

# Equal Before Law

5 August 2009, 12:00am IST

The opposition has done the right thing by forcing the government to defer the Judges (Declaration of Assets and Liabilities) Bill. The Bill, which seeks to extend the principle of accountability and transparency to the higher judiciary, falls short of its intent in the present form.

The Bill makes it mandatory for judges to disclose their assets before a designated authority, but doesn't allow the disclosure to be made public. A contentious clause in the Bill prevents any citizen, court or authority from questioning the disclosures. It says "no judge shall be subjected to any inquiry or query in relation to the contents of the declaration by any person". The opposition has objected to this provision and termed it a violation of the Constitution. The objection is valid. What the clause does is to treat the judiciary as a privileged class with special rights that no other group of citizens enjoys. No other category of public servants enjoys such immunity from public scrutiny. It has been pointed out, and rightly so, that the clause violates the republican principle that all citizens are equal before the law.

The judiciary's demand for exemption stems from the fear that disgruntled parties could misuse the disclosure and embarrass judges if it is available in the public domain. Such fears may be valid but not reasonable enough to justify the judges' claim for exemption from public scrutiny. Laws that cover other categories of people in public life, like elected representatives, don't make any exemption for similar fears and mandates that they disclose their assets before the public. Penalties and harsher strictures could be thought of to prevent spurious litigation and other forms of harassment.

There has been a concerted effort in recent times to enforce the highest norms of accountability and transparency in public life. Laws like the Right to Information Act and Representation of the People Act have helped a great deal to address corruption in public life and improve governance. The judiciary has been supportive of these initiatives. It has, in many cases, intervened to make sure that laws intended to do so are foolproof. It must adhere to the highest norms of probity it has set for other public institutions and not become an exception to the trend. The government must incorporate the suggestions of the opposition, address the fears of the judiciary and reintroduce a foolproof Bill in Parliament as early as possible.

Times of India