

For a truly independent higher judiciary

The appointment process must be more transparent

A very senior lawyer and one whose comments and views receive a lot of public attention, recently made some serious allegations against our High Court. For far less critical comments we in the media would have been hauled up for contempt, but that is a different matter, about which we reserve the right to talk another day.

The most scathing criticism against the higher courts made by the said lawyer is that judgments differ from court to court according to political bias. If this comment is even remotely correct then it clearly means that our higher courts are not the dispenser of justice that we want and believe them to be, but are dispensers of politically coloured legal positions. Given the acrimonious nature of our political parties and the confrontational character of politics, such a comment means that our higher court has become a part of the political fray.

We the ordinary citizens are not in a position to pass such a condemning opinion about our higher judiciary. That is precisely why the views of such a highly respected barrister become a matter of public attention and grievous concern. As a society, as a democracy, as a people wanting to live under rule of law, such views of our judiciary are extremely worrisome, to say the least.

While the venerable barrister's views should be praised for both its freshness and boldness, the reported version of his speech however lacked suggestions as to how we can come out of this morass? We think the area that needs to be looked into first is the appointment process of the judges. It is through the door of appointments that the executive branch plays havoc with the judiciary. Given the divisiveness prevalent in our society there are partisan lawyers who wait for their respective parties to come to power and then to push them into the ranks of judges. The Chief Justice seems to be a mere spectator of the whole process. Though the process permits him to have a look at the list of possible appointees prepared by the law ministry, and even for him to add his comments and suggestions there is however no law that guarantees that the executive branch has to accept the CJ's recommendations. In terms of process our system is not unique. But in terms of abusing it there is perhaps no match.

Now that a special committee is looking at possible amendments to the Constitution, we suggest that this matter may also be looked at. Article 95(2) (C) provides us with an opportunity to prescribe a set of criteria for selection of high court judges in addition to the existing provisions. Once such a set of criteria is set up future appointments can be far more judicious and free from the whims of the executive branch.

We think the new Chief Justice may wish to express his views, as appropriate under the law and under the norms of higher judiciary, on this matter. We also think that former judges, eminent lawyers, citizens and scholars should express their views on this issue. Without the appointment process of high court judges being free from political manipulation, we are not likely to have a truly independent judiciary.

The looming danger of population growth

Dual focus on family planning and HR development imperative

THE revelations made by the latest UNFPA report are a very good reason why the government and indeed informed sections of society must sit up and take notice. Population-wise, in a country of slightly more than 54,000 square miles we now have 16.44 crore (or close to 161 million) people. It is clearly a stunning discovery, coming at a time when we thought population growth had tapered off and the nation could now go ahead in identifying the various ways by which the quality of life could be improved. Our surprise comes in knowing that where the census of 2001 spoke of the population being 12.43 crore, this jump by 4 crore in just a decade is an unmistakable sign of how and where the national effort toward family planning and population control may have gone awry. The prospect of further rise in another decade or two at the current unbridled rate is simply a nightmare.

The effects of such a steep rise in population on food security reflects the dilemma we are now confronted with. Over these past many years the country has done rather well for itself where food production is concerned. But that cannot be a reason for complacency any more, now that this arithmetic on population is before us. And it will not just be food that could be outstripped by a growing population. An equally important question is one of living space for such a huge population in a country already beginning to feel the decline in land, arable or otherwise. When agricultural land mutates into habitations, it is not a pretty picture. A third problem arising out of this growth relates to the employment that needs to be provided to those being born.

It is foolhardy to suggest, in a blaze of patriotic fervour, that after all we have 32 crore hands to make a difference. We must get down to the hard realities. That will happen through prioritising human resources development in the country. Focusing on education, especially in the rural regions, and thereby emphasising the need for family planning, is once more an urgent requirement. The focus must especially be on women, whose contributions to the national economy have in recent times been remarkable. It is through them, through their education and employment, that we can expect to tackle the scourge of population growth. Alongside that, there is a grave need for a development of skilled manpower that we can export in the times immediately ahead.

All said and done, however, it is a serious, focused programme of population control we must go back to if we are to avert the looming danger. Through the 1980s and well into the 1990s, it was a tapering off of population figures that impressed us. If that was the case then, where did things begin to go wrong again? We have to find that out and promptly move to revitalise our entire approach to family planning with all the modern methods in hand.

Towards a confrontation

This difference has been made pronounced twice in a row, once in Natore and again in Sirajgonj. Leaders of both parties have failed to show that the country comes before the party, not the other way around. Two more milestones yet that eloquently explain what is pushing this country and its politicians towards a confrontation.

MOHAMMAD BADRUL AHSAN

"WHERE there is no imagination there is no horror," writes Arthur Conan Doyle Sr., the famous creator of the detective Sherlock Holmes. There was imagination when the cadres of one political party hacked to death the local boss of another political party in Natore. There was imagination even when an angry mob of BNP activists set fire to a train in Sirajgonj after it had mowed down six of them and wounded many more. The horror came much later though, when politicians exchanged invectives instead of being sorry that lives were lost.

The imagination part is easy to understand. The idea was to intimidate the opposition or maybe to exact some kind of retribution. These days it is difficult to distinguish between runaway trains and carried-away people because neither has any consideration for human lives anymore. In older days, political rivals would have gone fisticuff, at best hurling obscenities at each other and at worst stabbing a few opponents. Then came guns, shots fired from a distance by assassins hiding in the shuffling crowd.

Now things happen in broad daylight, in the presence of observant eyes, television cameras, reporters, and, of course, directly under the nose of policemen. Now people gather on rail tracks under the illusion that their huddled bodies could build a wall strong enough to decelerate a speeding train. Politics has transformed. From ideological fervour that it used to be, idiotic frenzy is what it

has become.

But the horror part is still horrible. The politicians blamed each other, spoke of conspiracies, and vowed to seek revenge over the dead bodies of fallen victims. Not a single word was uttered to regret the incidents, which cost human lives as precious, might not be as successful, as their own. Perhaps deaths in their line of business is as natural as breaking a few eggs to make an omelet.

French military leader Napoleon Bonaparte once said: "A leader is a dealer in hope." The question is what hope have the leaders inspired in us through those nefarious deaths. A man was hacked to death with the excitement of killing a rodent. In another incident nobody is taking responsibility for a train that sped through a crowd, which spilled over the rail track to hear an address from a leader of choice.

It's possible that things went out of hand both times. It often does. Party workers in their inordinate zeal tend to take things to their logical conclusion. But one would wish to get more sensible response from their leaders. That is the least one could expect from them because such decency helps restore the hope fractured by unfortunate events.

Instead, that hope was diminished when one leader blamed the train tragedy on "the agency," whatever it means. Another leader claimed it was a plot hatched by her opponent from the comfort of a luxury resort, however it sounded. Frankly, it was shocking that atrocities were condoned under the haze



Facing-off

of angry expletives. Politics has divided us so much that we even refuse to mourn deaths should offer us the opportunity to sock it to the opponent.

If anything, it was yet another example of confrontational politics. Rest assured, similar incidents, if not worse, are going to be repeated. Rest assured the same politicians are going to repeat the same attitude. Another man will be chopped to death. Another train will be burned somewhere. May be houses will be looted. May be neighbourhoods will be gutted. Our politicians will come up with even more ridiculous responses. They will still busy themselves with throwing explosives into each other's tents.

Crocodiles have a chemical in their blood that heals their wounds. Likewise, national politics is expected to exude hope that can help overcome national ordeals. That's not how it works for us though. Our politics aggravates the wound, and makes a crisis even more critical. It is the actual manifestation of

the Doylean dilemma. There is no imagination unless there is also horror.

Why does it happen? Everybody knows the answer, but nobody likes to ask the question. The answer is our politicians never learned the difference between a foreman and a statesman. What is the difference? A foreman leads an operation, but a statesman leads a nation. A foreman will abandon his operation if it proves risky for his men. A statesman is expected to do what is best for his country, even if that means he has to ignore his own party men.

This difference has been made pronounced twice in a row, once in Natore and again in Sirajgonj. Leaders of both parties have failed to show that the country comes before the party, not the other way around. Two more milestones yet that eloquently explain what is pushing this country and its politicians towards a confrontation.

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ASIA'S CLOUDED HORIZON

Japan should play a bigger role

Japan can take a lead in many areas, including humanitarian and disaster-relief assistance; peace-building and peacekeeping; economic development for nation-building; nuclear nonproliferation and nuclear disarmament; a departure from petroleum dependence; and global environment protection with an eye toward creating a low-carbon society.

YOICHI FUNABASHI

WE are witnessing a "brave, grave new world" -- with the rise and fall of nations underway on a grand scale.

China's rise and India's advance are two of the most spectacular dynamics. The power shift to the Asia Pacific, however, will be a long transition, and Asia faces three major challenges over the next decade; first, the instability of the North Korean regime in the process of leadership succession and the eventual unification of the Korean peninsula; second, maritime security in the South China Sea, the Yellow Sea and the East China Sea; and third, energy and the environment.

The US will remain a superpower, but it will also become less stable as a "new world" emerges. This new world will be characterised by multipolarism without multilateralism -- power will be dispersed and centered in local clusters all over the world, but with a less unified front and less effective global governance. Asia is not alone, and a fundamental question for the world is how to manage restructuring for this emerging multipolar world.

Instability of the Korean peninsula is likely to bring the most problems in the next three to five years. Against the backdrop of a delicate leadership succession, economic crisis and further hardship unfold for North Korean citizens. The situation is unsustainable, and likely the regime will collapse. If North Korea does implode, there could be far-reaching ramifications for the stability of the region. So the vision of a unified Korea is a priority.

At the same time, Asia must devise a maritime security strategy. Seafaring regions stand as Asia's global face. Yet maritime issues are also a source of much tension. The US has so far pro-

vided maritime stability for the Asia Pacific, but is increasingly challenged by China. India is also increasingly ambitious. Maritime issues could reach a peak within five to seven years.

The South China Sea could prove to be extremely divisive, as China increasingly perceives the area as its own and denies rival claims to several chains of islands, including the Spratlys. Some Chinese reportedly call the sea their "core interest," provoking controversy in other Asian nations.

Of course, China is not solely responsible for the dispute in the South China Sea. However, it is notable that at a recent Asean regional forum in Hanoi, 12 nations expressed unease about China's activities in the South China Sea.

Mishandling of East Asia's maritime security issue -- by any player -- could be a game changer for East Asian geopolitics. This will be the first critical test for China's much-heralded "peaceful rise" doctrine, and the country could quickly lose the respect gained over the past 30 years, particularly through its handling of the Asian financial crisis in the late 1990s.

Some Chinese vehemently criticise use of the Yellow Sea for US aircraft exercises, accusing the US of bullying tactics. China interprets US naval activity in the region as a form of "hegemonic bullying," according to General Luo Yuan in the People's Daily newspaper on August 14. Luo warned that China would not be fearful if other countries ignored China's "core interests," which suggest the waters surrounding China. More worryingly, the general implied that China considers the Yellow Sea part of its "off-shore area" -- an absurdity as it would mean that even Incheon is part of China's "offshore territories."

Finally, energy and the environment are joint issues coming to a head in

about seven to ten years. Energy usage is rapidly rising. Every country in Asia depends on oil imports. Desperately trying to catch up with developed economies, developing and emerging countries care little about environmental degradation and lack the requisite safeguards to prevent it. The recent flooding in Pakistan is a sharp reminder of how Asia remains at mercy to nature.

Almost all of Asia's major rivers -- the Yangtze, the Yellow, the Indus, the Ganges and the Mekong included -- begin in the Tibetan plateau. The melting of the Himalayan glaciers, recognised as partly responsible for the current floods, will wreak catastrophic consequences across the entire continent if it continues at the present rate.

China, India and Pakistan have the first, second and sixth largest populations in the world, respectively. And all are heavily dependent on the Himalayan glaciers for their water supply and livelihoods. Water security could become Asia's Achilles heel.

Amid these new dynamics and challenges, Japan has a role as stabiliser. Japan acts both as a stabiliser in its own right, as well as partner in the framework of the US-Japan alliance.

During the debacle that was the 10 short months that Prime Minister Yukio Hatoyama was in power, many Asian nations expressed concern over the deterioration of the US-Japanese security ties. This revealed how Asian countries increasingly regard the alliance as an essential part of the "common goods."

Maintaining the solid deterrence factor of the US-Japan alliance vis-à-vis North Korea is even more critical as the latter displays increasing instability. That contribution should be appreciated throughout the region, not least by the Japanese themselves.

Japan must explore the modus vivendi of strengthening its relationship with Asia in tandem with deepening its security tie with the United States. Pursuing trilateral dialogue of the US-Japanese alliance with a third partner -- such as China, India, Korea, Australia or Indonesia - would be useful. This would answer both the critical need to strengthen the alliance on one hand and enhance regional Asian frameworks on the other.

If the two Koreas were to unify in the

future, this would give Japan an opportunity to forge a new strategic relationship and improve stability in North East Asia. Trilateral cooperation between the US, ROK and Japan and between China, ROK and Japan is crucial for stability. Six-party talks or five-party talks in the future will also be useful. A new framework to form a stable and democratic world within Korea could deliver a new era of peace and security in the region.

Japan also has a significant role in the non-military field, and the alliance with the US should be managed according to the principle of complementarity -- bringing together the strengths of each nation, both military and non-military, to achieve maximum effectiveness.

This principle has become relevant as the nature of threats have changed. In the Cold War era, the US and Japan focused on the single threat of the Soviet Union. In contrast, the US, Japan and others throughout Asia face multiple, diverse threats, from large-scale natural disasters and climate change to failed states and nuclear proliferation.

Military power alone is simply not enough to deal with these threats. The root cause of threats such as terrorism must be ascertained and targeted, which requires the mobilisation of economic and social forces.

For example, Japan's strength is civilian power, while the might of the United States lies in its military prowess. Japan can take a lead in many areas, including humanitarian and disaster-relief assistance; peace-building and peacekeeping; economic development for nation-building; nuclear nonproliferation and nuclear disarmament; a departure from petroleum dependence; and global environment protection with an eye toward creating a low-carbon society.

Given the sensitive historical issues, Japan's role as a global civilian power would be more acceptable to other Asian countries and would also be conducive for strengthening the US-Japanese alliance.

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