



Trying politicians

Special courts may help speed up cases, but should they get differential treatment?

The Supreme Court's order directing the Centre to frame a scheme to establish special courts exclusively to try cases against politicians marks another milestone in the higher judiciary's continuing campaign to cleanse politics of the taint of crime. The court has handed down many rulings that make legislators and holders of public office accountable for corruption. In recent years, it has grappled with the disturbing phenomenon of criminals entering the electoral fray. In a landmark verdict in 2013, the court removed the statutory protection for convicted legislators from immediate disqualification; and in 2014, it directed completion of trials involving elected representatives within a year. The court is now keen on establishing a time-bound and exclusive judicial mechanism to expedite trials involving "political persons". The order requires the Centre to provide details of the funding necessary to set up special courts, and indicates that State governments be involved in the exercise. True, cases involving offences by serving or past legislators move rather gingerly in the present criminal justice system. It is apparent that those with political influence have taken full advantage of its inherently languid nature by delaying hearings, obtaining repeated adjournments and filing innumerable interlocutory petitions to stall any meaningful progress. A few prominent leaders have been successfully tried and sentenced, but these are exceptions rather than the rule. For influential politicians, a criminal prosecution is no more than a flea bite; and, sometimes, even a badge of victimhood that redounds to their electoral benefit.

However, establishing special courts may not be the ideal way to expedite cases. From the viewpoint of the accused, the idea could smack of victimisation and engender a feeling of being chosen for discriminatory treatment. There is already a provision for special courts to try various classes of offences. For instance, corruption, terrorism, sexual offences against children and drug trafficking are dealt with by special courts. However, creating a court for a class of people such as politicians is discriminatory. While corruption charges against public servants are being handled by special courts, it is a moot question whether there can be special treatment for offences under the Indian Penal Code solely because the accused is a politician. A possible legal and moral justification is, of course, available. It is in the public interest to expedite cases in which those in public life face serious charges. It would be primarily in their own interest to clear their names quickly, lest their candidature be tainted. Also, the earlier order for completion of trial within one year appears to have had no significant impact. Special courts may indeed address these issues, but the ideal remedy will always be a speedy trial in regular courts. If only the routine criminal process is pursued with a universal sense of urgency, and if enough courts, judges, prosecutors and investigators are available, the expediency of special courts may not be needed at all.

Terror in New York

'Lone wolf' attacks are a security and political challenge; Donald Trump's rhetoric won't help

The terrorist attack in New York on Tuesday confirms fears that terrorism, especially in the West, is becoming more decentralised, with individuals radicalised by terrorist ideology taking up arms on their own. Like the 'lone wolf' terrorists in Nice or Berlin, who killed over 100 people last year, the New York attacker ploughed a pickup truck into a busy bicycle path in Manhattan, killing eight. Officials say Sayfullo Saipov, the 29-year-old Uzbek immigrant, was inspired by the Islamic State and wanted to inflict maximum damage. This is a unique challenge for governments. Over the last few years, Western agencies have foiled multiple terror plots. The U.S. is a case in point. It has not seen any major coordinated terror attack since September 11, 2001. But the chances of detecting and foiling a sophisticated terror plan by a network are higher than preventing a lone wolf attack. Even before the IS suffered military defeats in its core territories in West Asia, it had outsourced terror to members and sympathisers. This means that someone inspired by the IS world view and living in, say, New York or Nice doesn't have to contact IS handlers or wait for orders from Raqqa or Mosul. He or she can be both planner and executor. That is what happened in Nice, Berlin, Orlando and now New York.

Governments face both political and security challenges. The political challenge is to find the root causes of radicalisation and address them. This cannot be done without support from community members and leaders. The security challenge is to be more efficient when it comes to preventive measures. In the case of Saipov, officials say he had been planning for a year to strike civilians. He had hired a truck earlier to practise making turns and rehearsed the route where he wanted to stage the attack. Once such an attack happens, the challenge is also to prevent polarisation along religious or ethnic lines while sounding the message of unity and resolve to fight terror. Instead, President Donald Trump has grabbed the moment to assail his political rivals and drum up support for his anti-immigration policies. He has already promised to step up "extreme vetting" — even though it is unexplained how "extreme vetting" could have prevented the New York attack, or how officials could have foreseen in 2010, when Saipov entered the U.S., that he would become a threat seven years down the line. Also, Uzbekistan is not on the list of countries targeted under Mr. Trump's immigration ban. Washington needs a result-oriented plan to check radicalisation as well as prevent more terror attacks rather than ideological plans that are, in a way, helping the extremist narrative about Muslims being discriminated against and persecuted in the West.

The turnover test in Pakistan

The country's democratic transition faces multiple challenges, real as well as imagined



S. AKBAR ZAIDI

Indians wouldn't know much about democratic transitions. However, numerous countries which have had military rule, often for decades, have had to pass through pivotal moments in their processes of democratisation. The paths have varied, as have circumstances and expectations. There have been reversals, counter coups, revolutions and so-called 'springs', and some successes and many failures. Transitional paths are littered with diverse examples of a wide variety. Often international and regional powers upset domestic processes.

Different transitions

After the ouster of Hosni Mubarak in Egypt followed by a democratic victory of the Muslim Brotherhood, we ended up with a former military general backed by the U.S. and Saudi Arabia. In Thailand, a long democratic transition found complete reversal with the military coup of 2014, and now three years later, elections seem a long way away. In Indonesia, the democratic transition, after 32 years of military rule, in 1998 took at least ten or so years before Indonesia was said to have become a more stable democracy. Most countries in Latin America seem to have made perhaps the strongest and most thorough transitions towards democratisation, albeit, as the cases of Brazil and Venezuela show, not without their own specific problems and issues.

In South Asia, despite its flawed democracy, the military seems to have been sufficiently marginalised in Bangladesh, to ensure that it remains a democracy, and if there are any threats to democracy in Bangladesh, they are on account of

its civilian politics — much like Zimbabwe — not the military. In Myanmar, it becomes increasingly difficult to assess if any transition towards democratic rule has even been made. Turkey's strong anti-military democratic tradition has morphed into a civilian authoritarianism.

If each case offers very specific circumstances to how democratic transitions faltered or progressed, Pakistan's incomplete transition, while still underway, has its own set of specificities which makes generalisation difficult. The wobbly transition since 2008 still continues, though not without its challenges.

Turning point

While 2008 was rightly celebrated as the year when a military dictator was forced out by civil and political forces, Prime Minister Yousuf Raza Gilani of the Pakistan Peoples Party (PPP), who was elected that year, was forced to relinquish power in 2012 and was replaced by another of his party. After Benazir Bhutto's assassination in December 2007, which allowed the PPP to win power and oust General Pervez Musharraf, real power rested with Asif Ali Zardari of the PPP, who became President of Pakistan in 2008. Following Pakistan's much-celebrated first civilian democratic transition in 2013 — Nawaz Sharif was elected Prime Minister, and since he was from Punjab, had a complete majority in parliament and was seen as the establishment's man — many of us were convinced that the next step of strengthening democracy, the 'two turnover test', when two relatively peaceful civilian elections take place, was set to take place effortlessly in 2018. While this is still a probability, with Mr. Sharif being debarred from public office by the Supreme Court in July this year, he joined the long list of the 19 Pakistani Prime Ministers, elected and appointed, none of whom finished their full terms in office. While Pakistan might pass the 'two



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turnover test', it still has to wait to have a full one-term Prime Minister.

Pakistan is a country of conspiracy theories, and as social scientists, we often do not know the truth. The dismissal of Mr. Sharif was done by the Supreme Court on grounds of misreporting his income to the Election Commission of Pakistan. He has been barred from contesting elections, although there has been some debate amongst lawyers whether this ban is for life or not. Regardless of the nature of the ban, what continues to be discussed in the media, always as proof and never as speculation or conjecture, is that it was the military which put pressure on the judiciary so that it gave a verdict which ousted Mr. Sharif. Even international newspapers and magazines quote respected Pakistani journalists and anonymous military sources stating that 'the Supreme Court knew which way the Army wanted to go, and obliged'. A retired general has stated that the Army was 'definitely' behind this ouster, for the "judges would not have had the courage to do what they did otherwise".

Perhaps the judges did. The truth is that we really don't know. One could argue that democracy (or Nawaz Sharif) had not acquired

the strength or confidence as yet to take on the military over some fundamental policy issue, and there seems to be no apparent reason for the military either to push Mr. Sharif out. He was not rocking any military boat and was busy building power plants and the China-Pakistan Economic Corridor, going about his job in an apparently non-obtrusive manner with the economy showing signs of significant improvement. There was no apparent tension brewing, no signs to challenge the military's well-established control of foreign policy or that with regard to India or Afghanistan, or of the military's anti-militancy programme which the civilian government supported. It is only after the fact that people have said that the military had a hand in his ouster, but again, reason and rationale seem to be lacking.

Even though Mr. Sharif was removed as Prime Minister, the government got another one — just like in 2012 — and has continued its daily duties with an eye to the elections in the summer of 2018. There is clearly an absence of leadership and civilian power, or confidence, which there were signs of under Mr. Sharif, but there is some business as usual. In fact, perhaps because there is no strong single leader, some progress has been made on some fronts. For ex-

ample, while Mr. Sharif was Prime Minister, Pakistan did not have a Foreign Minister, but the current Foreign Minister has been emboldened enough to even criticise the U.S. Similarly, another senior Minister, the Interior Minister, has, through social media, even criticised the Chief of the Army Staff's interfering comments about the state of Pakistan's economy. He even went on to say, on Facebook, that "some hidden hands and inertia of history are trying to drift the democratic process into [the] same old design" (meaning coups), but "we will break the cycle this time as all are committed to preserving continuity of [the] democratic process".

Perhaps the only worrying sign is that the Pakistan military continues to tweet that it supports democracy.

Capacity for attrition

One consequence of the disqualification of Mr. Sharif will be that while he may emerge as godfather, like Mr. Zardari of the PPP, others in his Pakistan Muslim League (N) will get a chance to lead and perhaps this may allow many other voices to emerge, as his absence has already made possible. Without an established and strong centre in his party, the chances of re-election might also be undermined, and this might allow the military and other anti-democratic forces to manipulate intra-party fissures in Mr. Sharif's party, creating an opening for Imran Khan's pro-military, conservative Pakistan Tehreek-e-Insaf to become a serious contender for power.

It seems that Pakistan's democratic challenges will continue to entangle with the more conventional civilian/military contestation over hegemony and power, as well as new challenges related to intra and inter-party dynamics.

S. Akbar Zaidi is a political economist based in Karachi. He also teaches at Columbia University in New York, and at the IBA in Karachi

Gathering the tribe

With different groups involved in the Naga peace talks process, hope of a solution grows



PATRICIA MUKHIM

Perhaps one of the most talked about issues as far as the Northeast is concerned is the Naga struggle for sovereignty which started a day before India's independence. In the Naga mind, this issue oscillates between nostalgia for its unique history and the promise of a better future without disturbing this irreplaceable past. The problem with reality is that it does not allow us to romance the past.

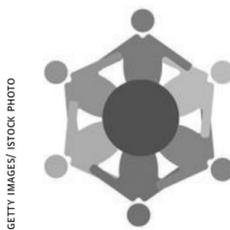
Myth and reality

The Naga national workers are no longer in the prime of their lives. The chairman of the National Socialist Council of Nagaland (I-M), Isak Chisi Swu, has passed away and Thuingaleng Muivah too is getting on in years. In an article, 'The Presence of the Past', Roger Cohen says, "As we grow older the past looms larger. The past is full of possibilities. The future may seem wan

by comparison and, for each of us, we know where it ends. With a bang or whimper..."

Reams have been written, several seminars and workshops organised, and there have been daily cogitations on the Naga peace talks since they started in 1997. In August 2015, when the Framework Agreement was signed between the Government of India and the NSCN (I-M), expectations were high that an "honourable settlement" was in the offing. The problem is with the use of words which lend themselves to several interpretations depending on who the stakeholders are. What is honourable for the NSCN (I-M) may not seem honourable enough to Naga society as a whole, with disparate aspirations and interpretations. Be that as it may, the Centre's Interlocutor for the Naga Peace talks, R.N. Ravi, has taken on a formidable task.

No other interlocutor has interacted with and met so many Naga National Political Groups (NPPGs) and civil society groups. For the first time, Mr. Ravi was able to push the envelope and create that integral space where all voices are heard with equal respect, sometimes at the risk of the NSCN (I-M) calling off



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the talks, since they felt that being signatories to the Framework Agreement, they alone have the right to call the shots. This fact needs to be appreciated. And it has to be understood that the Indian establishment too is not an easy customer. There is scepticism and there are doubts whether wider consultations would result in cacophony, making the task of arriving at a solution much more difficult.

A difficult path

For the interlocutor it's a tightrope walk. The Naga people are a proud race and have held fast to their cultures, traditions and language. Yet it cannot be denied that tribal loyalty often comes in the way of a collective discourse for the future of Nagaland. Perhaps one organis-

ation that has brought together people from all tribes is the ACAUT (Against Corruption and Unabated Taxation), which is seemingly inclusive of all tribes and a mass movement of sorts to protest against taxation by different armed groups and factions. So far, about 33 delegations, including the different tribal Hohos and recently the six NPPGs, have had their say. For Mr. Ravi, it is an opportunity to further understand how the Framework Agreement should pan out.

But Mr. Ravi's visit to Dimapur last month was also seen with some scepticism. A video clip of the public reception given to him drew some uncharitable comments. Is the pent-up rage and frustration among the youth due to the protracted peace talks or does the rage spring from something else?

The way forward

For the Naga people at this juncture, the most pragmatic step is to take a balanced view of the past. Obsession with one point of view hinders any kind of progress. With 16 major tribes, each with a sense of nationality of its own and every tribe having its village republics which is a crucial part of their cul-

ture, there will be divergent 'national' narratives. Naga nationalism is both a sentiment and a movement.

Ethnic boundaries of yore which went beyond geopolitical borders of the present nation can be both problematic and defy pragmatism. Then there is the issue of the Indian nation state, a term that is also problematic but which has provided its own stability for 70 years. If one were to go by Benedict Anderson's "Imagined Communities", then all the communities of the Northeast fall in that ambit.

In an interview to the *Nagaland Post*, Mr. Ravi said the ongoing peace talks may have been initiated by the NSCN (I-M) but it has now become more inclusive. One ray of hope as far as the Framework Agreement is concerned is that there appears to be a political consensus and faith in the process. This in itself is a huge step forward. Now that the tribal Hohos and the NPPGs have all thrown in their support, there is hope that the much-awaited political solution will arrive sooner than later.

Patricia Mukhim is Editor, 'The Shillong Times', and former member, National Security Advisory Board

LETTERS TO THE EDITOR

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Cleaning the rot

The judiciary, through judgments such as *Lily Thomas v. Union of India*, has tried to weed out corruption in politics and stop criminalisation ("Speed up trials of politicians, says SC", Nov. 2). While the clean-up drive has been caught in time-consuming judicial probes, what has been lacking is political will. The Election Commission has been struggling to find an effective tool to curb the entries of tainted contestants. A lust for power and the moral turpitude of many contestants have led to this situation. Only an efficient judiciary can do the task now.

DEVANAND VYAS, Bhopal

It is commendable that the Supreme Court is exerting pressure on the government to establish special courts to try criminal cases involving

political persons. There are some criminals being elected as our representatives and there are also elected representatives who turn criminal. The common thread in both these cases is that the victim is the public. With wealth reaped from corruption, politicians have more than enough money to engage the best lawyers and sail smoothly all the way from the lower courts to the Supreme Court. Legal luminaries try all the tricks in their bag to ward off the final verdict. In some cases, when the final verdict arrives, only conviction and not sentencing is possible as the person is dead by then.

MATTHEW ADUKANIL, Tirupattur, Vellore district

Quips and questions

Without going into the merits or/and demerits of the goods and services tax, I would request Congress vice president Rahul Gandhi to explain how his party, if

voted to power in 2019, will deal with the GST ("You have eased out businesses: Rahul slams Centre", Nov. 2). Will he scrap it in its present form? What modifications will he bring to it? Since he criticises it the most, it is also his duty to give a direct answer to the public without any other Congressperson having to speak on his behalf. And if not GST, he should also explain how his party will augment government revenue to meet its growing obligations and duties.

N. NARAYANAN NAGARAJAN, Chennai

A few days back, Rahul Gandhi referred to the GST as "Gabbar Singh Tax". Now he says ease of doing business is absent and what the government has done is to ease out business. In his speech, he referred to the World Bank as "some foreign institution". He seems to think that political success can be achieved by

hiding his poor understanding of affairs, through catchwords and phrases, and by turning up at trouble spots like Rae Bareilly. Should your paper be giving prime coverage to these statements and actions?

A. RAMACHANDRAN, Palakkad

Reason to cheer

India's improved scorecard in the World Bank's 'ease of doing business' index has come as a shot in the arm for the beleaguered Modi government that has been in the dock for the economic slowdown ("Moving up", Nov. 2). Private investment is one of the engines of economic growth and job creation. Businesses, both domestic and foreign, tend to flock to countries and regions which erect the least number of hurdles for setting up new ventures. India's federal structure demands that the States also

play a meaningful role in removing roadblocks to faster economic development. It is disappointing that the States have demonstrated a singular lack of interest in reforming four key areas of the economy: agriculture, land acquisition, real estate and property registration. The Opposition seems to be more interested in maligning the Prime Minister and his government than engaging in reasoned criticism that is backed by a broad and sensitive understanding of the future trajectory of the Indian economy.

V.N. MUKUNDARAJAN, Thiruvananthapuram

Sacred but polluted

It is not new news that the Ganga is terribly polluted but the finding that mass bathing may be contributing to anti-microbial resistance (AMR) is alarming ("Mass bathing in Ganga aggravates anti-

microbial resistance woes", Nov. 2). It would be cataclysmic if key antibiotics become ineffective against diseases. The impact of AMR on India is especially dangerous because of the widespread usage of antibiotics as over-the-counter drugs. The much-publicised Ganga cleaning plans of successive governments have not brought any improvement despite crores of money being spent on these drives. It is not enough to allot money, it should also be ensured that it is well spent. The government should ensure that sewage from towns and cities and pollutants from industries are not released into the river. While the battle is gigantic and long-drawn, it can still be won.

KOSARAJU CHANDRAMOULI, Hyderabad

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