



## Avuncular concerns

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No doubt about it, judges are fashioned for a nobler cause. Our higher judiciary self-selects new recruits, contempt laws ensure that even truth is not a defence, and impeaching a senior judge is so tortuous, that in Independent India, not one has been sacked. Often termed the world's most powerful, our high courts and Supreme Court have earned their independence — they command respect like few other institutions. But this freedom demands a stricter standard.

Which is why the trend of judges being appointed to the same high courts where their kin are practicing, is so disquieting. Of course, no lawyer is allowed to argue directly before his relative. But as long as they share the same court, in India's "you scratch my back" legal fraternity, as in any other sphere of public life, suspicions of favours being dispensed will never really go away. Besides, given the stringent norms that our judiciary imposes on itself, this trend, what the Law Commission of India, in its latest report, calls the "uncle-judge" system, is an issue that must be addressed. The Law Commission's solution is that judges never be appointed to the court where they previously practiced as successful lawyers. This, they argue, will minimise the chance of kin arguing and holding in the same court.

It is nobody's argument that judges who have relatives in the same court are automatically tainted. Indeed, it is often just a product of circumstance. Judges would naturally want to work in the same city they practiced in, and in a country where family is as much an occupational unit as a social one, it is only fair that some of the judge's relatives will want to earn a living in the same high court. But as the Law Commission points out, Class II government officers and above are rarely posted to their home district. Why should high court judges be any different? Besides, there is a deeper principle. The perks that our higher judiciary enjoy are predicated on their being above suspicion. Not being posted to your home turf is small price to pay. It is hoped that the Law Commission's recommendations are taken up for serious and actionable debate.