



## Mending the rift

The international community must push for a resolution of the Qatar crisis

The fact that Saudi Arabia, Egypt, Bahrain and the United Arab Emirates have handed over a list of demands to the Qatari regime should, on the face of it, indicate some progress in the impasse created after they cut ties with Qatar. The list has not been officially released, but is reported to include demands that Qatar snap all but trade ties with Iran, end military co-operation with Turkey and shut down the Al Jazeera news network. It may be that many of the demands are only meant to be bargaining counters – even U.S. Secretary of State Rex Tillerson, who has been running the backroom negotiation along with the Emir of Kuwait, said they are “very difficult for Qatar to meet”. In any case, such demands on the list may be more understandable if these countries complied with them as well. For example, in asking Qatar to disown ties with al-Qaeda and the Islamic State, Saudi Arabia, Bahrain and the UAE cannot ignore their own role in building up Sunni extremist groups across West Asia, sometimes in partnership with Qatar. The UAE has a thriving business relationship with Iran. And while the Saudi-led bloc may object to “negative narratives” and the platform given to their dissidents on Al Jazeera and the other news outlets named, it is unlikely that they will lean too much on the internationally recognised news networks to close shop. The bulk of the demands, however, focusses on asking Qatar to enforce its own commitments from the 2014 Riyadh declaration of the Gulf Cooperation Council (GCC) on ceasing support to extremist and terrorist groups. This indicates that a path is being cleared for a resolution to the current crisis. The next few days will be crucial in ensuring the outcome.

There are implications of this crisis that India and the international community cannot afford to ignore. While the action against Qatar is mainly political and nowhere close to the Saudi-led action on Yemen, where more than 10,000 people have already been killed, in both cases the muscle power of the regional bullies has been allowed to prevail over a weaker nation. The treatment of Qatar could well become the playbook for future diplomacy, which would lead to a further weakening of the international order, the rule of law and the UN system of conflict resolution. There are also signs that this may be the precursor to a larger conflict with Iran. This is a troubling scenario for the world, and for India in particular with its commitment to build connectivity and shore up oil reserves. The impact of any conflict in the Gulf cannot be over-estimated, given India's dependence on oil supplies and remittances from some eight million Indians based there. For New Delhi to continue to be as sanguine about the Qatar crisis as it appeared to be a few weeks ago, when External Affairs Minister Sushma Swaraj called it an “internal matter” of the GCC, is no longer an option.

## In another court

K. Srikanth, Sai Praneeth and H.S. Prannoy have transformed men's badminton in India

K. Srikanth brought joy in two equal helpings. The 24-year-old won back-to-back badminton titles in the space of eight days, on Sunday adding the Australian Open title to the higher-rated Indonesia Open he had clinched on June 18. Success is not new to Srikanth, and in Sydney his domination of an elite field could be gauged from the fact that he dropped just one game in five matches. Even more heartening, he is part of a cohort in Indian men's badminton, with the likes of B. Sai Praneeth and H.S. Prannoy, who have been beating elite players this season. For instance, Srikanth has upstaged the current World No. 1, Korea's Son Wan Ho, twice in two weeks and raced past the reigning World and Olympic champion, Chen Long, in Sunday's final at Sydney. He will be back in the world top 10 ranking this week, having also beaten World No. 4 and the top-most Chinese, Shi Yuqi, twice this year. In fact, Srikanth, who had overcome a bout of brain fever in July 2014 to become World No. 3 a year later, has beaten all the leading Chinese players. Praneeth, winner of the Singapore Open and the Thailand Open, is finally realising his potential. Interestingly, Praneeth holds a 5-2 head-to-head record against Srikanth, and the latter's dream run is bound to increase his confidence of also beating the best in the world. Prannoy, unbeaten in this year's Premier Badminton League and conqueror of the legendary Lee Chong Wei and Chen Long in successive matches in the Indonesia Open this month, will also expect to strike it rich going ahead. In sum, Srikanth, Praneeth and Prannoy are on track for a potential podium finish in the World Championship in Glasgow in August.

With Saina Nehwal and P.V. Sindhu maintaining their formidable challenge in the women's game, Indian badminton now has a strong nucleus of the world's best. The biggest gain of late has been the consistency with which the male shuttlers are delivering, with each believing he has the game to outdo the other. This healthy competitiveness, coupled with the maturity and patience shown on the court of late, is paying dividends. Srikanth has wisely refrained from being in attack mode at will. Known for his powerful smashes, his current use of soft strokes and deft touches is proving very effective, complementing the deep clearances from the backhand corner. Pullela Gopi Chand's role in the success of these players is well-known; Indonesian coach Muljo Handoyo too has clearly made an impact, especially in rallying the players to think clearly in the heat of a match. As a result, Indian shuttlers are no longer 'choking' against more illustrious rivals. Significantly, all the leading overseas players today have lost to an Indian at least once. On current form, at least a medal each from the men's and women's singles in this year's World Championship is now a realistic expectation.

# A controversial inheritance

P.N. Bhagwati was India's most influential judge — it's time his legacy is revisited



ANUJ BHUWANIA

Justice P.N. Bhagwati, who died recently, at 95, is perhaps the most influential judge independent India has had. What Indira Gandhi is to Indian politics, Justice Bhagwati is to the Indian judiciary: their legacies have endured, having engineered a populist democratisation based on radical rhetoric, but at very heavy costs to the institutions themselves.

One can see strong resonances of Mrs Gandhi's style in the Modi government's mode of functioning in their all or nothing friend or enemy view of politics, with complete disregard for the autonomy of institutions. Similarly, with contemporary standards of judicial behaviour, pronouncements pandering to the lowest common denominator – calling for the cow to be declared the national animal, imposing the national anthem on cinema-goers and imposing thoughtless prohibition near national highways – while simultaneously displaying pusillanimity in institutionally vital cases against the Central government such as Aadhaar, the Money Bill and the Delhi government cases. The very condition of possibility of such playing fast and loose with the law are Justice Bhagwati's landmark interventions.

### Charting a way to power

Just as nationalism has now emerged as the currency of contemporary judicial populism, socialist rhetoric was his path to power. He was appointed to the Supreme Court in 1973 at the height of Mrs Gandhi's ideological onslaught on the judiciary, with her call for a 'committed judiciary'. The *Kesavananda Bharati* judgment



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had recently been delivered, in which the Supreme Court had dared to stand up to Mrs Gandhi and had declared the Constitution's basic structure as un-amendable even by her brute parliamentary majority. In the aftermath of this judgment she superseded the three senior-most majority judges leading to their resignations, and appointed Bhagwati and Krishna Iyer to the Supreme Court.

Two key points deployed in Mrs Gandhi's mid-1970s attack on the judiciary were the inaccessibility of the legal system and its alien British form. The responses were also twofold: the expansion of legal aid and the injection of indigeneity in legal institutions, respectively. Legal aid was even declared part of the Emergency's flagship Twenty Point Programme. The two recent judicial appointees, Justices Krishna Iyer and Bhagwati, enthusiastically responded and penned successive reports proposing 'nyaya panchayats' as the silver bullet solution to both the problems. The challenge of democratising access to courts could have been met through an expansion of legal aid. Instead the solution was seen as creating parallel informal institutions, diluting judicial procedure by short-circuiting basic principles of adjudication. These visions of paternalistic deprofessionalised indigenism provided the basis for future developments such as Lok Adalats at the lowest level, tribalisation at the

intermediate level and Public Interest Litigation (PIL) at the highest level of the judiciary. For the part they played in this process, Professor Upendra Baxi later wrote that the two judges “remain vulnerable to the charge of acts as legitimators of the emergency regime”.

### Moving to extremes

Justice Bhagwati soon proved his loyalty to the Emergency regime much more directly: as part of the majority in *ADM Jabalpur vs Shivkant Shukla*, which upheld the constitutionality of the draconian Maintenance of Internal Security Act (MISA), and declared that even the right to habeas corpus would not survive during the Emergency. Justice Bhagwati was justly targeted for his role during the Emergency after the 1977 elections. He soon moved to the other extreme, and proved his loyalty to the Janata government by upholding its use of Article 356 against Congress-led Legislative Assemblies, a decision with disastrous consequences for Indian federalism. He did another somersault after Mrs Gandhi returned to power in 1980. He was the only judge in the *Minerva Mills* case to uphold her Emergency era amendment immunising any statute implementing a directive principle from judicial review for violating Articles 14 and 19, thus giving primacy to directive principles over fundamental rights. Accordingly, a statute implementing pro-

# Who's afraid of neutrinos?

The India-based Neutrino Observatory would greatly advance scientific research



RAVI KUCHIMANCHI

Which one of us would not have applauded Galileo in January of 1610 when he trained his telescope for the first time on Jupiter and observed four dots alongside it? Within days he noticed that the dots seemed to be going around Jupiter... they were its four largest moons!

Today, very large telescopes send us iconic images of distant galaxies and of faint remnants of the light produced by the Big Bang. The light from the moons of Jupiter was always falling on earth. It took a telescope to detect it because it was so feeble and could not be seen with the naked eye. Interesting things, telescopes. They observe something that is already there. They do not produce what they observe.

### Just like light

There are two other things that, like light, can travel great distances in the universe, and therefore can be usefully observed. The first of these are gravitational waves. Predicted by Einstein's famous theory, these waves travel at the speed of light and are produced when very

heavy objects such as black holes collide. Gravitational waves were first detected in September 2015 by the Laser Interferometer Gravitational-Wave Observatory (LIGO). As the waves passed, LIGO measured that they expanded and contracted the earth a tiny bit for a fraction of a second. The measurement told us that the colliding black holes were 30 times the mass of the sun, 1.3 billion light years away, and during the collision, the mass of three suns just vanished to produce the energy of the gravity wave that spread across the universe. However, LIGO did not produce the waves that it observed.

They were produced by cataclysmic events, and we wouldn't want to be anywhere near them, but observing them through LIGO is like receiving a postcard from that collapsing, tragic part of the universe that even light cannot escape from.

The only other particles that can zip through the universe at speeds very close to that of light are called neutrinos. The biggest nuclear reactor that most life on earth derives energy from is the sun. Like all nuclear reactors, in addition to giving out energy (heat and light), the sun also emits neutrinos. We have all seen sunlight. Can we also observe the billions of neutrinos the sun emits every second?

In the mid-1960s, when solar neutrinos were observed through the first neutrino telescopes, it quietly unleashed one of the



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biggest revolutions in our knowledge of the laws of physics that govern the universe. Raymond Davis and John Bahcall detected that only half the neutrinos that the sun was emitting towards the earth were actually reaching us.

The reason? As they travelled the distance from the sun to the earth, the neutrinos were changing from electron-neutrino type that the sun was emitting to muon-neutrino type, and thus escaping detection. All the laws and forces of nature that we know of, other than gravitation, are described by what physicists call the Standard Model. It predicted that neutrinos, which come under three types or flavours – tau-neutrino, electron-neutrino and muon-neutrino – would not oscillate from one flavour to another. The discovery that they do meant that the Standard Model or the basic laws of physics had to be further modified. Thus, through the neutrino detectors we are actually observing the fundamental laws of physics at the cutting edge.

The proposed India-based Neutrino Observatory (INO) aims to ob-

hibit, or prohibiting cow slaughter, or introducing uniform civil code, or pursuing 'socialism' would be immune to judicial challenge for violating the rights to equality and freedom. If this sounds rather familiar, it is because the Indian judiciary has implicitly followed the logic of Justice Bhagwati's dissenting opinion in recent years. In the Judges' Transfer case, he went on to explicitly support the appointment of judges based on their ideological predilections, i.e., court packing for a 'committed judiciary'. When the constitutionality of the National Security Act, 1980, Mrs Gandhi's successor statute to MISA, was challenged, he got another chance to somewhat undo the notoriety of the Habeas Corpus case, but he upheld this law as well. In spite of such an appalling record on civil liberties and such open servility to regimes in power, how did Justice Bhagwati acquire such a heroic reputation?

### Behind the PIL

Much of Justice Bhagwati's fame rests on his role in pioneering the PIL. In fact, PIL letter petitions would initially be personally addressed to him, rather than the court. This enabled him to sidestep the then Chief Justice's role in allocating cases, also leading to allegations of soliciting petitions. More enduringly, instead of grounding the PIL in rules and principles, his view of legal procedure as the enemy of justice meant that all aspects of procedure in PIL cases were diluted, removing all checks on judicial arbitrariness and making it a juggernaut annihilating all procedure. The dilution of locus standi could have been grounded in some notion of 'representation standing'. In its absence, most PILs are filed by citizens unconnected to any issue. In the *Bandhua Mukti Morcha* case, he diluted evidentiary standards in PIL cases to an extent that proved catastrophic in the long run. He also was the first judge to openly legislate in a PIL relating to inter-country adoptions,

creating another dangerous precedent.

Justice Bhagwati is also famous for his judicial improvisations. Based on the idea that 'arbitrariness is the antithesis of inequality', he introduced a new test to examine violations of 'Right to Equality'. This test is however completely illogical, as constitutional scholar H.M. Seervai demonstrated. Even more famous is his pioneering 'right to life jurisprudence' in the *Maneka Gandhi* case. A negative right against the state's illegal deprivation of any individual's life or personal liberty has since been interpreted as a positive right to life, making it a receptacle for all manner of socio-economic rights. The only right it now seems to exclude is the literal mandate of Article 21. Another instance of careless improvisation is his unnecessary innovation of 'absolute liability' as a principle of liability in cases of injury caused by inherently hazardous industries. Needless trying to remove the few exceptions that the time-honoured principle of strict liability allowed, once again Justice Bhagwati was set on winning the tournament of competitive radicalism that his vision of judgship entailed, regardless of institutional costs. This has been his most enduring legacy as a role model for future judges: to think of their judicial role instrumentally as social activists and not mere jurists. A certain looseness of legal language entered Indian appellate judgments and radical rhetoric became the path to power for Indian judges. The value of careful judicial prose declined as fidelity to law no longer mattered, what mattered was the show of ideological commitment.

Justice Bhagwati's legacy lives on. But it is high time we revisit it.

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causes radioactivity and have compared it with the dangers of having a nuclear power plant or radioactive material in the neighbourhood. This cannot be true since the neutrinos, whether they are naturally occurring in the atmosphere or from the sun, or are emitted by far away man made nuclear reactors and sent in beams of neutrinos with few GeV energy, are very feeble and weakly interacting particles that we can't even see or feel without the help of an observatory. Beams of neutrinos are being sent to the NOVA neutrino detector in the U.S. and to the T2K neutrino detector in Japan every day. Moreover, being the lightest matter particles, the neutrinos do not decay into any other particles, as everything else is heavier – so they are not like uranium which decays radioactively into smaller atoms. All the INO would do is to provide the lens to observe neutrinos as they are too feeble or faint to be detected by the naked eye. It does not create a radiation hazard or put us in harm's way. While we should ensure that the tunnel is dug with proper environmental safeguards and the project has various clearances, raising the spectacle of radiation hazards and comparing it with nuclear or thermal power plants is spreading false fears and is unscientific.

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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.

### Power to punish

The privileges in legislative institutions to protect the freedoms of speech and expression in the House and in ensuring that undue influence, pressure or coercion are not brought on the legislature in the course of its functioning were constituted in the good old days when sessions were conducted in the right spirit. But what is the situation now? In Parliament and our Assemblies, crores are spent on unproductive sessions, which defeat the very purpose of those privileges. Under these circumstances, if our legislators had felt that they were being defamed, they could have sought judicial remedy in their individual capacity. This appears to be the era of imposing a heavy punishment for small mistakes in the guise of mis-utilisation of the

freedom of expression. The legislature has enormous powers, but these should not be at the expense of the liberty of critics. Criticism must be taken by our representatives in the right spirit, who must try and see whether any of those levelled are right. Constructive criticism is the backbone of any democracy (Editorial - "Whose privilege?" June 26)

B.S.N. RAO,  
Thesemavaram, Andhra Pradesh

### Dissent vs. violence

Zoya Hasan conveniently forgets to mention the violence resorted to by unscrupulous elements posing as "farmers" by burning private properties and stoning buses with passengers, but instead condemns the government's action in imposing Section 144 of the CrPC and other restrictions in Mandsaur,

Madhya Pradesh ("Restricting protests, stifling descent", June 26). While police firing is condemnable, she should have criticised the violent incidents which led to many police personnel being injured. She also tries to justify the visits of Opposition political leaders to protest sites. These are only for political gains. Has Ms. Hasan forgotten how people were injured in police action in Darjeeling only because it is happens to be an Opposition-ruled State? Freedom of expression, dissent and the right to protest are essential in a democracy but people taking the law into their hands and subjecting innocent people to hardships should be severely dealt with.

M. AMARENDER REDDY,  
Secunderabad

### How smart?

The editorial, "Being smart", and the Magazine article, "A less concrete solution?" (both June 25) should be eye-openers to the officials concerned. One only wishes that some of the ideas, such as using raw data on pedestrian movement and ensuring a base of reliable civic services, are ensured in the smart city project. I am deeply concerned about the lack of encroachment-free footpaths for pedestrians to walk on safely, comfortably, and with dignity. The vision for smart cities needs to be done in consultation with those who live in these areas.

B.R. SANT,  
Hyderabad

### Reforms in sport

To say that there has been a total failure in the functioning of the BCCI may

not be fully correct ("Last wicket stand", June 26). That the Augean stables of the cricketing body need cleaning has been taken cognisance of and is under the supervision of the Supreme Court. There may be a few setbacks to Indian cricket in the form of Ramachandra Guha and Anil Kumble stepping down but this does not mean it's the end. The silver lining is the way the Indian cricket team is progressing. We produce great batsmen but always seem to struggle to groom fast bowlers and quality spinners. As far as match results are concerned, let us be mature enough not to link failures to Board politics. A word about women's cricket. Indian women have begun well in their World Cup campaign by beating England – a classic case of it being a

combined effort with no "superstar ego".

BALASUBRAMANIAM PAVANI,  
Secunderabad

### A shuttler to watch

Kidambi Srikanth has undoubtedly been in devastating form of late, scalping many a famous name in the badminton circuit ("Sport" - "Srikanth's cup of joy overflows", June 26). His feats have given sports lovers plenty to cheer about. Credit must also be given to his mentor, Gopi Chand, for the tough grooming his academy gives. Consequently, players such as Srikanth and Prannoy are now hitting the headlines as much as Saina Nehwal and Sindhu are. Indian badminton is on the ascendance.

VUJAI PANT,  
Hempur, Uttarakhand

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