudicing the proceedings.

In Bridges v. California Justice Black dismissed the argument that the evil of endangering disrespect for the judiciary could justify convictions for contempt of court in these words: (L Ed p. 207)

"The assumption that respect for the judiciary can be won by shielding Judges from published criticism wrongly appraises the character of American public opinion. For it is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions. And an enforced silence, however, limited, solely in the name of preserving the dignity of the Bench, would probably engender resentment, suspicion, and contempt much more than it would enhance respect."

Justice Frankfurter in the same case in tracing the history of the contempt power said: (L Ed p. 216)

"As in the exercise of all power, it was abused. Some English Judges extended their authority for checking interferences with judicial business actually in hand, to 'lay by the heel' those responsible for 'scandalising the court', that is, bringing it into general disrepute. Such foolishness has long since been disavowed in England and has never found lodgment here."

However, it must be remembered that freedom of speech in the US Constitution guaranteed by the First Amendment is absolute, subject only to judicially evolved limited and necessary restraints on free speech viz.

"whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils"6

Article 19(1)(a) of the Indian Constitution does not make the fundamental right of free speech so absolute and subjects it to several reasonable restrictions including those imposed in the interest of contempt of court.

Scandalising retained in common law countries However the offence for scandalising has been found necessary to be maintained in many countries including UK, Canada, Australia, New Zealand, South Africa, Mauritius, Hong Kong, Zimbabwe and Fiji. In 1899 in Mcleod v. St. Aubyn Lord Morris delivering the judgment of the Privy Council in a case from West Indies said that:

"Committals for contempt of court by itself have become obsolete in this country even though in small colonies consisting principally of coloured population, committals might be necessary in proper cases."

But only a year later this highly condescending and racist observation was proved wrong, when in R. v. Gray1 the Court...
punished an editor for what the Court considered as scurrilous abuse of a judge as a judge. The Supreme Court of India has held that committals for scandalising the court have not become obsolete in India.8

Scandalising the court and fundamental right to free speech In India the Supreme Court has held that the fundamental right of citizens to free speech and expression conferred by Article 19(1)(a) of the Constitution had not abolished the offence of scandalising. The Court summarily dismissed the objection by stating that Articles 19(1)(a) and 19(2)

are to be read with Articles 129 and 215 which specially confer on this Court and the High Courts the power to punish for contempt of themselves. Article 19(1)(a) guarantees complete freedom of speech and expression but it also makes an exception in respect of contempt of court. The guaranteed right on which the functioning of our democracy rests, is intended to give protection to expression of free opinions to change political and social conditions and to advance human knowledge. While the right is essential to a free society, the Constitution has itself imposed restrictions in relation to contempt of court and it cannot therefore be said that the right abolishes the law of contempt or that attacks upon judges and courts will be condoned.9

In C.K. Daphtary v. O.P. Gupta10 a Constitutional Bench of five Judges reiterated that the existing law of contempt of court imposes reasonable restriction on the freedom of speech.

In R. v. Kopyto11 a leading Canadian case, one Judge of the Ontario Court of Appeal held that contempt by scandalising was inconsistent with the freedom of expression guaranteed by the Canadian Charter of Rights, two others held that it was consistent with the guarantee only if it was strictly defined and limited and two other Judges held that it did not abridge the freedom of speech.

In State v. Mamabolo12 a recent landmark judgment by eleven Judges of the South African Constitutional Court, the Court held that although the crime of scandalising the court did limit freedom of expression, which was guaranteed by the Constitution, the limitation was reasonable and further justifiable in an open and democratic society based on human dignity, equality and freedom, a requirement of Section 36(1) of the South African Constitution. The Court held that freedom of expression must be weighed against the necessity of maintaining public confidence in the court of the law but stressed that if it was to be legal and constitutional, the offence of scandalising the court "must be tightly circumscribed".

Need to redefine the offence It is submitted that the fact the Indian Constitution expressly gives the Supreme Court and High Courts powers to punish for contempt for themselves (Articles 129 and 215) and also makes the fundamental right of freedom of speech and expression subject to a law making reasonable restrictions on that right in relation to contempt of court, should not by itself conclude the question in favour of a power to punish for any speech and writing which the court considers as scandalising or lowering its authority. It is arguable whether a type of contempt which imposes summary criminal sanctions for speech and writing and precludes a defence of fair comment or truth and makes merely a tendency to interfere with the administration of justice is a reasonable restriction on freedom of speech in public interest.

The Supreme Court's decisions have not carefully balanced the competing necessity of maintaining the administration of justice unimpaired from unjustified attacks with the equal necessity for legitimate criticism of judges and courts and the importance of freedom of speech and expression in a democratic society or the disproportionate imposition of prohibition on free speech by scandalising the court. A balancing exercise is required in the matter of restrictions on fundamental rights as was stated in State of Madras v. V.G. Row13:

"It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict." (emphasis supplied)

Unless the scope of scandalising the court is narrowly reformulated on a consideration of such factors, and redefined, it runs the danger of stifling legitimate free speech.

Limited scope of scandalising It is, therefore, necessary to note the limited scope of scandalising the court. The usual and obvious examples are of publications which are said to be scurrilously abusive, and those which call in question the impartiality of the court or its judges or which lower the repute of a judge or court. No one can claim a fundamental right of free speech to abuse judges or accuse them of bias or partiality without any basis. But simultaneously it has been
recognised that judges and courts must be open to criticism and if any reasonable argument is made against any judicial act as contrary to law or public good no court should treat that as contempt. Courts must also be conscious of the fact that punishment or even the mere threat of punishment puts a fetter on the basic democratic right of free speech, which is the bedrock of democracy, and punishment for scandalising the court should be resorted to in the clearest cases. Further contempt of court powers do not exist for the protection of the personal dignity, honour or reputation of judges but only for protection of the administration of justice. As one Judge has pithily said "It is not the dignity of the court which is offended—"a petty and misleading view of the issues involved—"it is the fundamental supremacy of the law which is challenged."

Fair criticism In a famous case Lord Denning upheld the right of Mr Quintin Hogg (later Lord Hailsham) to strongly and even wrongly criticise the Court of Appeal in an article in Punch magazine. His facts were obviously wrong and his criticism was in bad taste. What he said in effect was that the court (mistakenly believing it to be the Court of Appeal) was blind to reality and by its erroneous, unrealistic and contrary interpretations was rendering the task of the police impossible and that the Court should apologize to the police and it was better it kept silent instead of criticising and preaching to Parliament, lawyers and the police. Lord Denning said that the criticism was based on erroneous facts but that did not make it a contempt of the Court:

"Let me say at once that we will never use this jurisdiction as a means to uphold our own dignity. That must rest on surer foundations. Nor will we use it to suppress those who speak against us. We do not fear criticism, nor do we resent it. For there is something far more important at stake. It is no less than freedom of speech itself. It is the right of every man, in Parliament or out of it, in the press or over the broadcast, to make fair comment, even outspoken comment, on matters of public interest. Those who comment can deal faithfully with all that is done in a court of justice. They can say that we are mistaken, and our decision is erroneous whether they are subject to appeal or not. All we would ask is that those who criticise us will remember that from the nature of our office, we cannot reply to this criticism. We cannot enter into public controversy. Still less into political controversy. We must rely on our own conduct itself to be its own vindication.

So it comes to this: Mr Quintin Hogg has criticised the court, but in so doing he is exercising his undoubted right. The article contains an error, no doubt, but errors do not make it contempt of court. We must uphold his right to the uttermost."

Salmon, L.J. said in the same case:

"It is the inalienable right of everyone to comment fairly upon any matters of public importance. This right is one of the pillars of individual liberty—freedom of speech ... no criticism of a judgment, however vigorous, can amount to contempt of court, providing it keeps within the limits of reasonable courtesy and good faith. The criticism here complained of, however rumbustious, however wide of the mark, whether expressed in good taste or in bad taste, seems to me to be well within those limits."

Criticism which is put forward fairly and honestly for a legitimate purpose and not for an improper motive or for injuring the system of justice is therefore not contempt even if it is strongly and robustly made and the criticism is even mistaken and founded on wrong facts. Indeed such a criticism is essential for the judiciary itself. In 1969, the Salmon Committee observed that:

"The right to criticise judges ... may be one of the safeguards which helps to insure their high standard of performance."

The press in England has played a vital role in periodically reporting the incompetence, waywardness and tendencies of some judges.15

Imputing improper motives In 1936 in a celebrated passage expounding the right to criticise courts and judges, Lord Atkin16 said:
"The path of criticism is a public way: the wrong-headed are permitted to err therein: provided that the members of the public abstain from imputing improper motives to those taking part in the administration of justice, and are genuinely exercising a right of criticism, and are not acting in malice or attempting to impair the administration of justice, they are immune. Justice is not a cloistered virtue: she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men."

It is over sixty years since Lord Atkin formulated this formulation. Its ringing tones tend to hide its shortcomings. Attitudes towards judges and criticism of their actions is far less deferential than in Lord Atkin's day. Criticism of the judicial branch of the Government is now considered necessary in a democracy as of other branches. Robust criticism which was considered impermissible sixty years earlier may have to be tolerated by courts today. Lord Atkin's reservation that the public must "abstain from imputing improper motives" to judges is too widely stated and gives an unnecessary immunity to judges. It is not always wrong to attribute improper motives to a judge. If this were so then no body could publish a fair account of the conduct of a judge if his judgments disclosed that the judge had acted from some improper motive, such as partial or bias or a racist or casteist approach without running the risk of being held in contempt.17 Should an honest critic of the judge be fined or imprisoned for it? Indeed, even initiation of impeachment of a judge of the Supreme Court or High Court for misbehaviour under Article 124(4) and Article 217(1) proviso (b) which the Constitution recognises as the only method of removal of a judge of the Supreme Court or the High Court would be stifled if this were so. One may go further and say that any imputation of bias or partiality and the like, if it were a fair and honest comment on the basis of facts truly stated would, so far from being contempt of court, be for the public benefit.18

Truth or justification, as a defence If fair criticism of judges founded on facts truly stated to the extent of imputing motives for judicial conduct is within the permissible limits of criticism, should it not follow that the contemnor can put up truth as a defence or justify the allegations. There are greater difficulties in this aspect of the problem. The Phillimore Committee put the problem thus:

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"A defence of truth may or may not be advanced in good faith; an allegation of bias, for example, may follow a long and responsible investigation or it may be generalised or malicious invective on the part of somebody who has lost his case. The latter is usually, no doubt, best ignored but if, in an extreme case, a prosecution were brought and such a defence put forward its effect would simply be to give the defendant a further and public platform for the wider publication of his assertions or allegations, which might be wholly without foundation. An allegation of bias in relation to a particular case might, if the defendant were permitted to plead justification, be used in effect as a means of getting a case reheard. Finally, a simple defence of truth would permit the malicious and irresponsible publication of some damaging episode from a judge's past, however distant, calculated to cast doubt, upon his fitness to try a particular case or class of cases. We therefore do not consider that truth alone should be a defence."

In Bathina Ramakrishna Reddy v. State of Madras19 Mukherjea, J. said of a publication of an article alleging taking of bribes by a judge for which the writer was charged with contempt of court: (SCR p. 434)

"If the allegations were true, obviously it would be to the benefit of the public to bring these matters into light. But if they were false, they cannot but undermine the confidence of the public in the administration of justice and bring judiciary into disrepute."

The writer in the case however was not in a position to substantiate by evidence any of the allegations and admitted they were based on hearsay.

But in C.K. Daphtary v. O.P. Gupta20 the Supreme Court approving a Full Bench decision of the Lahore High Court in K.L. Gauba, In re21 held that a contemnor cannot justify the contempt. The Court held that:

"If evidence was to be allowed to justify allegations amounting to contempt it would tend to encourage disappointed litigantsâ€”and one party or the other to a case is always disappointedâ€”to avenge their defeat by abusing the Judge."

O.P. Gupta case20 cannot be considered as a definite pronouncement of the Court on this question. The case was peculiar. It dealt with a litigant seeking to prove his allegation of bias of a judge of the Supreme Court by showing the errors in the judgment of the Court. It is in that context, the abovementioned observations of the Court were made. It was not necessary to lay down a wider proposition that a contemnor can never justify a statement alleged to be in contempt. No reference was made to Mukherjea, J.'s observation in Bathina case19 which suggests that truth could not only be a defence but may be in public interest.

The reasoning for not allowing truth as a defence is unpersuasive. Revelation of truth when it is for public benefit, cannot be contempt of court though the criticism made is such as to deprive the court of public confidence.22 Should not a modern-day Francis Bacon who as a Lord Chancellor notoriously took bribes be exposed by the revelation or should the
exposure be suppressed and the writer be punished? The Phillimore Committee (1974) whilst recognising the dilemma in allowing truth as a defence suggested that truth alone should not be a defence but where in addition to proving truth a defendant can also show that its publication was for public benefit, he should not be convicted. But the Committee added an important proviso viz. that if anyone believes that he has evidence of judicial corruption or lack of impartiality he should submit it to the proper authority, namely, the Lord Chancellor. The Committee felt that it would be hard to conceive that the complaint was for public benefit if the complainant had not taken this step. The Judges in Kopyto case11 also were of the opinion that truth can be a defence to a charge of scandalising the court.

The test of contempt by a writing or speech Another serious concern in the present law is that it is not necessary to prove affirmatively that there has been an actual interference with the administration of justice by reason of a defamatory statement: it is enough if it is likely or tends in any way to interfere with the proper administration of law.23 It is also not a necessary ingredient to the offence that there should be an intention to interfere with the administration of justice. Such a criteria of contempt is too sweeping and makes free speech subject to even a remote danger to the reputation of the judiciary. This is illustrated by the case of E.M.S. Namboodripad9.

In the case of E.M.S. Namboodripad9 who was the Chief Minister of Kerala, the Supreme Court found his speech at a press conference contemptuous of the institution of the judiciary. Namboodripad, a confirmed Marxist and Communist had stated that Marx and Engels had considered the judiciary as an instrument of oppression and judges were guided and dominated by class hatred, class interest and class prejudice, and his party had taken a view that the judiciary was part of the ruling class. The Court itself undertook an exercise of the study of the writings of Marx and Engels and doubted if Namboodripad had fully appreciated the Marxist literature, if he had read it! The Court said, whether he misunderstood the teachings of Marx or Engels or deliberately distorted them was not of too much purpose. The likely effect of his words had to be seen and they clearly had the effect of lowering the prestige of judges and courts in the eyes of the people. The conviction of Namboodripad for contempt is an example of the hypersensitiveness of courts to a general criticism of the judiciary. Most textbooks on Communist theory will contain statements which Namboodripad expressed, and as in an Australian case it was aptly said, "If those who advocate that the courts are involved in class struggle, were to be imprisoned for contempt there would not be sufficient jails.24"

The test suggested by the South Africa Constitutional Court in Mamabolo case12 is that the offending article "viewed contextually really was likely to damage the administration of justice". Albe Sachs, J. in a separate concurring judgment in Mamabolo case12 suggested that to meet the constitutional requirements, the prosecution should be based not simply on the expression of words likely to bring the administration of justice into disrepute but on the additional ingredient of provoking real prejudice to the administration of justice. This is also suggested as the test in New Zealand.25 This does slightly lessen the rigour of the offence, though in practical terms the distinction between likelihood and real prejudice may be quite thin and may appear to be a matter of semantics.

The test of a publication constituting "a real and present danger" is the most restrictive one. It is derived from the absolute nature of the First Amendment of the US Constitution, and was adopted by two Judges of the Court in Kopyto case11 in Canada. The test of "real and present danger" in matters of free speech may rule out any effective control over the most egregious cases of contempt. It cannot be adopted in the context of the Indian Constitution which recognises that freedom of speech may be subject to reasonable restrictions in the interest of contempt of court.

But it is true that any test is likely to be subjective, uncertain and unpredictable. At heart the problem that remains is that there are no clear and certain indications of when a speech or writing will be taken by courts to be undermining the administration of justice or not and actions taken by courts accordingly appear to be unpredictable, illogical and inconsistent. For example it is difficult to reconcile the leniency shown by the Supreme Court in Shiv Shanker case26 compared to the stern view it took for a doctrinaire attack on the judiciary in Namboodripad case9. In Shiv Shanker case26, the Supreme Court found no objection to the speech of a former High Court Judge and at the relevant time the Minister of Law in which amongst other things he stated that:

"The Supreme Court, composed of the elements from the elite class, had unconcealed sympathy for the elite i.e. the Zamindars and that anti-social elements i.e. FERA violators, bride-burners and a whole horde of reactionaries had found their haven in the Supreme Court. (SCC pp. 175 & 176, paras 3 & 6)"

The Court said that the Minister was only reflecting class composition of any instrument of State such as the Supreme Court and its inevitable predisposition and its prejudices. Measuring an institution by class content did not minimise its dignity or denigrate its authority. The Minister's statement regarding anti-social elements having found their haven in the Supreme Court was held not to be a criticism of the Supreme Court but criticism of the laws. All this did not bring the administration of justice into disrepute according to the Court.

Necessity for retention Nevertheless, there is a strong case for retaining the courts' power of punishing for the most
obvious and gross case of bringing it into disrepute. Public trust and confidence in the judiciary is vital. If that is
undermined by unjustified attacks on it or the judges, the rule of law suffers. Comparisons with criticism of the other
branches of government are not apt. It must be emphasised that though the judiciary is also a branch of Government
with the legislature and executive, its functioning is different. It has to depend on its own force of convincing and
credibility having neither the force of the purse nor the sword. From the nature of their office, judges unlike legislators and
public officials cannot descend into the dust and din of controversy to defend themselves from attack. They must
therefore be armed with authority to defend themselves from wanton attack. The suggestion that contempt of court
should be made a criminal offence punishable only by regular criminal courts would not be a satisfactory solution for
maligning of judges given the indefinite tardiness of prosecutions in criminal courts in India. Nor is the entire press as
responsible in India as it generally is in England. Every society has its own necessities of times. The fact that
scandalising the courts has become obsolete in some countries with established conventions for respect for the judges
and courts and high standard of conduct of judges should not be an argument for scrapping it elsewhere where
conditions of growing democratic institutions require confidence and respect for the judiciary to be securely established. It
would be an intolerable situation if courts and judges are maligned by litigants or critics who take comfort that they would
be punished only if they are successfully prosecuted in good time to come.

Therefore retention of the offence of contempt of court in India is necessary even today. However, four aspects of it
require to be emphasised and reformulated. First, its bounds need to be carefully and narrowly circumscribed for only the
most obvious and serious cases of bringing disrepute to the judiciary. Judges must not be oversensitive to criticism even
if it is ill founded and painful. As Krishna Iyer, J. has said:

"The courts should be willing to ignore by a majestic liberalism, trifling and venial offences"the dogs may bark, the
caravan will pass".27

The frequent use of the contempt powers may damage the judiciary itself. Gajendragadkar, C.J. rightly said:

"Frequent or indiscriminate use of this power in anger or irritation would not help to sustain the dignity or status of the
court".28

Secondly, the present test of the likely effect of the speech or words on the administration of justice requires to be
modified to speech or writing bringing about a real and substantial prejudice to the administration of justice caused by the
speech or writing in each case. The present test of mere likelihood of endangering the administration of justice is too
dettering to the fundamental right of speech, and to the necessity to make the judiciary accountable in a democratic
society. Thirdly, truth and fair comment must be recognised as defence when the speech or writing is made not
maliciously but is demonstrated that it is made in public interest to mitigate the problem in the interest of the
administration of justice. Fourthly, the procedure for punitive action by court or judge alleged to be scandalised requires
to be recast from its inquisitorial and summary way to approximate to a fair trial. It may also inspire confidence in the
courts’ action if all cases of alleged scandalising are initiated only by the Attorney-General or the Advocate-General
except those in face of the court. Finally, judges should turn their eyes inward and ask if their own conduct does not
warrant criticism. As Justice Albe Sachs in Mamabolo case12 has so rightly said:

"If respect for the judiciary is to be regarded as integral to the maintenance of the rule of law ... such respect will be
spontaneous, enduring and real to the degree that it is earned rather to the extent that it is commanded."

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