



Fighting together

The BSP, SP and RLD need to convince voters that they are on the same page

The chiefs of the Samajwadi Party-Bahujan Samaj Party-Rashtriya Lok Dal combine threw down the gauntlet to the ruling Bharatiya Janata Party in Deoband in western Uttar Pradesh on Sunday. The scale and fiery rhetoric were clearly aimed at forcing the momentum as western U.P. constituencies go to the polls on April 11, in the first of a seven-phase parliamentary election in the State. The BJP and its partners had won 73 of 80 seats in U.P. in 2014, and the State is central to Prime Minister Narendra Modi's re-election bid. The political landscape in U.P., however, has changed significantly in the interim years, both in terms of party alliances and social realignments. Priyanka Gandhi Vadra's entry as a Congress strategist and campaigner has added new variables that could complicate electoral calculations in U.P. In this emergent situation in the State, the rally must have brought some reassurance to the triumvirate of Akhilesh Yadav, Mayawati and Ajit Singh, leaders of the SP, the BSP and the RLD, respectively. Mr. Yadav has been unambiguous in his deference to Ms. Mayawati, and they have been at pains to emphasise that they are reading from the same page, as coherence between the SP and BSP leaderships is crucial for vote transfer of their core supporters.

Ms. Mayawati is an icon of Dalit empowerment, and since the 1990s has often been deft in building social alliances around her core vote. Mr. Yadav is the inheritor of the rump of Socialist (Lohiaite) politics in the Hindi belt, which has been reduced to a purely caste-based entity around the SP's Yadav support. Both could be characterised as part of social justice politics, but the accent and rhetoric of their respective politics are dissimilar. Their opposing positions on the use of English is a case in point – the SP has been rather late in blunting its anti-English edge, while the BSP's Ambedkarite politics considers it as a tool of empowerment. Though the SP and the BSP had an alliance in the mid-1990s, they had parted ways bitterly, with an SP mob even trying to physically harm Ms. Mayawati. The rout in the 2014 Lok Sabha and 2017 U.P. Assembly elections have forced a rethink in their adversarial politics. Equally striking is Mr. Yadav's outreach to the BSP, compared to his father Mulayam Singh Yadav's. Both parties are conscious that recovering the support of their larger social constituencies, the backward castes and Dalits, which were drifting towards the BJP in the past five years with a new format of social empowerment through Hindutva, is crucial. However, since the Assembly elections, old caste cleavages have deepened under upper-caste Hindutva assertion. By joining hands with the RLD, which has a Jat base in western U.P., and reaching out to Muslims forcefully, the two parties are seeking to draw voters with a show of winnability.

Maldivian wave

President Solih consolidates power with his MDP's victory in parliamentary polls

The administration of Maldives President Ibrahim Mohamed Solih has received a shot in the arm with the parliamentary election held over the weekend. His Maldivian Democratic Party is poised to garner more than 60 out of 87 seats, paving the way for easy passage of bills and a policy agenda with a realistic chance of implementation. Mr. Solih, whose pro-democracy government assumed power after a presidential election in September 2018, has sought to break with the regime of his predecessor Abdulla Yameen, which had propelled the Indian Ocean nation into Beijing's economic embrace, described by some as "debt-trap diplomacy". While Mr. Solih was quick to signal the shift in his government's priorities, not least by ensuring that Prime Minister Narendra Modi was the chief guest at the presidential inauguration, his agenda has been hobbled by resistance from lawmakers on certain bills aimed at the previous administration. Specifically, Parliament Speaker Qasim Ibrahim, the head of the Jumhooree Party, a coalition partner of the MDP, declined to support a vote on a bill aimed at recouping stolen assets and looking into unresolved murders. With the election throwing up a single-party majority, Mr. Solih can push through his agenda with fewer stumbling blocks.

So far as India's interests in the Indian Ocean Region are concerned, warm bilateral ties between New Delhi and Male are a high priority after five years of strategic drift that benefited Beijing considerably. According to some analyses, the surging influx of Chinese infrastructure investment under the Yameen administration may have caused the Maldives' national debt to balloon to nearly a quarter of its GDP. As it seeks to unravel this web of Chinese loans, the new leadership has promised that what is owed would be paid. However, the honouring of such debt, especially where it was linked to the grant of land, lease rights and mega-construction projects, will be complicated. As Mr. Solih grapples with these challenges, the assurance that the Maldives has New Delhi's backing would be vital. Already, the elements of a strategic reset with India seem to be falling into place. When Mr. Solih visited India in December, a \$1.4 billion financial assistance package for the Maldives was announced, and the two governments agreed to exempt holders of diplomatic and official passports from visa requirements. MoUs on Indian grant aid for "high-impact community development projects" have been signed, as also agreements on clean energy and regional maritime security. So long as the new government presses on with the urgent task of rebuilding and deepening the Maldives' democratic credentials, there is hope for political stability and economic development across the 1,192-island archipelago and the wider IOR.

Open up the Supreme Court

A judiciary confident of its place in a democratic republic must not worry about public scrutiny of judicial appointments



GAUTAM BHATIA

Almost 10 years ago, on September 2, 2009, the High Court of Delhi handed down a landmark judgment dealing with the fledgling Right to Information (RTI) Act. It held that the Office of the Chief Justice of India (CJI) was a "public authority", and therefore, subject to the provisions of the Act. Information held by the CJI – including, in the context of the case, information about judges' assets – could be requested by the public through an RTI application. In ringing words, Justice Ravindra Bhat declared that the RTI was a "powerful beacon, which illuminates unlit corners of state activity, and those of public authorities which impact citizens' daily lives, to which they previously had no access".

The Supreme Court appealed against this judgment, and the case eventually wound its way to the Supreme Court, where a stay was granted, and matters remained in limbo for a few years. Earlier this month, however, a five-judge Bench of the court finally heard the case on merits, and reserved judgment. By this time, the issues under consideration involved not only Justice Bhat's ruling on the status of the Chief Justice as a public authority and the disclosure of judges' assets, but also the question of whether the correspondence of the Collegium (the body of judges that selects and makes appointments to the higher judiciary) was subject to the RTI.

The basic question

The basic question, i.e. whether or not the Office of the CJI is subject

to the RTI Act, has an easy answer: yes. As Justice Bhat correctly observed in the High Court judgment, "all power – judicial power being no exception – is held accountable in a modern Constitution". A blanket judicial exemption from the RTI Act would defeat the basic idea of "open justice": that the workings of the courts, as powerful organs of state, have to be as transparent and open to public scrutiny as any other body. Nor would bringing the judiciary under the RTI Act destroy the personal privacy of judges: as the High Court judgment noted, the RTI Act itself has an inbuilt privacy-oriented protection, which authorises withholding the disclosure of personal information unless there is an overriding public interest. While disclosure of assets is arguably justified by an overriding public interest, medical details or information about marital status, for example, are clearly not. There will always be borderline cases, of course, but that only calls for nuanced and fine-grained analysis of such cases, nothing more.

The Collegium

During the hearings, however, the question most at issue involved the disclosure of the correspondence of the Collegium. The Collegium includes the five senior-most judges of the Supreme Court, who collectively constitute the selection panel for judicial appointments to the Supreme Court (and the three senior-most judges when it comes to the High Courts). India is one of the few countries where judges have the last word on judicial appointments, through the mechanism of the Collegium. The Collegium itself is not mentioned in the text of the Constitution: it arose out of a judgment of the Supreme Court, and in response to increased executive interference in judicial appointments, particu-



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larly during Indira Gandhi's regime. The Collegium began life, therefore, as a tool to secure and guarantee the independence of the judiciary. In 2015, the Supreme Court struck down a constitutional amendment establishing a National Judicial Appointments Commission, which would have replaced the Collegium. A majority of the five-judge Bench held that judicial primacy in appointments was the only constitutionally-authorized way of securing/ensuring judicial independence against an increasingly powerful political executive.

Through this time, however, the Collegium had come under increasing criticism. A major point of critique was its opacity: it was increasingly being perceived that judicial appointments were too often made in an ad hoc and arbitrary manner. Perhaps the most vivid example of this was when former Supreme Court Justice Markandey Katju admitted that, as the Chief Justice of the Allahabad High Court, he had refused to recommend a High Court lawyer for judgeship because that lawyer was in a live-in relationship without being married. One may wonder what connection there is between a lawyer's marital status and his ability to discharge judicial functions, but this was, at any rate, a stark example of what the critics

had in mind. Indeed, the Supreme Court's own NJAC judgment acknowledged this critique, and vowed to evolve a system where concerns of transparency were addressed. A small step towards this was made during Dipak Misra's tenure as CJI, when the resolutions of the Collegium began to be published online.

It is in this context that we must examine the arguments of the Attorney-General of India, who represented the Supreme Court before the Constitution Bench. The AG argued that disclosing the correspondence of the Collegium would "destroy" judicial independence. The CJ seemed to agree, noting that disclosing the reasons for rejection of a judge would "destroy" his or her life or career.

This is, however, a bewildering argument, when we consider that the Collegium system was specifically put in place by the Supreme Court in order to guarantee judicial independence. It is rather self-serving to argue, first, that there is only one permissible method to secure judicial independence – and that is through ensuring judicial primacy in the appointments process – and then to argue that the only permissible way in which this system can work is by making it immune to transparency. The Supreme Court cannot eat its cake and have it too: if it has instituted a process of appointment that makes itself the final arbiter of judicial appointments, then it must also ensure that that same process meets the standards of accountability in a democratic republic.

Indeed, a look at judicial appointments elsewhere suggests that transparency in appointments is integral to the process. In the United States, for example, candidates for judicial appointments in the federal judiciary are subjected to public confirmation hearings by the Senate. In Kenya

and South Africa, the interviews of candidates taken by judicial appointments commissions are broadcast live. The public, thus, is in a position to judge for itself the selection process. This is crucial to maintaining public faith in the impartiality of the institution.

The Collegium, however, has immunised itself from any form of public scrutiny. The nomination process is secret, the deliberations are secret, the reasons for elevation or non-elevation are secret. This creates an extremely unhealthy climate, in which rumours become staple, and whispers about executive interference are exchanged in court corridors. CJI Ranjan Gogoi's publicly stated concern that "in the name of transparency, you cannot destroy an institution" betrays a refusal to engage with the manner in which institutions are actually destroyed: in an insidious and incremental manner, through the slow drip-drip erosion of trust.

Open to sunlight

"Sunlight is the best disinfectant" is a trite and overused phrase. In the context of public scrutiny of the Supreme Court, however, it is an apt one. The Collegium's recent decisions to recommend a set of names for elevation, and then hastily backtrack on them without any publicly stated reasons, dealt a serious blow to its reputation for impartiality and independence. The only way to salvage this is to open up the court. A judiciary that is confident of itself and of its place in the democratic republic should not be worried about subjecting judicial appointments to public scrutiny. The occasional discomfort that might come from the harsh public glare is more than outweighed by the cleansing value of transparency.

Gautam Bhatia is a Delhi-based lawyer

Playing politics over the Golan Heights

U.S. recognition of Israeli sovereignty is a challenge to the rules-based international order



ARUN K. SINGH

On March 21, U.S. President Donald Trump upended another long-standing American policy, tweeting: "After 52 years it is time for the United States to fully recognize Israel's Sovereignty over the Golan Heights, which is of critical strategic and security importance to the State of Israel and Regional Stability!"

Third pro-Israel step

This was another major pro-Israel step Mr. Trump has taken as President. On May 8, 2018, he had walked out of the 2015 JCPOA (Joint Comprehensive Plan of Action) with Iran, negotiated by the Obama administration with provisions for sanctions relief in response to Iranian restrictions on its nuclear programme. Israel had opposed the agreement and any sanctions relief for Iran, seeing a continuing threat to itself from Iran's growing presence in Syria, its support for Hezbollah in Lebanon and Hamas in Gaza, its refusal to recognise Israel's right to exist, and its military capabilities.

Before that, on December 6, 2017, in a speech from the White House, Mr. Trump had declared: "I have determined that it is time to officially recognise Jerusalem as the capital of Israel." He also pro-

ceeded to close the Palestinian office in Washington DC, as well as U.S. consulate in Jerusalem dealing with the Palestinian Authority.

Hitherto, U.S. policy had been that any formalisation of status changes on the ground, following Israel's victory and gains in the 1967 Israel-Arab conflict, could only flow from negotiations among parties concerned. UN Security Council Resolutions 242 (1967) and 338 (1973) had asserted inadmissibility of acquisition of territory by force, and called for Israeli withdrawal. UNSCR 497 (1981) had declared that "Israel's decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect".

Mr. Trump's decisions have a bearing on U.S. and Israeli domestic politics. The American Jewish community, traditionally around 65% Democratic, has grown in its support for him, despite an increase in anti-Semitism within the U.S. because of his encouragement to right-wing groups. His base among Evangelical Christians backs Israel. Some of the major contributors to his campaign are also ardent supporters of Israel. Israeli Prime Minister Benjamin Netanyahu, facing a tough election on April 9, and under threat of indictment for corruption and misdemeanour, is touting his influence on Mr. Trump as having potential for further gains for Israel. To consolidate right-wing support for himself, he just announced that if re-elected he



would not carry out any withdrawal of Israeli settlements from the West Bank, putting an end to the "land for peace" formula advocated since the Camp David Accords of 1979.

Faced with international opposition, Israel and its supporters have, in the past too, leveraged the support of the leading global power of the time to advance their cause. On November 2, 1917, Lord Balfour, the British Foreign Secretary, declared that "His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people". This eventually led to the establishment of the state of Israel in 1948, despite Palestinian and Arab opposition. In an April 14, 2004 letter to Israeli Prime Minister Ariel Sharon, U.S. President George W. Bush stated that "in light of new realities on the ground, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949" (position before the 1967 conflict). This has been interpreted by many in Israel as beginning of the process of establishing the legitimacy

of Israeli/Jewish settlements in the West Bank, and denting the viability of a fully sovereign and contiguous Palestinian state. Mr. Netanyahu's latest announcement would take this another step further. In Israeli political discourse, which has moved over time to the right, many now question the possibility of a two-state solution. The constraint for Israel is that its goal of a democratic and Jewish state would be difficult to achieve in a one-state solution with current near equal proportions of Arab and Jewish populations.

Mr. Trump's announcement on Golan Heights goes a step further. The Syrian Golan was part of the French post-World War I mandate, and hence technically not covered by the Balfour Declaration. Mr. Trump is now seeking to extend recognition of Israeli sovereignty to an area beyond Balfour, beyond the UN partition plan for Palestine in the 1940s, and beyond the outcome of the 1948/49 Arab-Israeli conflict.

In his proclamation of March 25, issued in presence of the visiting Israeli Prime Minister, Mr. Trump cited Israeli security interests and regional threats. The present situation in Syria is no doubt a factor. The U.S. wants to draw down its military presence, Russia and Iran have significantly enhanced their presence and influence. Israel is concerned about Iranian presence beyond Golan in Syria and that of Hezbollah on the Lebanese side. It has repeatedly targeted Iranian positions and supplies, including to Hezbollah.

Following Mr. Trump's announcement, U.S. National Security Adviser John Bolton tweeted that to allow Golan Heights "to be controlled by the likes of the Syrian or Iranian regimes would turn a blind eye to the atrocities of Assad and the destabilizing presence of Iran in the region".

Tepid global response

The new U.S. position has not received support from any other country, including its European allies. While Iran, Russia, Turkey, among others, have been critical, the Arab response has been assessed as insufficiently strident. This is no doubt a reflection of reduced influence in Washington, with greater U.S. leverage on oil supplies, divisions among Arab countries over Qatar, pressure on Saudi Arabia because of Yemen and the Jamal Khashoggi issue.

India's interests are not directly involved immediately. It has a strong and growing relationship with Israel, and has maintained its relations with Syria. Indian troops have been a part of UN peacekeeping presence on the Golan Heights. Mr. Trump's move, however, is indicative of shifting geopolitics in the West Asian region, with longer-term implications for India. It also asserts unilateralism, is a challenge to a rules-based international order, and is contrary to positions U.S. has taken elsewhere, as for instance in its response to Russia and Crimea.

Arun K. Singh has served as India's Ambassador to the U.S. and Israel

LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

Gandhiji and politics

If Mahatma Gandhi were alive today, he would have never participated in our elections, national especially. He was never a leader of a political party; rather, he was the undisputed leader of the masses. He never required votes to gain power. His immense power sprung from the belief of the masses in him. But, hypothetically, if he were to, it would be to fill the large moral vacuum in the political sphere (OpEd page, "If Gandhi were alive today", April 8). Politics today is devoid of values and morals. It is largely about money and power. SANDEEP SETHIA, Mandsaur, Madhya Pradesh

■ Gandhiji predominantly based his leadership on secular principles and nation-building and not for any material gains or personal aggrandisement. The difference today is that political parties want to grab power by hook or by crook, which includes buying votes. E.S. CHANDRASEKARAN, Chennai

■ Young voters – like me – who are about to cast their first votes in these elections must note that Gandhian politics can alter our political parties. Most of the changes would be seen in the organisation of the Congress party itself as Gandhiji was strongly opposed to dynastic politics. Overall, it is foolish to expect our politicians to

ever follow Gandhiji in spirit. KIRAN BABASAHEB RANSING, New Delhi

■ In the current political era of coalition, competitive and unprincipled politics, it would be difficult for political parties to follow what is right and of long-term significance; anything which gives instant gratification to the masses works well. Gandhiji is obviously well respected and studied but not followed because his ways were hard and do not suit the game of contemporary power politics. But why point a finger at our politicians, who only show the mirror to us; they are an integrated and extended part of us and

reflect the thinking of our societies at large. We as a society have to grow and evolve with maturity to see a future built on the principles of justice, equality, truth and peace. It is only then, with time, that we can demand and deserve disciplined politics from our leaders. SALMAN MAHMOOD, Noida, Uttar Pradesh

LPG and rural health

The data on a meagre 27% of the population under the Ujjwala Yojana using gas exclusively are discouraging and are a call for immediate intervention ("About 85% of Ujjwala beneficiaries in 4 States still use earthen stoves", April 8). This must be viewed in the backdrop of air pollution primarily

attributed to indoor pollution caused due to conventional chula use. Factors that must be considered are the possible high cost of a refill as well as the unavailability of an LPG cylinder in rural India. A point in the report, of a common misconception that "eating food cooked on gas causes gas in the stomach", can be tackled with proper awareness. The health and well-being of women in rural India are important. N. VIJAI, Coimbatore

CORRECTIONS & CLARIFICATIONS:

An FAQ page story (April 7, 2019), on whether electoral bonds had reduced anonymous cash donations, erroneously said that prior to 2017, registered parties had to declare all donations made to them of over ₹2,000. It should have been ₹20,000.

The Reader's Editor's office can be contacted by Telephone: +91-44-28418297/28576300; E-mail: readerseditor@thehindu.co.in