



A controversial transfer

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

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

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

Belated realisation

An erratic President Trump changes his mind over talks with the Taliban

In a dramatic set of posts on Twitter, U.S. President Donald Trump announced the cessation of peace negotiations with the Taliban while also revealing that the insurgent group's representatives were to have participated in secret talks at the Camp David retreat in Maryland. This is yet another instance of the stock that the maverick President puts in personal diplomacy in the conduct of America's foreign affairs. His tweets abruptly seem to have indicated the end, at least for now, to the negotiations conducted by the chief U.S. negotiator, Zalmay Khalilzad, with the Taliban. Mr. Khalilzad had disclosed that he had reached an "in principle" agreement with the Taliban, but the details have not been revealed. The negotiations were over U.S. troop withdrawal from the country and assurances from the Taliban of not letting the country to be used as a safe haven for terrorists targeting the U.S. Mr. Trump said that a suicide car bomb attack in Kabul on Thursday was the trigger for his sudden decision. But the Taliban has been continually engaging in a series of wanton attacks against civilians throughout the course of the talks that the U.S. had with the group in Qatar. One estimate suggests that it has engaged in 173 terror attacks resulting in 1,339 fatalities in 2019 alone. The Taliban has perversely used the attacks as a bargaining chip of sorts, to undermine the Afghanistan government and to seek concessions on its own terms. It is not clear why Mr. Trump chose this moment to call off talks as little has changed in the Taliban's behaviour. What all this ambiguity reveals is Mr. Trump's erratic nature.

Afghanistan has continued to be wracked by inter-cine violence, with the Taliban increasing its control over several provinces and the government's writ prevailing only in the north-central parts of the country. A durable peace, with the U.S. seeking early troop withdrawal, is only possible if there are talks between all Afghan groups and other regional stakeholders, with a guarantee by the Taliban that it will eschew terror. But the Taliban has refused to engage with the Afghan government and the U.S.'s decision to delink the violence from the Doha talks only seemed to have emboldened the group. Mr. Trump must reveal the contents of the so-called "in principle" agreement and set more meaningful terms of engagement involving the Afghan regime in any further talks with the Taliban. It serves neither the U.S.'s own interests, as Mr. Trump seems to have belatedly realised, nor those of the beleaguered Afghan people if the Taliban is allowed to get away with repeated murder.

The Amazon fires, an alarm that lacks proportion

The effect of deforestation can be repaired slowly. Fossil fuel emissions cannot be put back in to where they came from



T. JAYARAMAN & KAMAL MURARI

The upsurge of global environmental anxiety over the recent spate of forest fires in the Amazon, apparently marking a renewed push to deforestation, is clearly testimony to the heightened awareness of the danger to human security represented by global warming. The provocatively anti-environmental and climate denialist views of Brazil's President, Jair Bolsonaro, and his colleagues, the reining in of environmental controls if not disabling them, the President's initial air of unconcern, and his absurd counter-allegations regarding the causes, have all contributed to exacerbating this anxiety. Predictably, this has drawn the ire of environmentalists, and public and government opinion globally, though the global media has been more circumspect.

Unfortunately, in this confrontation, facts and scientific evidence have become collateral damage, obscuring in the hype some of the substantive challenges to global climate action. The confrontation is also in danger of skewing the global discourse on climate policy, opening the way for unprecedented pressure from developed countries on the global South.

The emissions math

What has been the overall contribution of deforestation and land use change to global carbon emissions? As the Intergovernmental Panel on Climate Change (IPCC) notes in its Fifth Assessment Report (AR5), the cumulative net addition of carbon to the earth system from terrestrial ecosystems since 1750 amounts to 30 Giga-tonne (Gt) with an uncertainty of plus or minus 45 Gt. In the words of the IPCC in the AR5: "The net

balance of all terrestrial ecosystems, those affected by land use change and the others, is thus close to neutral since 1750."

The key word here is net. Though cumulative emissions from land-use change since 1750 amounted to almost 180 Gt, driven largely by the more than six-fold expansion of cropland, they were compensated by the 160 Gt of absorption by existing vegetation not subject to land use change. Fossil fuel use, in contrast, contributed 375 Gt since 1750, that is more than 12 times that of the net cumulative emissions from terrestrial ecosystems.

This pattern in carbon accounting also extends to annual emissions. On an average, the Global Carbon Project reports, fossil fuel emissions currently pump about 9.9 Gt of carbon annually into the atmosphere, while land-use change accounts for 1.5 Gt. But terrestrial ecosystems absorbed 3.8 Gt. Taking sources and sinks together, they are a net sink.

For tropical forests alone, following literature cited in the AR5, annual emissions (averaged over 1990 to 2007) due to deforestation and logging amounted to 2.9 Gt of carbon, while this was compensated by carbon absorption due to forest regrowth (1.64 Gt), recovering from deforestation and logging, and carbon absorption by intact forests (1.19 Gt). As a result, overall, tropical forests were marginally a source of emissions of about 0.11 Gt of carbon per year. Clearly there is no cause for complacency here, but nor is this yet an emergency.

No magic bullet

The story with respect to the Amazon River Basin and its tropical forest cover is very similar. By one scientific estimate, the Amazon, in 1980, stored 128 Gt of carbon, with 94 Gt in vegetation and 33 Gt in the reactive component of soil carbon. Subsequent evolution of the carbon storage in the Amazon, makes for a complex story. But while preservation of the Amazon as a carbon pool is essential, such



preservation clearly is not the magic bullet that would counteract the impact of fossil fuel emissions.

But the bottom line from this evidence is that fossil fuel emissions have a lasting impact of a kind that deforestation and land use change do not. The effect of the latter can be partially repaired over time, albeit slowly, as the data on tropical forests demonstrates, while untouched forests and living biomass continue to absorb carbon. Fossil fuel emissions from coal, oil, and gas cannot however be put back in to where they came from. Nor can their cumulative emissions be compensated by increased vegetation, since it will amount to increasing the cumulative absorption of terrestrial ecosystems to an improbable level. Forest ecosystems, in balance, will suffer from the overall impact of global warming, degrading their extent and quality.

Even the alarm expressed over the current forest fires in the Brazilian Amazon, lacks a sense of proportion. Data from Brazil's National Institute for Space Research shows that the number of fires this August, while large, is not exceptional. The year's tally, till August 25, was 80,626, a 78% increase year-on-year. However, in Peru it is 105% higher, and in Bolivia 107%, both part of the Amazon basin. There are forest fires elsewhere, extensive in Africa, particularly in Angola, Zambia and the Democratic Republic of the Congo (attributed to slash-and-burn agriculture), in Siberia (three million hectares) and in Canada, both attributed to unusually high sum-

mer temperatures (this July being the warmest month ever). Brazil's tally this year is nowhere yet near its highs from 2005 and 2010, when it exceeded 120,000 for the comparable period of the year.

Brazil's efforts

Brazil has also put in substantial effort over the last decade to slow down deforestation, with some notable success, reducing it by 2013 to 75% of its pre-2005 annual average, success that was hailed globally. It is quite likely that Mr. Bolsonaro represents a reaction to the tough measures that accompanied this effort, not only from agribusiness in soy and beef production, but also a large section of small farmers who found it difficult to shift from slash-and-burn to intensified cultivation. Apart from deforestation though, Brazil is by no means a high emissions country, and a model of renewable energy use from hydro power and biofuels.

What then has driven the global outrage against Mr. Bolsonaro? On the part of global public opinion, the notion that afforestation constitutes some kind of magic bullet to fight global warming, is a popular one. The Amazon was always the poster-child of conservation and biodiversity, and halting deforestation there a global cause célèbre among environmentalists and their movements. With global warming, the difficulty in slowing down fossil fuel emissions provides added fuel to such views, even if the evidence militates against them.

However, the attitude of the governments of developed countries and many international non-governmental organisations that share these views, is clearly driven by other considerations. These nations have notably failed to deliver in reducing their fossil fuel emissions. As a 2018 report of the United Nations Framework Convention on Climate Change (UNFCCC) has noted, the developed countries (excluding the former Soviet bloc nations whose emissions

plummeted along with their economies) have achieved a reduction of only 1.3% over 26 years from 1990. The only way to maintain the Paris Agreement's promise, that they brokered, of restricting global warming to well below 2° C or indeed 1.5° C is by turning the screws on mitigation in the non-industrial sectors. These sectors play a major role in the emissions of most developing countries, however low they may be in absolute terms.

Pressure tactics

Mr. Bolsonaro's revolt is particularly unwelcome in this context, even if it is inspired by the United States, and its President, Donald Trump. But while a superpower cannot be brought to heel, nor indeed can large developing nations such as China and India, Brazil is a softer target. The threat by the French President, Emmanuel Macron to block the EU-Mercosur trade deal to mark the European Union's displeasure marks a new low in the global North's pressure tactics on the South in dealing with the climate challenge. In a dangerous portent, a noted U.S. foreign policy commentator, Stephen Walt, writing recently in *Foreign Policy* magazine, speculated on precisely such tactics. He further speculated that "major powers" could intervene even militarily to discipline nations recalcitrant in climate action. Global talk of a climate emergency that is not grounded in scientific evidence, however well-intentioned in their origins, could also unwittingly fuel thinking along these lines.

The Amazon and other terrestrial ecosystems offer much needed room to manoeuvre in dealing with global warming. But without reducing fossil fuel emissions drastically and the global North paying back its carbon debt by taking the lead, there can be little hope of meeting the climate challenge.

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Giving age-old ties a new shine

Beyond its burgeoning trade links with India, Russia has emerged as a balancer in India-China relations



DMITRIY FROLOVSKIY

Despite the Russia-India-China triangle reconciling on a shared vision and responsibility for the future of Eurasia, watchfulness resurfaces behind the curtains. As the U.S.-China trade war is tending to get out of hand and China may invigorate its outreach throughout the continent to toss American presence, the strategic triangle might soon face increased pressure that could challenge the existing balance of power.

Though Russia and India benefit from the current status quo in interactions, enhanced exchange and geopolitical coordination, neither country is interested in becoming hostage to China's galloping regional ambitions. New Delhi is specifically concerned about Moscow growing more dependent on Beijing, while the Kremlin wants to avoid possible rifts in China-Indian relations.

Such beliefs act as powerful catalysts to boost more fruitful cooperation between the two nations on a number of areas.

More fruitful cooperation

In 2017, the bilateral economic turnout grew by almost 22% and by more than 17% last year; trade is projected to touch \$30 billion by

2025. Despite Russia's well-known trade model that is often marked by asymmetry, exporting raw materials and importing value-added products, this does not seem to be the case with India any longer.

A few years ago, Russia's oil giant, Rosneft, invested \$12.9 billion in India's second largest private oil refiner, Essar Oil, marking one of the biggest foreign investments in years. Russia is also studying the feasibility of the Nagpur-Secunderabad High Speed Rail and the construction of major energy and transportation projects.

Petrochemicals is another area that Russian companies are looking at. India is now the world's fastest growing market for butyl rubber and halogenated butyl rubber thanks to its rapidly expanding car manufacturing industry which is pushing for electric vehicles. In February 2012, Sibur and Reliance Industries entered into a joint venture, setting up the Reliance Sibur Elastomers Private Limited in Jamnagar, Gujarat. The region's first butyl rubber halogenation plant is set to become operational this year and has a capacity of 120 ktpa of butyl rubber and 60 ktpa of halogenated butyl rubber, respectively. In addition, Sibur has agreed to share proprietary butyl rubber technology, staff training and access to the complex equipment of polymerisation reactors, which is unprecedented for a Russia company and marks a unique case of partnership between the two countries.

The new areas of cooperation



contribute to those where India and Russia have already developed a relatively stable pattern of interaction and exercise evolved traditions on the state level. Dwarfed by the Soviet times and experiencing an overall decrease in total market share, Russia, nonetheless, continues to serve as the largest arms supplier and just recently signed an agreement to carry payments through national currencies to circumvent the Countering America's Adversaries Through Sanctions Act norms of the U.S.

In October last, Moscow and New Delhi signed a \$5-billion S-400 air-defence system deal that is among the agreements cumulatively worth \$10-billion. The list includes joint production of Kamov Ka-226T helicopters, four Admiral Grigoryevich-class frigates and a joint venture in Amethi, Uttar Pradesh, producing 750,000 Kalashnikov AK-203 rifles. More deals are under way, including acquiring additional Su-30 MKI and about 21 MiG-29 fighters, as well as possible participation in the multi-billion 'Project 75' of the Indian Navy and the Indian Air Force's contract for

114 fighter jets.

Strong personal ties between Russian President Vladimir Putin and the Indian Prime Minister Narendra Modi act as additional powerful catalysts. Moscow played a key role in facilitating India's membership in the Shanghai Cooperation Organisation, which allegedly helped to dilute China's dominance. Mr. Modi has also become a regular at Russia's key national events and the two met during the Russia-India Summit on September 4-5.

The China factor

Demand to boost relations also prevails in the corridors of the Kremlin. Currently, China's GDP is four times larger and defence spending almost three times bigger than that of India. As both nations also have prolonged territorial disputes that occasionally turn into border stand-offs, a peaceful exchange between New Delhi and Beijing is perceived as fragile and Moscow's balancing role seen to be in high demand.

Russia's relations with India rely on traditions that follow from Soviet times and encompass New Delhi's quest to sustain balanced and diversified policy that keeps enough space for manoeuvring.

In 1971, India signed a treaty of friendship and cooperation with the Soviet Union to balance a China-U.S. rapprochement, a move that performs a vital role in Russia's interpretation of Indian foreign policy till date. Thus, Moscow is aware of New Delhi's long-term quest to diversify its

economic and political relations to preserve maximum independence in decision-making. In effect, close U.S.-India relations do not seem to be having a serious impact on the exchange.

Despite the agreement to bypass U.S. sanctions and use of national currencies with Moscow, New Delhi is still hoping to acquire a waiver from the White House. India acknowledges Washington's support in its claim for a permanent seat at the United Nations Security Council. India has also benefited from the rift in Pakistan-U.S. relations that emerged under the Trump administration and it became more assertive in Kashmir by revoking its special status.

Although Russia acknowledges its augmenting dependence on China, it also envisions potential threats to the current balance of power in Eurasia. Unlike in Europe, however, Moscow is not willing to punch above its weight and prefers the role of an intermediary. New Delhi acknowledges Moscow's growing dependence on Beijing that has accelerated amid the Kremlin's never-ending mele with the West. Nevertheless, with the Eurasian balance of power at stake, the need to bet on each other seems to be a shared strategy that supplies strong impetus to greater cooperation.

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LETTERS TO THE EDITOR

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A Justice resigns

Befitting her office and position, Justice Vijaya K. Tahiramani had no choice but to gracefully submit her resignation. With only three women judges in the Supreme Court and 73 judges out of the 670 judges (about 11%) serving in various High Courts, women's representation in the higher judiciary needs to significantly improve. Judiciary has a gender problem and the fact that some have still managed to get through this barrier is to be admired. The list of

pending cases awaiting disposal is long and India has one of the world's lowest judges-to-population ratio. Senior judges like Justice Tahiramani should be posted to places where their experience can aid litigants and speed up justice (OpEd page, "An arbitrary transfer, a graceful resignation", Sept. 9).

H.N. RAMAKRISHNA,
Bengaluru

The transfer has once again raised questions about the functioning of the

collegium system. Once her request for reconsideration stood rejected, Justice Tahiramani was left with no option but to resign. Here, one is not too sure whether she had to pay the price for her judgment in the Bilkis Bano case. If so, this is worrisome. The transfer is repugnant to all established administrative norms, raising questions about whether the collegium is at all insulated from being influenced by extraneous factors.

S.K. CHOUDHURY,
Bengaluru

Fit and fierce

The firebrand advocate's writings on sociopolitical issues demonstrated his amorphous intelligence (News page, "Ram Jethmalani, an unrepentant maverick", Sept. 9). He was physically so fit that, if confronted, he would invite the opponent to play a game of badminton. No one accepted such a challenge. As a lawyer, he was proficient and knowledgeable in all branches of law. His acerbic tongue was feared by judges. He was of the

considered opinion that transparency and honesty should be the bedrock in one's discharge of duties. He did not mellow down with age and this quality makes him special even in his passing.

V. LAKSHMANAN,
Tirupur, Tamil Nadu

Nearly there

It was unfortunate that the lander module Vikram lost communication with ground stations just before the expected smooth moon landing. However, it is a cause for celebration that it

has been spotted, a little away from its intended touchdown point. Though space experts feel that it may not be possible to resurrect the lander, India can be proud that the mission's execution was near-perfect. Scientific endeavours are successful not at the first instance but after a series of trials and errors ("Chandrayaan-2 orbiter spots lander on moon", Sept. 9).

A. JAINULABDEEN,
Chennai

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