

## Important Vocab For the Editorial

1. **collegium** (noun) – The collegium system is the one in which the Chief Justice of India and a forum of four senior most judges of the Supreme Court recommend appointments & transfers of judges. There is no mention of the collegium in the Constitution of India.
2. **flaw** (noun) – defect, fault, imperfection/weakness.
3. **disquiet** (noun) – distress, unease, worry/concern.
4. **complement** (noun) – number, total, aggregate.
5. **it is no surprise** (phrase) – as expected, as anticipated, as predicted.
6. **border on** (phrasal verb) – be comparable to, be tantamount to, look like.
7. **humiliation** (noun) – embarrassment, disgrace, dishonour/discredit.
8. **demotion** (noun) – reduction, overthrow, overturning (status/rank).
9. **fallacious** (adjective) – erroneous, false/wrong, incorrect.
10. **punitive** (adjective) – disciplinary, corrective, retributive.
11. **assess** (verb) – evaluate, analyse, determine.
12. **criterion** (noun) – basis, standard, norm. (criteria is the plural form of criterion).
13. **solely** (adverb) – only, simply, merely.
14. **perception** (noun) – insight, understanding, discernment/thoughtfulness.
15. **quite** (adverb) – in every respect, in all respects, without exception.
16. **misconceive** (verb) – misunderstand, misinterpret, misread.
17. **elapse** (verb) – pass, go by, roll past.
18. **Memorandum of Procedure (MoP)** – a guideline for selection of high court judges.
19. **determinative** (adjective) – controlling/guiding, influential, decisive.
20. **take into account** (phrase) – consider, bear in mind, heed/note.
21. **plurality** (noun) – a large number of people (coexist in a community).
22. **arbitrary** (adjective) – capricious, personal (whim/choice), erratic/irregular.
23. **systemic** (adjective) – constructional, organizational, constitutional.
24. **opaqueness** (noun) – uncertainty, mysteriousness, obliqueness.
25. **unaddressed** (adjective) – unnoticed, not considered, concealed.
26. **colour** (verb) – influence, affect, distort.
27. **unaddressed** (adjective) – not dealt with, not considered.

## A controversial transfer: On Tahilramani's transfer

### CJ Tahilramani's transfer to the Meghalaya HC once again shows collegium system's flaws

The unusual transfer of the Chief Justice of the Madras High Court, Justice Vijaya Kamlesh Tahilramani, to Meghalaya High Court has caused understandable disquiet among lawyers. While the Constitution does provide for such transfers from one high court to another, it is extremely rare that the senior-most Chief Justice in the country is shifted

from a large court with a complement of 75 judges to one of the newest courts, which has a strength of only three judges. It is no surprise, therefore, that the judge, who entered the superior judiciary in 2001, and is the senior-most high court judge in the country, chose to resign, rather than continue in circumstances bordering on humiliation. It is unfortunate that the collegium rejected her request for reconsideration without assigning a reason. It is easy to argue that one high court is as good as any other, that such transfers should not be seen as a ‘demotion’, and that the Chief Justice of India (CJI) should be free to transfer the head of any high court in the interest of “better administration of justice”. However, it is a fallacious argument when one considers that there are no known complaints about her performance or any public controversy around her judicial or personal conduct. It is possible that the transfer is based on an internal performance assessment, or complaints not available in the public domain. However, in the absence of any explanation, the bar cannot be blamed if they see the transfer as punitive. If it is performance-related, a question arises as to whether all judges are being assessed on the same criteria.

The controversy once again brings under focus the flawed collegium system of appointments and transfers. In recent years, the government and the collegium have been disagreeing frequently on the latter’s recommendations for appointments.

However, judicial transfers are initiated solely at the instance of the CJI. Therefore, the perception that Justice Tahiramani’s transfer has something to do with her judgment in the Bilkis Bano gang rape case, when she was in the Bombay High Court, is quite misconceived. It was after this verdict that she was appointed Chief Justice of the Madras High Court, and a year has elapsed since then. The Memorandum of Procedure relating to appointments and transfers of high court judges says the opinion of the Chief Justice in this regard “is determinative”. And in the case of a Chief Justice of a High Court, the CJI needs to take into account, “only the views of one or more knowledgeable Supreme Court Judges” while proposing a transfer. In the Second and Third Judges cases, the Supreme Court felt that the fact that the proposal is initiated by the CJI and recommended by a plurality of judges is enough as a safeguard against arbitrary transfers. However, the Tahiramani controversy shows that the systemic faults of the collegium system — opaqueness and the scope for personal opinions colouring decision-making — remain unaddressed.