

UNSEEMLY CONFLICT: THE HINDU EDITORIAL ON SUPREME COURT-GOVERNMENT TUSSLE OVER THE COLLEGIUM SYSTEM

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The Union government appears determined to turn its [conflict with the judiciary](#) over judicial appointments into something unseemly. The sources of friction are two-fold. One is the daily diatribe by Union Law Minister Kiren Rijiju, who appears to have been given an assignment [to target the Collegium system](#) with trenchant criticism of its known, but uncorrected flaws, and top it with unwarranted remarks such as asking the Court not to send any files, if it felt it was sitting on them. The second is the Government's strategy of [delaying appointments recommended by the Collegium](#) as a counterblast to its loss of primacy in the matter. A Supreme Court Bench, hearing a contempt petition against the Government for not approving names reiterated by the Collegium, has [wondered](#) whether the Government is not acting on the files because the Court [did not permit the implementation of the National Judicial Appointments Commission](#). There will be many takers for Mr. Rijiju's central point that the collegium system is opaque. However, his adverse comments fail to hide the perception that the aim may be to delegitimise the Court. The Government is also violating the prevailing legal position that a recommendation reiterated by the Collegium, after due consideration of its objections, is binding on it.

It is not difficult to bring relations between the judiciary and the executive back on track, if only the two sides are willing to address each other's concerns. The Court has a valid point when it says the uncertainty over the fate of a recommendation for appointment is resulting in eminent lawyers withdrawing their consent or declining invitations to join the Bench. There are instances of the Government ignoring even two or three reiterations, and of the absence of any communication of objections or reservations, if any, that the Government may have about particular candidates. If the current trend continues, it is not difficult to conceive of a situation in which a major verdict that may go against the Government is portrayed by the political leadership as stemming from the hostility of the judiciary and not one on merits. One way of stopping further deterioration is for the Government to clear pending recommendations with due despatch. Another way is for the judiciary to begin or agree to a process of reforms in the way the Collegium functions, especially with regard to expanding the range of consultation and widen the zone of consideration so that the superior judiciary, and those it consults, are more diverse and representative of all sections. It is also not beyond the realm of possibility for the Government to bring about a new constitutional mechanism to make appointments without

undermining judicial authority.

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