

## The SC initiative to clear case backlogs welcomed

*Beyond case management, cooperation of lawyers and clients imperative*

IT is a measure of a hands-on approach of Chief Justice ABM Khairul Haque to the long-standing agenda of disposing of a huge pile of cases pending with the High Court. Of the 3.13 lakh civil, criminal, writ and original cases, the high judiciary is taking up one lakh criminal cases involving quashing and bail for a fast-track disposal.

What promises to inject new dynamism in case management is a number of special measures. CJ has assigned two HC benches for a quick disposal of cases of 2010 for quashing criminal charges, seven other HC criminal benches will deal with anticipatory bail cases dating back to 1997 and finally eight other HC benches are to dispose of a large number of criminal cases for obtaining bail.

While the CJ's emphasis on improved case management and optimisation of capacity utilisation is commendable we cannot help point out some of the findings of the HC's scrutiny of the pending cases having been catapulted on to a delayed trajectory. For instance, accused and their lawyers coming to HC for bail or quashing of criminal charges on getting immediate relief start betraying lack of interest in completing the process. They seek stays of proceedings and extension of dates of appearances in what turns out to be a dilly-dallying strategy with pecuniary considerations getting the better of an intent for quick resolution.

There is, however, a more serious ramification to it as repeated stays can make it difficult for the complainant in the case to muster and sustain evidence and get hold of witnesses thereby weakening the prosecution. Whatever merit the cases had started out with might be eroded down the road.

Thus it is just not a case of justice delayed is justice denied falling through the cracks of the system but also one of being miscarried wholly through unhelpful work culture and ethic.

The bottom line, therefore, is that it is neither an increase in the number of benches nor greater capacity building through appointment of judges that can ensure any radical difference in the situation, what is vital is a change of attitude on the part of the legal community and their clientele.

## Spurt in crimes

*Any denial mode can breed impunity*

IT gives you the shivers when you read in dailies that in the first ten days of the New Year over 15 murders took place coupled with robberies and gun attacks in Dhaka alone. Isn't this frightening? We wonder how many crimes might have been committed outside during the same period.

Yet, we have the remarks of the state minister for home affairs, as reported in the press, that it is not the government but the people who are saying that the law and order situation is better than at any time in the past. The Home Minister herself has been saying more or less the same thing. But she has been surpassed by her deputy with the sweeping claim of success with law and order. If they had pin-pointed where crimes have been reduced and thereby substantiated their claims the people wouldn't have had anything to say. Clearly, that doesn't appear to be the case given the spurt in crimes of the different denominations.

We believe rather than shaking off the denial mode on which criminal impunity feeds some leaders of the government are drawn into its grip.

According to police headquarters source, a total of 52 robbery cases have been withdrawn between January and June 2010, of these 7 cases were filed on charges of robbery with murder. Police officials have expressed their dismay at the administrative decision to recommend release of number of accused in murder and robbery cases. A sense of impunity evolved among the criminals due to government's decision to absolve them of crimes they actually committed, observed some police officials. The question is the law should have been allowed to run its full course rather than quashing these cases through administrative fiat.

Prime concern of the state administration ought to be the law and order situation. It is the most significant issue that tops the people's agenda. Even the price hike in the consumer market may take a back seat as an issue if people feel safe and secure enough. That is the test of governance for an elected government coming to helms of affairs with a massive mandate to fulfill people's expectations.

# Fulfilling the commitments

BRIG GEN SHAHEDUL ANAM KHAN NDC, PSC (RETD)

JANUARY 12 marks one year of the issue of the joint communiqué between Bangladesh and India following the Bangladesh prime minister's visit on January 12, 2010. The joint communiqué received a mixed reaction from the unbiased observers but, predictably, dismissed out of hand by the BNP.

Some in Bangladesh were inclined to see the outcome as 3 agreements, 2 MOUs and a bagful of commitments only. And some had dismissed the summit as an exercise in futility, arguing that Bangladesh had come away with very little of immediate consequence but given away too much to India. However, the more incorrigible optimists were inclined to see it as a foundation on which future relationship between two close neighbours could be built.

It was Hasina who had taken the initiatives to reach out to India, to bring about a thaw in the relation which was at that time lukewarm at best. The question was, would India reciprocate in equal measure, if not more, as becomes a bigger neighbour?

Many were of the impression that Hasina had taken great risks in agreeing to allow certain benefits to India, that the justifications of which could only be allayed by the way the details of the agreement were worked out between the two countries, and many were not sure about the strategic and monetary dividends for Bangladesh. The moot point was how India would address the unresolved issues.

Of the fifty paragraphs that make up the communiqué many are affirmation of goodwill and expression of pleasantries. A few were operational and dealt with very topical matters concerning the two countries. And most of those that required Bangladesh to act upon have been acted upon by Bangladesh.

For example, everything is ready to provide land connectivity to India (although one is not clear about the

benefits, in economic terms, which would accrue to Bangladesh from it), and the up-gradation of Ashuganj is underway. And very recently the duration of the Inland Water Protocol was increased from two to five years. Bangladesh is waiting for India to do its part in full.

Para 50, the last paragraph, is likely to be implemented, hopefully sooner rather than later, through the return

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visit of the Indian prime minister to Bangladesh. The dates are being finalised, we are told. It has taken the Indian government one year, after the formal invitation was made by our PM, to make an expression of intent of the return visit. And one understands why that is so.

After all, state level visits of top leadership cannot be restricted to exchanges of pleasantries, platitudes and pep talks. The visit must be seen to have propelled the level of bi-lateral relationship to new heights through substantive and concrete steps on issues of interest that are both common as well as country-specific. And alas, India has little progress to show on most of Bangladesh's concern, except on the sharing of the Teesta waters.

One is happy to note that at last some progress has been made on the Teesta (and a few other rivers too) on which talks have been going on, without any headway being made, for the last twenty years. However, on other issues, the slow pace with which things have moved on matters that required India's action to get the ball rolling has been rather disappointing.

Lack of substantive progress has

are not known yet and there are more fine-tunings to be done, and which will be done between the respective ministers, according to the secretary for rivers and water resources, before a substantive document can be drawn up which can then be signed during the Indian PM's visit. And in this regard one hopes that it will not be hamstrung by Indian regional politics, and the West Bengal government would not



disappointed most people in Bangladesh, who would have liked to see India act with more promptness. Certainly, India has not matched the speed with which Bangladesh has moved in implementing its part of the deal. While Teesta is being addressed, other issues like trade imbalance remain to be addressed seriously.

While Bangladesh has fully addressed India's main concern, security, by rounding up and handing over Indian militants who had taken refuge in Bangladesh, the senseless and continued killing of unarmed Bangladeshis by the BSF gives a wrong signal about India's intentions and commitments.

Only the day before the two countries had decided on a framework for a 15-year deal on the Teesta. The details

put the spanner in the progress made so far.

Bangladesh had in the past made it known through various channels that India had been less than forthcoming in fulfilling its part of the understanding. One presumes that the presence of the Indian finance minister in Dhaka at the signing of the one billion dollar loan protocol in August last year was designed to reassure the Hasina government of its seriousness in fulfilling the provisions of the communiqué.

One assumes too that the Indian government is well aware that for the Awami League the contentious bilateral issues are extremely politically sensitive, and unless resolved quickly, may cost it dearly politically.

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# The Telangana challenge

PRAFUL BIDWAI

A confrontation is brewing on the issue of separate statehood for Telangana, comprised of the northern districts of Andhra Pradesh, at the centre of which lies Hyderabad. The pro-Telangana agitation prompted the government last year to appoint a committee headed by former Supreme Court judge B.N. Srikrishna.

The Telangana Rashtra Samithi (TRS), which leads the demand for a separate Telangana, has decided to boycott meetings to discuss the Srikrishna committee's just-published report. The Bharatiya Janata Party has followed suit. The Communist Party of India also supports Telangana's statehood. Most other parties, including the Congress and Telugu Desam, are divided.

Justice Srikrishna's report recommends no specific solutions, but only lists various options. These logically include: the status quo; making Hyderabad a Union Territory and the capital of both Telangana and Andhra, like Chandigarh in the Punjab-Haryana case; or an altogether new reconfiguration.

Telangana statehood is opposed in the other two regions of Andhra Pradesh, the coastal area and Rayalaseema. Besides the TRS led by K. Chandrasekhara Rao (KCR), most Telangana-based legislators from the Congress, the Telugu Desam Party and some smaller parties back the Telangana state demand. They emphasise Telangana's distinctive culture, dialects, cuisine and customs.

On the other side are the Communist Party (Marxist); the new political formation-in-the-making under Jaganmohan Reddy, son of the late Chief Minister Y.S. Rajasekhara Reddy; and members of the Congress and TDP from coastal Andhra and Rayalaseema.

Newly-installed C.M. Kiran Kumar Reddy and Governor E.S.L. Narasimhan are reportedly hostile to

separate statehood. The governor isn't supposed to express or influence political opinion. But Mr. Narasimhan, a former intelligence official, is prone to be meddling.

Statehood's opponents warn against violating the accepted principle of linguistic states, which might trigger the formation of "too many" small states like Vidarbha, Bundelkhand, Gorkhaland and Bodoland. But India has 1,130 million people, far more than the average 30-35 million population of the world's nations.

There are strong political and administrative reasons for smaller

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states, based on cultural, agro-climatic, economic and administrative considerations.

Small social groups would be better represented by more states and Union Territories than at present. Many sub-linguistic differences warrant further reorganisation. Smaller states generally do better in promoting participatory democracy and development.

If the Telangana issue is decided conventionally, conflict will follow. The TRS demands that the Centre should move a resolution in the coming Parliament session to create the new state, with Hyderabad as its capital, as promised by Home Minister P. Chidambaram in December 2009. His promise, driven by panic, exceeded the Telangana proponents' wildest expectations.

The unified-Andhra lobby bristles at the thought that Telangana should be rewarded with the prized jewel that's Hyderabad, a city to which all three regions lay claim. If this demand is conceded, people in the other two regions will take to the streets.

Eventually, the Congress may settle

the Telangana issue on self-interest. If it accepts KCR's public offer of merging the TRS with the Congress if a separate state is created, it can secure enthusiastic support of the Telangana people and win 17 Lok Sabha seats (of Andhra's total of 42). If it dithers, or opposes statehood, it stands to lose in all the regions.

Andhra Pradesh is extremely important for the Congress. It owes 35 of its 206 Lok Sabha seats to the state -- its highest success rate anywhere.

Yet, a principled case exists for a separate Telangana, based on social, cultural, economic and political considerations. As a political entity,

Telangana as the erstwhile Hyderabad state is older than Andhra. Its identity is partly rooted in the anti-Nizam-anti-British Freedom Movement and the Telangana armed peasant struggle.

Andhra only came into being in 1953, comprising the coastal region and Rayalaseema, with Kurnool as its capital. The present Telugu-speaking entity called Andhra Pradesh was created in 1956 through Hyderabad's merger.

The condition for merger was a 10-point "Gentlemen's Agreement" between the then chief ministers of Andhra and Hyderabad. This included the creation of a Regional Committee for Telangana whose recommendations would "normally be accepted by the government and the state legislature."

Another understanding was that 40% of cabinet members would be from Hyderabad/Telangana. There would be a deputy chief minister too, so that either the CM or the deputy CM would be from Telangana. These weren't properly fulfilled.

There has been a strong assertion of a distinct Telangana identity through

two major agitations in 1969 and in 2000. These sharpened the Telangana people's sense of discrimination and highlighted the region's educational backwardness and "developmental backlog."

Statehood's proponents argue that Telangana hasn't received developmental assistance proportional to its size. But semi-arid Rayalaseema too can claim that it's underdeveloped. Only coastal Andhra, with its prosperous agrarian economy and rapid industrial growth, is decisively more developed.

Telangana has an even stronger case on its share of the waters of rivers Krishna and Godavari. 69% of the Krishna's catchment area, and 79% of the Godavari's, is located in Telangana. Internationally, water-sharing is decided on catchment area.

Opponents of Telangana's statehood club Hyderabad with Telangana to argue that the region's development indices are higher than coastal Andhra's or Rayalaseema's. Besides, Hyderabad's prosperity is the result of investments from the other regions, especially coastal Andhra, known for its aggressive enterprise in construction, trading and industry.

Telangana has the first claim on Hyderabad: it's literally at the region's heart. A good solution would be to make Hyderabad the capital exclusively of Telangana. But it should have a city government in which all the local people participate. This would substantially meet divergent sub-regional expectations.

There are precedents like Trieste, an ethnically distinct region, over which Italy and Slovenia shared sovereignty, and Hong Kong, where China created a Special Administrative Region in 1997 while taking it over from Britain.

Can the centre summon up the courage to embrace such unorthodox solutions? That's hard to say. But it's clear that the alternative is chaos and blood-letting.

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