

How To Judge A Judge

The possibility of an impeachment motion against a Calcutta high court judge, Soumitra Sen, comes close on the heels of a slew of corruption charges against the judiciary.

Last month, during a Supreme Court hearing of a case concerning Ghaziabad judges, senior lawyers alleged that the apex court was shielding corrupt judges. Corruption charges have tainted the highest reaches of the judiciary. A former chief justice of India (CJI), Y K Sabharwal, was in the eye of a storm for giving rulings that allegedly favoured his sons. Several high court judges, too, have been accused of corruption in recent times.

An impeachment motion is, however, an entirely different matter. In independent India, only once has impeachment been initiated against a higher court judge. That was in 1991 when impeachment proceedings began against Justice V Ramaswami, but were later dropped because of lack of support in Parliament.

Justice Sen's case is unusual since CJI K G Balakrishnan has recommended his removal to the law ministry. According to current laws, this is awkward since impeachment of a judge can be done only by Parliament. Impeachment can be initiated after a motion addressed to the President of India is signed by at least 100 members of the Lok Sabha or 50 Rajya Sabha MPs.

This anomaly wouldn't have arisen if the government had not been sitting on the judges' inquiry Bill, 2006, which seeks to establish a national judicial council, comprising sitting judges, to look into charges against judges. This panel would have the authority to investigate allegations against judges as well as impose disciplinary measures.

It would also have the power to recommend removal of a judge through impeachment. The proposed impeachment against Justice Sen highlights the need for accountability in the judiciary. A former chief justice of India, S P Bharucha, has spoken of the possibility of nearly a quarter of judicial officials being corrupt. A 2007 Transparency International report says the judiciary — contrary to public perception — is the third most corrupt institution in the country. Much of this is swept under the carpet since disciplining of judges, especially of the higher courts, is a cumbersome process.

The judicial council — even if it is composed of sitting judges — would go some way in bringing transparency and accountability to the judiciary. Other measures such as making the Right to Information Act applicable to the judiciary would also help. The government should use this opportunity to ring in changes.