



Outrageous defiance

Justice C.S. Karnan's continuance as a judge makes a mockery of the rule of law

He has brought the judiciary into disrepute, flouted all norms of judicial conduct and thrown an open challenge to the Supreme Court. His continuance as a judge makes a mockery of democracy and the rule of law. The case of Justice C.S. Karnan is no longer just strange or curious; it is disgraceful and intolerable. The Calcutta High Court judge's 'order' summoning the Chief Justice of India and six judges of the Supreme Court to his 'residential court' to face punishment under the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989, is yet another unacceptable affront to the apex court's authority. Justice Karnan's conduct goes against the assurance he gave the Chief Justice of India last year that he would foster a "harmonious attitude towards one and all". At that time, he had expressed regret for passing a *suo motu* order staying his own transfer from the Madras High Court to the Calcutta High Court, admitting that it was an "erroneous order" passed due to "mental frustration, resulting in loss of mental balance". The latest instance of his misconduct is in response to the contempt proceedings initiated against him by the Supreme Court for denigrating the judicial institution by making sweeping allegations, in a letter to the Prime Minister, against several judges. He had appeared in person before a seven-judge Bench on March 31, and was given four weeks to respond to the charge of contempt of court. It is quite apparent that he is only further damaging his own case.

The recalcitrant judge has a long history of alleging corruption among other judges, accusing some of caste discrimination against him, and often invoking his caste identity to take complaints against his peers and even Chief Justices to the National Commission for Scheduled Castes. In the past, he has passed judicial orders on matters pertaining to the selection of judges, even after being barred by a Division Bench from hearing them. He had once barged into a court during a hearing, and on another occasion into the chamber of the Madras High Court Chief Justice, "hurling a volley of invectives". Public criticism, transfer to another High Court, being hauled up for contempt and being denied judicial work – nothing seems to restrain him. The only option left is impeachment, but it is a political process involving Parliament and is something he himself may want so he can give full play to his alleged grievances, including those based on his caste. Justice Karnan's case vividly exposes the inadequacies of the collegium system of appointments. Nothing makes a better case for the infusion of greater transparency in the selection of judges than his current presence in the High Court.

The rights thing

The Army must act quickly on reports of the use of a human shield by its personnel

Reports of Army personnel using a young man as a human shield in Jammu and Kashmir's Budgam district must not only invite a swift inquiry and justice, but also compel the Army and the government to issue clear statements on the unacceptability of this shocking practice. A short video clip that went viral on Friday showed a man tied to the bonnet of an Army jeep being driven through the streets, as it escorted election officials on polling day in the Srinagar parliamentary constituency. Heard in the clip, on what appears to be the public address system of the vehicle, are the threatening words, "*Paththar bazon ka yeh haal hoga* (this shall be the fate of stone-pelters)." The man has subsequently been identified as Farooq Dar, a 26-year-old who embroiders shawls, and the Army personnel are said to belong to the 53 Rashtriya Rifles. There is a lack of total clarity on exactly what happened, including how long Mr. Dar was tied to the bonnet – he says he was subjected to this humiliation as the vehicle passed through 10 to 12 villages, while Army sources have been quoted as saying it was for just about 100 metres. But such questions relating to distance are hardly the issue. The larger point here is that if he was indeed forcibly strapped on to the bonnet, it amounts to an instance of gross human rights violation, and must officially be called out in clear terms.

Human shields have often been used cynically by terrorist organisations – the Islamic State uses civilians as shields in its battles, and the LTTE used them in the closing stages of the civil war in Sri Lanka. To use a person as a human shield is to abduct him, to hold him hostage, and to potentially put him in harm's way. There is no argument that the Army, which is caught in a situation in which terrorists attempt to blend in with the civilian population, is fighting a difficult and unenviable battle. But the difficulties in fighting a hybrid war do not constitute a justification for the use of human shields, which is categorised as a war crime by the Geneva Conventions. Only a couple of days before the human shield video surfaced, another one – which showed CRPF personnel exercising admirable restraint as they were pushed and beaten by youth in Kashmir – had gone viral. It is ironic and hypocritical that some of those who commended such self-control are now defending the indefensible use of a human shield. It is true that the polling in Srinagar was held in a hostile environment, the abysmally low 7% turnout being a reflection of local alienation as well as intimidation by militants to keep people away from voting. But the security bandobast was aimed precisely to reassure the people and not to force an 'us vs them' binary. The Army must expedite the inquiry and act against the erring personnel where warranted. Its response must also publicly affirm its Code of Conduct *vis-à-vis* civilians, which includes the clause, "Violation of human rights... must be avoided under all circumstances, even at the cost of operational success". To do any less would amount to being a party to rights violations.

The shifting sands of 2017

Elections across Europe will need to produce a new generation of leaders if its remapping is to be prevented



RAKESH SOOD

The Palazzo dei Conservatori at the Piazza del Campidoglio in Rome is certainly an impressive setting to celebrate a sixtieth birthday. Yet, for the 27 European Union (EU) leaders and the presidents of the European Council, the European Commission, the European Parliament, the European Council of Ministers, the European Central Bank and the Eurozone Finance Ministers who came together on March 25 to celebrate the founding of the EEC (European Economic Community) exactly 60 years ago, the mood was sombre. The strains of Beethoven's "Ode to Joy", the European anthem, failed to lighten it. There were more questions than answers; in fact questions posed by those not at the party.

British Prime Minister Theresa May had not been invited and was probably signing the formal letter invoking Brexit; two months earlier, U.S. President Donald Trump in an interview had predicted the breakup of the EU, though a month later he attempted a course correction but still praised the U.K. for taking a "smart decision"; there was also Russian President Vladimir Putin's increasing questioning of 'liberal democracy' and Turkish President Recep Tayyip Erdogan's indications that Turkey may no longer be interested in pursuing its EU membership!

EEC to EU

From a homogenous group of six countries (Belgium, France, Germany, Italy, Luxembourg and the Netherlands) in 1957 that formed the EEC, today's EU has 28 member countries. A milestone was the 1992 Maastricht Treaty which replaced the Community with the more ambitious EU and cleared the way for the introduction of the euro in 1999. Along the way, the EU was awarded the Nobel Peace prize in 2012.

Over the years, multiple European groupings have emerged, with overlapping memberships. The Eurozone consists of

19 out of the 28 members; the 31-member European Economic Area has the EU 28 together with Iceland, Liechtenstein and Norway; Schengen membership stands at 26 while NATO has over 20 European members. From being a cohesive whole, Europe is suddenly looking more fragmented. In 1957, the European experiment had been based on convergence and each time it faced a challenge, the clear solution was 'more Europe'. Today, the new answers are being described as 'a Europe at different speeds' or 'Europe with a variable geometry' which struggles to accommodate the inevitable divergences among the increasingly heterogeneous 28 members.

From 1957 to 1992, the European experiment was a customs union leading to a common market. Cohesiveness was ensured by a commitment to democracy (by definition also 'liberal' because the idea of 'illiberal democracy' had not surfaced) with security outsourced to NATO and the U.S. The reunification of Germany, the collapse of the Soviet Union and the introduction of the euro during the 1990s led to the EU entering uncharted political territory with the Maastricht Treaty. Ideas of a Common Foreign and Security Policy and a Common Security and Defence Policy emerged and with that came the creation of the position of the High Representative of the EU in 1999. Henry Kissinger had famously remarked: Who do I call if I want to call Europe? There was now a number but the EU High Representative's has remained a vexing and often frustrating job with major member states preferring to maintain and manage their own foreign and defence policies.

With the continuing economic strains posed by the 2008 economic crisis, political pressures generated by a more assertive Russia under Mr. Putin, the growth of jihadi extremism globally and radicalisation of Muslim minorities in Europe, and the migration challenge catalysed by Western interventions in Libya and now Syria, the balance between the political and economic impacts in Europe has begun to fray. Ageing populations and disruptive technologies add to the complexity.

European Parliament members, though elected directly, have been



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singularly unsuccessful in convincing their constituencies of the virtues of the European project. Meanwhile, national politics has seen a resurgence of nationalism. An anti-immigrant sentiment has taken hold, elites stand discredited and populism has pushed countries away from regionalism and globalisation. Sentiment has turned against the EU and its institutions and therefore 'more Europe' is no longer the acceptable answer. Brexit was just the first warning sign in 2016.

A crucial French election

Now, 2017 is a crucial year with elections in key European states. Last month, there was a palpable sense of relief when the Dutch Prime Minister Mark Rutte managed to keep his liberal party, VVD (The People's Party for Freedom and Democracy), in the lead in the national elections, despite a slide from 41 seats to 33, in a House of 150. In contrast, Geert Wilders of the PVV (Party for Freedom) managed to improve his standing from 15 to 20 on an anti-European, anti-Muslim platform. There had been real concern that Mr. Wilders would ride the Brexit-Trump anti-establishment wave. Many believe that Mr. Rutte's headline in banning Turkish Ministers to campaign among the Turkish community for the Turkish referendum on April 16 helped him get a second wind.

Later this year, elections are due in France and Germany, followed by Italy and Sweden in 2018. Of these, the French election is the most crucial where Marine Le Pen of the National Front is certain to clear the first round on April 23 in a

Carpool for cleaner air

High-occupancy toll lanes will combat air pollution and foster a more disciplined driving culture

ARMIN ROSENCRANZ & RAGHUVEER NATH

Air pollution in India causes at least a million deaths annually. In Delhi alone, over 30,000 people die every year due to air pollution, the main causes of which are increasing road traffic and factory pollutants, and crop and waste burning.

While the Arvind Kejriwal-led Delhi government undertook several measures at the end of 2016 such as shutting down thermal power stations for 10 days and prohibiting construction activities temporarily, air pollution has been on the rise. This is because most of these measures were temporary, aimed at combating the deadly haze that had enveloped the city at that time.

The odd-even (licence number) scheme undertaken by the government during the first half of 2016 was one of the most ambitious. However, despite the initiative, general air pollution in the city, which is measured by PM_{2.5} rose by 15% and 23% during the first and second phase of the odd-even rule, respectively.

This raises some important concerns regarding the current policy on tackling air pollution. While there are no easy answers, we need to look for new solutions.

A case for HOT lanes

One such solution is the creation of high-occupancy toll lanes, or HOT lanes. This refers to reserving one or more lanes on selected roads and highways for cars carrying more than a single occupant. This ensures that single-occupancy vehicles are restricted to the remaining lanes, thereby making the HOT lanes relatively faster (also through relaxation of speed limits for these lanes). While this was pioneered in the U.S. in 1969, its effective implementation in other countries such as China and Indonesia has encouraged millions of commuters to opt for car-sharing as it ensured them a speedier and less costly journey.

The success of this idea is exemplified by a 2005 report in the U.S., which revealed that two lanes with the high-occupancy vehicles 3+ (HOV 3+) facility between 6.30 and 9.30 a.m. saw a total of 31,700



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people in 8,600 vehicles (3.7 persons/vehicle), while the remaining four general purpose lanes carried 23,500 people in 21,300 vehicles (1.1 persons/vehicle). Moreover, the average travel time in the HOV lanes was 29 minutes, as against the 64 minutes in the general lanes. In India, however, such an idea is still far from being imagined; in Delhi, for instance, there exists no policy in relation to car-pooling till date.

There is also a greater cultural issue. Critics highlight that given India's peculiar disregard for lane-driving, the implementation of HOT or HOV lanes seems to be a long shot. However, the effective implementation of HOT lanes can provide significant incentive to fostering a more disciplined driving culture.

closely contested two-stage election. Republican candidate François Fillon's campaign has been faltering since disclosures that he had paid large sums to his wife from public funds for 'working' as his Parliamentary Secretary. This is not an uncommon practice among French politicians but since Mr. Fillon had campaigned as Mr. Clean, his image took a hit and his ratings plummeted from 30% to 20%. His loss has been Emmanuel Macron's gain.

A 39-year-old former investment banker with Rothschild, Mr. Macron joined President Hollande's cabinet for two years as the Economy and Industry Minister before quitting last summer to launch his own political party, En Marche (On the Move). He is seen as pro-business, pro-Europe and a social liberal. At present, he is running neck and neck in the opinion polls with Ms. Le Pen, who is expected to engage in sharper personal attacks on Mr. Macron in the run up to the final round on May 7. For Ms. Le Pen and her support base, Mr. Macron is the perfect target, part of the global elite, more at home with bankers and business leaders and disconnected with the workers and farmers. A Le Pen victory would push the EU into a mortal crisis as she has promised to quit the Schengen regime and take France out of the euro. Mr. Macron's challenge is that he is seen as a political neophyte with a political party that is less than a year old when the country is gripped with self doubt, insecurity and uncertainty!

Elections in Europe

In Germany, Chancellor Angela Merkel will be seeking a fourth term in September. Though currently in the lead, she faces a strong challenger in Social Democrat candidate Martin Schulz. The disruptor however is the new AfD (Alternative for Germany) led by Frauke Petry who describes herself as a 'nationalist conservative'. AfD was set up in 2013 and since then has gained representation in 10 out of 16 state parliaments. Ms. Petry is a Eurosceptic and seeks to reassert German identity while being anti-Islam and denying climate change.

Normally, Italian elections should take place in early 2018 but following Prime Minister Matteo

Renzi's stepping down earlier, these could be brought forward. The populist leader of the Five Star Movement, Beppe Grillo, is also pushing for early elections as his party is currently neck and neck with Mr. Renzi's Democratic Party in the opinion polls with a near 30% rating. Together with two anti-Europe groups – Berlusconi's Forza Italia and Matteo Salvini's Lega Nord – the Eurosceptic lobby crosses 55%. This is hardly surprising given that Italy has not seen any growth in per capita GDP since the euro was established in 1999.

Sweden, which will go to the polls next year, is also facing the 'nationalist Eurosceptic' malaise. Sweden Democrats, led by Jimmie Åkesson entered parliament for the first time in 2010 and by 2014, had emerged as the third largest party with 13% of the popular vote on the anti-immigrant and right wing populist platform.

Whither EU

Meanwhile Hungarian leader Viktor Orbán extols the virtues of 'illiberal democracy' and Turkey has lost interest in pursuing EU membership. EU's deal with Turkey, a year ago to curb the Syrian refugee influx, has been holding but European criticism of Mr. Erdogan's increasingly authoritarian moves has led him to threaten retaliation and he could well reopen the tap, causing another migration crisis in an uncertain year.

Mr. Trump has already asked NATO's European members to hike their defence budgets to the long promised target of 2% of their GDP, currently met by Poland and the U.K. At present, this is unlikely and only exposes fault lines that Mr. Putin will be glad to exploit.

Today, analysts agree that the expansion of both the EU and the Eurozone in the last decade was too rapid but the clock cannot be turned back. Creating exceptions to keep the experiment going merely creates an illusion of unity. The 2017 elections will need to produce a new generation of European leaders like Jean Monnet and Robert Schuman if a remapping of Europe is to be prevented.

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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.

Worry of cybercrime

Digital transactions have accelerated rapidly especially after the exercise of demonetisation by the government. Cyberattacks and the siphoning of money from bank accounts make the vulnerabilities of bank cyber security discernible, leaving account holders worried ('Sunday Special' - "Hacked: how \$171 mn stolen from Union Bank was recovered", April 16). There is an urgent need to overhaul the entire cyberinfrastructure in our country and develop a hack proof and robust system. Most States have not taken cybersecurity as a priority. Most districts in the country don't even have a cyber police cell which leaves citizens helpless and nowhere to go in case of any cyber misappropriation. The user has also to remain

vigilant. Proper dissemination of information and caveats from the central bank are the need of the hour.

GAGAN PRATAP SINGH, Noida, Uttar Pradesh

■ The disturbing report comes at a time when citizens are being coaxed into going digital. The fact that there is still the unresolved issue of at least ₹25 crore missing from various accounts with the Bank of Maharashtra must not be lost sight of. Insisting that Aadhaar be linked to almost every transaction in day-to-day life will also increase the possibility of information falling into the wrong hands. Unless banks come under greater scrutiny, NPAs are eliminated and proper safeguards put in place, we should not rush to embrace

digitalisation and endanger the savings of citizens.

S. VASUDEVAN, Secunderabad

Save Kulbhushan

The curious case of Kulbhushan Jadhav is a poignant pointer to the state of things in Pakistan. It is still a mystery how a single Indian tourist to Iran could intrude into Pakistan "to spy". Not a single associate who assisted him in the solitary mission seems to have been identified and it is not known what sort of intelligence was gathered by him, and how he sponsored espionage and sabotage single-handedly. Such a case involving the rights of citizens of other countries should have been heard in a civil court, but Pakistan seems to be the exception to this civilised norm. Apart from rendering the hapless

man legal and diplomatic support, India should send a special emissary to the nations that matter to expose the obdurate neighbour.

S.V. VENKATAKRISHNAN, Bengaluru

An ecological threat

This refers to a letter in this column ("The tree we love to hate", April 15) where *Prosopis juliflora* has been described in glowing terms. The tree is not a native species. Its roots can reach deep towards groundwater sources and deplete them. Groundwater is already a scarce resource and is being overexploited. There are many alternative species that are more environmentally friendly and which will not threaten the water table.

N.S. PRASIDHA, Krishnagiri, Tamil Nadu

AIDS-free by 2030

The goal of an AIDS-free world by 2030 may not be an easy task given that there seems to be a slackening in awareness creation and disease prevention. I remember the day, in 2000, when a camp on AIDS awareness was held in our school. We came to know about the various facts about the disease; we were told that even using an unsterilised blade in a

barber's shop was an unsafe practice.

Although huge sums of money are being invested by the government in prevention programmes, awareness among youngsters seems low. We need more catchy slogans to rekindle the spirit of awareness among people.

ASHISH DWEVEDI, Greater Noida, Uttar Pradesh

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CORRECTIONS & CLARIFICATIONS:

The scorecard which accompanied the report, "Spinnners help KKR defend 172" (Sport, April 16, 2017) wrongly said, *SRH won by 17 runs*. Actually, *KKR won by 17 runs*, as mentioned in the report.

A sentence in a report, "March exports climb 27.6%" (Business, April 14, 2017) said: "This resulted in a trade deficit of \$105.7 billion in FY17, wider than \$118.7 billion in FY16." It should have been "*narrower than...*"

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