



Sink your differences

A touch of pragmatism is what the judiciary and the executive need at this juncture

It is disconcerting that differences between the executive and the judiciary are emerging often in the public domain these days. By raising the question whether the judiciary does not trust the Prime Minister to make fair judicial appointments, and harping on the need to maintain the balance of power between the executive and the judiciary, representatives of the Union government have risked the impression that they are putting the judiciary on the defensive. Read between the lines and the executive's profound dissatisfaction with the state of play in relations between the two wings is evident. Union Law Minister Ravi Shankar Prasad is undoubtedly entitled to hold the view that the Supreme Court's 2015 verdict striking down the law creating the National Judicial Appointments Commission (NJAC) reveals the judiciary's distrust in the Prime Minister and the Law Minister. His question whether an audit is needed to determine what has been lost or gained since the collegium system was created in 1993 is not without merit. However, it is debatable whether these issues should have been raised in public, that too in the presence of the Chief Justice of India and his fraternity. Chief Justice Dipak Misra seemed coerced into responding that the judiciary reposes the same trust that the Constituent Assembly had in the Prime Minister, and that the judiciary indeed recognised and respected the separation of powers enshrined in the Constitution. There was really no need for such a public affirmation of first principles in a democracy.

However, it does not mean that major concerns over whether there is real separation of powers, whether public interest litigation has become an interstitial space in which judges give policy directives, and whether the country needs a better system than the present one in which judges appoint judges should be brushed aside. The present collegium system is flawed and lacks transparency, and there is a clear need to have a better and more credible process in making judicial appointments. It is clear that differences over formulating a fresh Memorandum of Procedure for appointments are casting a shadow on the relationship. It is best if both sides take a pragmatic view of the situation and sink their differences on the new procedure, even if it involves giving up a point or two that they are clinging to. For a start, they could both disclose the exact points on which the two sides differ so that independent experts will also have a chance to contribute to the debate. If it is the right to veto a recommendation that the government wants on some limited grounds, the Collegium must not be averse to considering it. Resolution of this matter brooks no further delay.

Road to chaos

Pakistan's government stands undermined at the end of a long face-off with extremists

The long stand-off between the authorities and Islamist protesters on the edges of Islamabad, once again, has exposed the vulnerability of the Pakistan government while dealing with extremist groups. The protesters, led by a little-known group, Tehreek-i-Labaik Ya Rasool Allah (TLY) paralysed the city by blocking the main road from Rawalpindi for three weeks, demanding the resignation of Law Minister Zahid Hamid. The demonstrations were purportedly a response to a proposed change in the oath for lawmakers that moderated the mention of the Prophet. Islamist groups, with Khadim Hussain Rizvi, the chief of Tehreek-i-Labaik, taking the lead, alleged that this amounted to blasphemy. Prime Minister Shahid Khaqan Abbasi appeared to have no idea how to find a way out. He withdrew the proposed amendment in the wake of Islamist protests, hoping that it would pacify them. When the crowd started blocking the road to Islamabad, the government first ignored it, clearly underestimating Tehreek-i-Labaik's capacity to sustain the demonstrations. When the protesters persisted, the authorities offered to hold talks. When that failed and its handling of the crisis came under judicial criticism, the government decided to use force, resulting in violent clashes between security personnel and protesters on Saturday, in which at least six people were killed and over 100 injured. Even then, the civilian leadership had to seek the Army's help to broker a deal with the protesters. It was after Mr. Hamid resigned as Law Minister that Mr. Rizvi finally asked his supporters to disperse.

The way the government handled the crisis and its final capitulation, under military mediation, to the protesters' ultimatum clearly point to the continuing erosion of executive authority. The Pakistan Muslim League (Nawaz) government, which suffered a massive setback in July when Prime Minister Nawaz Sharif was disqualified, is yet to recover its equilibrium. Mr. Abbasi must take part of the blame for what happened in Islamabad. He failed to act swiftly when the crisis broke. Instead, he waited and watched as the capital city was paralysed. By the time things came to a head, the military played its hand not just to help resolve the crisis but also to project the civilian leadership as being clueless. An equally worrying sign for Pakistan is that a political upstart with extremist views has showed it can hold the government to ransom. It is not clear whether Tehreek-i-Labaik has the support of the ruling party's rivals. But the pace at which thousands of supporters were mobilised in Islamabad against the government reinforces the sensitivity of the blasphemy issue in the country's politics. The growing street power of Islamist fringe groups, the reluctance of the government to take them on and the mediatory role the Army plays at a time when divisions among political parties run deep, all confirm the risk of instability in Pakistan.

Closing down a country

The Islamabad stand-off shows how the nature of democratic politics in Pakistan is changing



S. AKBAR ZAIDI

Around three thousand unarmed men, of a recently founded group, the Tehreek-i-Labaik Ya Rasool Allah (TLY), have been able to close down key parts of Pakistan's main cities, which include Rawalpindi, Islamabad, Lahore and Karachi. On account of state action taken against this very tiny group of Islamic protesters on Saturday near Islamabad, the Government of Pakistan closed down all television news channels for a day, except Pakistan Television (PTV), and shut down Twitter, Facebook and YouTube. Moreover, in Islamabad and Lahore, education institutions have had to be closed for two days, one day in Karachi.

The fact that the three-week-long dharna, even by just 3,000 unarmed men, has created such a major crisis for a government which is trying to stabilise itself under a new Prime Minister shows how a minuscule political entity can have such major consequences. Either non-mainstream actors and parties now do politics outside the rules of democratic politics or, the rules of democratic politics have changed to include disruptive and threatening gestures which might completely destabilise democracy itself.

In the shadows

In the case of Pakistan, in particular, the threat of destabilising democracy by extra-democratic means, has loomed large since the ouster of the military and the return to democracy in 2008. In 2014, a dharna organised by cricketer-turned-politician Imran Khan and Tahirul Qadri, a cleric who lives in Canada and flies into Pakistan at times of political crises, lasted four months. Much evidence since that time clearly sug-



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gests that the dharna was supported by very senior members of Pakistan's Army, who had clear designs to use the agitation as a means to dismiss Nawaz Sharif and his government. The fact that the then Chief of Army Staff, Raheel Sharif, decided not to intervene and dismiss the government may have been on the basis of expediency and prudence, rather than the military's support for democratic practices.

The Imran Khan/Tahirul Qadri dharna was peaceful, had many tens of thousands of participants including women, and did not cause any death on account of it. The current protest, in contrast, is tiny, but accounted for at least six deaths and 187 cases of injuries. Moreover, the 2014 dharna was confined largely to Islamabad (with some protest in Lahore), while the consequences of police action on this current protest in Rawalpindi and Islamabad instantly mobilised TLY group members and sympathisers in many cities across Pakistan, paralysing parts of Lahore, Faisalabad and Karachi, and even parts of Sindh and Balochistan.

For a small, apparently insignificant group, to be so well coordinated across diverse cities suggests that it has a cadre which responds well and quickly when members of the group need support. Of course, such well-coordinated action also gives rise to speculation that it is actually the military which is behind the protest of the TLY and is trying to

further destabilise a weak government. Of course, nothing could be farther from such fantasy.

The background

The background and the reasons for the protests in Rawalpindi and Islamabad – which have brought since key routes in and out of the city have been blocked – rests on the demand for the Law Minister to resign on account of a supposed change made in the oath by Members of Parliament about the finality of Prophet Muhammad, as per the Elections Act 2017. A change was made by Parliament in the oath to be taken, where the old "I solemnly swear ...", was replaced by "I believe...", and where the legal consequences remain the same. Parliament even realised that it had apparently made a "mistake" in approving this change, and opted to reverse its decision going back to the earlier wording. Islamists accused the Law Minister of blasphemy for this change in the wording of the electoral oath, and called for his blood. He refused to resign and they started their protests.

As happens in such stand-offs, it was expected that through some cajoling and over time, the protesters would disperse. They did not despite the rain that came and stayed put. The government then decided to push the protesters out, and security personnel were called in to remove them. Clashes occurred and the government soon backed off, leaving the prot-

esters holding firm, with protests launched in other cities as well. The civilian government called in the military "for law and order duty according to the Constitution" but the military was nowhere to be seen, a clear act of disobedience.

The government has been criticised for taking such a long time in removing the protesters and making a mess of the situation. With swift action it could have chased off the protesters. Instead, the organisation consolidated itself, gaining strength and support as it continued to resist.

Reaction and coverage

The reporting and analysis in the English language press has been indicative of the strong reaction towards the Islamist group. They have been called "zealots", "fanatics", "hard-line Islamists", "bigots", that they have "dark passions", are "hot blooded", and much worse. What is also interesting is how Pakistan's Interior Minister, Ahsan Iqbal, has quite bizarrely stated that his government has evidence that the protesters have "contacted India" and was "investigating the matter".

Before social media went off the air, there was strong reaction to the numerous remarks made by military spokesmen as well as the Chief of the Army Staff, General Qamar Javed Bajwa. Before the actions against the protesters started, Gen. Bajwa said that violence should be avoided "by both sides", i.e., the protesters and the government, which got a strong reaction from many on social media, pointing out that it was the protesters who were being violent, not the government. When the civilian government asked for the military's help in removing the protesters, he said that since the people "loved the Army", the Army could not become part of any such action. He stated that the Army "cannot take action against its own people", a statement which invited a barrage of criticism reminding the General of the military's action against its own people, in East Pakistan, Federally Administered

Tribal Areas, Balochistan, Karachi, and against the Okara peasants.

The protest, or siege as many called it, ended on Sunday night following an agreement between the protesters and the government. The agreement was mediated by a Major General of the Inter-Services Intelligence, and the Law Minister resigned. The signed agreement concludes with: "we are thankful to him [Gen Bajwa] for saving the nation from a big catastrophe", crediting the Army Chief and his representative team for their "special efforts". The Islamabad High Court in its proceedings on Monday morning criticised the Interior Minister for giving the military the role of "mediator", especially since the military had turned down the civilian government's request to intervene earlier. The judge asked: "Where does the law assign this role to a general?" The rather brave judge said that this was "proof of the military's involvement".

Even this tiny incident in Islamabad allows one to make a number of observations about the political economy of Pakistan: religious groups and parties are far better organised and committed than their liberal cousins, and civil society; the present government is suffering from the absence of Nawaz Sharif as Prime Minister, and the current leadership is weak; the military overrules its chief executive, the civilian government; and the military is needed to ensure agreements between the government and protesters. The role of Imran Khan and his party has been particularly opportunistic and pro-military in this encounter. It seems now that the nature of democratic politics in Pakistan is also changing, and even though elections are to be held next year, the ballot box will no longer be the only forum to determine political outcomes.

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In the name of faith

It is dangerous to push ideologies that are oppressive and spread fear



KAPIL SIBAL

People love to hate. But when they think that god is on their side, hatred becomes a matter of faith. That breeds violence. The Thirty Years' War, Shia-Sunni conflicts over centuries, the persecution of Jewish people, and in more recent times, the rise of the Taliban, the Haqqani network, and the expanding tentacles of the Islamic State are all attributable to faith based on hatred.

No justification

Violence for its own sake can never be justified or rationalised. It too needs a breeding ground. The invocation of the divine in this is what becomes the ideological basis of such acts of inhumanity.

Contrast this with Hindu philosophy. The discourse between Krishna and Arjuna on the Kurukshetra battlefield is an act of persuasion in which Arjuna has to

be convinced to strike at his cousins, the Kauravas. Krishna symbolises perfection; he represents no faith, he through logic convinces Arjuna to do his duty. The concept of duty is unrelated to any faith. The instinct of Arjuna is to abjure violence, hesitant to raise his bow and arrow against his cousins. The desire to do what is right and just is at the heart of the Hindu way of life. Our way of life constantly confronts us with choices and we must choose our path keeping in mind our duty to do what is right.

Even in the victory of good over evil, there is no sense of triumph. Violence, thus, is not just an act of last resort but is used as a weapon in defence. Our quest for the truth which emerges from our duty to do what is right requires introspection, analysing the problem, having a dialogue: all of which are essential before we act. That is why Hinduism imbibes tolerance as a philosophical tenet and allows for diversity of thought, central to our way of life: the reason for its survival over centuries.

In recent years, some protagonists of the Hindu religion have be-



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come intolerant, forsaken logic and made violence a weapon of offence as they seek to spread their footprint through imposition not assimilation.

Much is lost

A way of life, which is what Hinduism is, cannot be transformed into an ideology. In attempting to do so, the essence of Hinduism is lost. Ideologies can be muscular, oppressive, spread fear, seek obedience and leave no space for a conversation or dialogue.

The ideology of Hindutva has all these characteristics, alien to the Hindu religion. Hindutva's evangelical zeal has betrayed the Hindu religion we espouse. Hindutva brigades, as they rampage across In-

dia, represent the forces of obscurantism rather than Hinduism. The majoritarian way of life and culture and the necessity to impose it on others is what drives them. The cow is sacred. Anyone perceived to be trading in it is lynched in the name of cow vigilantism. This becomes an excuse to victimise those who are Dalits or belong to the minority communities.

The law is violated as it is sought to be informally enforced through these cow vigilantes. These Hindutva elements also express outrage if a Muslim boy happens to marry a Hindu girl. They treat it as an unholy alliance and term it "love jihad". Love is no longer a matter of personal choice but requires Hindutva's acquiescence. Courts too have got into the act and in one such case in a habeas corpus proceeding declared the marriage void, despite the protests of the girl who happens to be an adult. In the midst of all this, if the state looks on nonchalantly, this majoritarian approach is perceived to be endorsed by it.

Religion is a matter of personal faith, with the state having no role

to play. However, under the present regime, Hindutva forces are emboldened to push their agenda with impunity. The creed of tolerance is being replaced by intolerant spaces with a majoritarian mindset. Every aspect of a person's life is sought to be benchmarked by norms set by these forces. Uniformity of conduct is being sought to replace the terrain of diversity our Republic symbolises. Our culinary choices, what we wear, what children should learn, diversity of expression in all forms, are all sought to be circumscribed through the identity of a particular cultural mindset, violating the essence of Hinduism.

For those of us who hold contrarian views, this onslaught on Hinduism poses a challenge. How we deal with it will determine the way forward for the Republic, for the abiding values of humanity and inclusiveness it has always stood for and defended. We cannot afford to fail since we will not get another chance to succeed.

Kapil Sibal is a former Union Minister and senior Congress leader

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.

Trust the PM

The Law Minister's statement that the judiciary should trust the Prime Minister in the appointment of judges because he has the mandate of the people is totally uncalled for ("Why don't you trust the PM, Law Minister asks judiciary", November 27). The independence of the judiciary is essential for a healthy democracy because experience has taught us that a popularly elected government tries to interfere with the working of the judiciary. As the guardian of the Constitution, the Supreme Court should keep in check the power of a popularly elected government. An example is the Indira Gandhi government which also had a similar mandate and was popular. But we all know how time and again she tried to undermine the independence of the

judiciary. The point is that in matters concerning the judiciary, its working cannot be linked to a popular mandate. If this were so then all the judges should be appointed by the executive without any provision of "consulting the Chief Justice" in the appointment of judges.

JATAN MUDGAL,
New Delhi

■ It is surprising to note the anguish of the Law Minister. While the Prime Minister says that the balance between the executive, the legislature and the judiciary is the backbone of the Constitution, the Law Minister feels it to be a case of mistrust. Each pillar of democracy has its checks and balances. The Law Minister may feel that the Prime Minister can be trusted with the nuclear button, but that trust does not give the person occupying the post of Prime

Minister blanket permission to interfere in the independence of other institutions. If, as he states, the polity of the country will look into this aspect and alter the fine balance then it will sound the death knell of our democracy.

When the sacrosanct Constitution makes a clear distinction between the roles of the executive, the legislature and the judiciary, why should the Law Minister make statements that encroach upon the independent functioning of these pillars of democracy? Is it because the judiciary cannot be arm-twisted like the income tax and enforcement departments and the Central Bureau of Investigation to toe a certain line or is it a feeling of insecurity consequent to the accountability of the political class now being sought by the judiciary? The Constitution must be supreme and each pillar of

democracy should have its own role to play in the functioning of our great nation.

VARGHESE GEORGE,
Secunderabad

Dealing with China

"Revisionism" was the term coined by socialists in relation to the ideas of Democratic Socialists. It gained prominence during the late 19th century and has remained in the English vocabulary since without any apparent change in its meaning. The writer, in his article, "Smart-balancing China" (November 27), has begun by calling China an "inscrutable revisionist" and rising superpower. He has then referred to Chinese "revisionist" claims in the land and oceanic space and China's "revisionist" statements on Sikkim and Arunachal Pradesh. What he means by the term "revisionist" in this context,

he alone can explain. He has also referred to a 'historical rivalry' between India and China and its 'brazen inroads' into India's 'traditional sphere of influence'. One wonders whether such observations will be endorsed by any honest historian. M.B. NAIR,
Kannur, Kerala

Teacher and pupil

Cases of suicide by a college student and a few school girls, all separate incidents, have traumatised the teaching fraternity. Correcting a student is an important part of her welfare. The trouble is when

there is a public outcry and an academic act is labelled as a crime and penal action initiated. I feel that *kalvi kuzhus* or education committees must be activated to help bridge the gap between teacher, student and parent. The progress of students must be monitored at intervals by parents. The mental barrier of apprehending humiliation and punishment must be overcome. Teachers must also be guided and careful in the rightful discharge of their duties.

S. CHIDAMBARAM,
Chennai

MORE LETTERS ONLINE:
www.hindu.com/opinion/letters/

CORRECTIONS & CLARIFICATIONS:

A Business Review page story headlined "Mahindra on an American foray" (Nov. 27, 2017) referred to the plant in Detroit bringing in \$230 in investment. It should have been \$230 million.

A sentence in the Sunday Magazine story titled "Love, with strings attached" (Nov. 26, 2017) read: "Ram, being divinity, theoretically cannot cast shadows." It should have been "... cannot cast shadows."

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