

# What now for India's judiciary?

**T**HE never-before-seen public show of rift in India's highest judiciary recently—the hallowed Supreme Court—following the questioning by four senior judges of the apex court of the country's chief justice, Dipak Misra, over

allotment of sensitive cases, has plunged the jurists and politics of the world's largest democracy into an unprecedented turmoil.

For decades the Supreme Court has set the agenda on matters of public-policy-and-order measures taken in public interest. The apex court has often stepped in to set things right which the executive should have done. On many occasions, the apex judicial forum was seen as the messiah of the masses who found themselves at the receiving end of a faltering executive. This has from time to time sparked concerns, particularly from politicians, over what was termed as "judicial activism." While differences between the government of the day and the highest judiciary are nothing new, especially over appointment of judges to the higher courts, this was the first time that such a public spectacle of rift within the apex court has been witnessed. The near-unity seen in the apex court in the stand-off with the government over appointment of judges to higher courts lies in disarray.

The face-off between the four judges—Justice Ranjan Gogoi, Justice Madan Bhimrao Lokur, Justice Kurian Joseph and Justice Misra—was the culmination of simmering differences for quite some time. The first major point of rift came out in public when a public interest litigation alleging judges' involvement in a medical scam was mentioned for urgent hearing before a bench headed by Justice Chelameswar in December last year. In November, the CJI had, in an order, declared that the chief justice "is the master of the roster" having exclusive power to decide which case will go to which judge.

However, another important trigger for the stunning press conference by the four senior-most judges was Justice Misra's turning down



The media conference by the four judges and their making public the letter underlined clearly the simmering differences between the country's top judge and some senior-most judges in the apex court.

PHOTO: AFP

of a plea for shifting a politically-sensitive case relating to the "fake (police) encounter" killing of gangster Sheikh Sohrabuddin in Gujarat in which BJP President Amit Shah was an accused (he was later acquitted) to a bench of his choice. On January 11, the CJI-led bench had admitted a petition seeking a probe into the death of BH Loya who, as a special judge was hearing the "fake encounter killing" case.

As if the presser by the four judges was not enough, they also made public a seven-page letter to the CJI. The letter, first sent to the CJI a couple of months ago, said "It is with great anguish and concern that we have thought it proper to address this letter to you so as to highlight certain judicial orders passed by this court which has adversely affected the overall functioning of the justice delivering system and the independence of the high courts besides impacting the administrative functioning of the office of the Hon'ble Chief Justice of India." The letter said that there have been instances where cases having "far-reaching consequences for the nation" and the institution have been assigned by the chief justices of this court "selectively to the benches of their preference" without any

rational basis" for such assignment. "This must be guarded against at all costs."

The media conference by the four judges and their making public the letter underlined one thing clearly: the simmering differences between the country's top judge and some senior-most judges in the apex court in recent months. At present, India's apex court has a total strength of 25 judges. The four judges accused Justice Misra of not taking any "remedial measures" on some of the issues which affected the functioning of the apex court that they had raised. Justice Misra became the chief justice of India on August 28, 2017 and he is due to retire on October 2 this year. The criticism by the four judges of Justice Misra was very sharp and indicated that all is not well in the Supreme Court administration. What is more worrying is that it is the CJI and the four judges who make up the Supreme Court collegium that selects judges for the higher judiciary.

The main issue now is how to resolve the stand-off within the country's top judiciary. The BJP-led government at the centre made it clear it is not going to intervene and said the judiciary will resolve the issue itself. "Our judiciary is reputed all over the world,

independent and they will sort the matter themselves," said Minister of State for Law PP Chaudhary. However, questions are being asked if the public show of rift could have been averted had the chief justice of India intervened on time or even an hour before the press conference. The media had confirmed information about the presser by the four judges at least one-and-a-half hours before the event. The question being asked is: Could nothing have been done in the space of 90 minutes to take an initiative for addressing the concerns of the "rebel" judges which could have then averted what was termed "washing the dirty linen in public view"?

India's top law officer Attorney General KK Venugopal, who had a meeting with Justice Misra after the joint news conference of the four judges, said that it "could have been avoided." There are many who question

*Politicians would be well advised to stay away from meddling in a crisis never seen before in the apex judiciary which does not augur well for such a key pillar of democracy. Let the apex judiciary sort out its issues by themselves through introspection and internal debate because the integrity of the judiciary takes precedence over everything else.*

whether the four senior-most judges should have gone to the media with their differences with the CJI or made public a letter they had written to Justice Misra. There is also the contrarian view that the four judges had no option but to go public because of the important issues involved having ramifications for the independence and integrity of the judiciary and the fact that Justice Misra, as the head of the judiciary, had not been able to sort out the differences. Will the rift affect the functioning of the collegium which appoints judges to the higher judiciary?

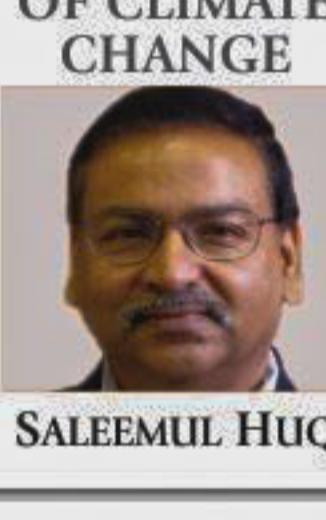
A political slugfest following the rift in the apex court has begun. The main opposition Congress Party's President Rahul Gandhi called the points raised by the judges "extremely important" that "must be looked into carefully." His party said it was "deeply perturbed" by today's developments and asked the top court's judges to jointly take up the issues flagged by the four judges. This predictably drew criticism from the ruling BJP which accused Rahul and Congress of politicising the rift in the apex court over allocation of cases. Congress wanted the petition concerning the death of Judge Loya to be entrusted to the senior-most judges of the Supreme Court "who should ensure that under their supervision there is a thorough and impartial investigation of the case by an independent SIT (special investigation team)." BJP promptly accused Congress of politicising the issue of rift in the apex court.

But politicians would be well advised to stay away from meddling in a crisis never seen before in the apex judiciary which does not augur well for such a key pillar of democracy. Let the apex judiciary sort out its issues by themselves through introspection and internal debate because the integrity of the judiciary takes precedence over everything else at a time when the apex court has so often been the messiah when the political executive or the legislature had failed the people. A solution is not easy despite efforts by the chief justice of India and the four senior-most judges. The Bar Council of India has also stepped in. But the tension and a sense of unease between the judges in the stand-off persist. The sooner it is left behind, the better for the Indian judiciary.

Pallab Bhattacharya is special correspondent at The Daily Star.

## Looking beyond the horizon

*Bangladesh has taken some important steps for long-term planning at the national level in order to achieve development goals*



POLITICS OF CLIMATE CHANGE

**B**ANGLADESH has a long tradition of preparing national development plans by the General Economics Division (GED) of the Planning Commission primarily through the adoption of five-year plans of which we are currently in the 7th Five Year Plan (7FYP) which runs till 2020.

A recent development has been the initiation of several new longer term "horizon plans" under the GED. I will first describe them and then provide my views on the opportunities they provide for Bangladesh.

The first plan I want to mention is the 8th Five Year Plan (8FYP) for the period 2021-2026. The preparation of background papers for different sectors to feed into the 8FYP will start soon and the plan itself will be developed over 2019 and 2020. Over the years, the Planning Commission has developed an excellent outreach and consultation strategy involving not only other ministries within the government but also goes beyond the government to civil society and private sector. These consultations will start next year.

The second planning horizon is until the year 2030 which is 12 years from now. This is a globally driven time-horizon based on the 17 Sustainable Development Goals (SDGs) as well as the Paris Agreement on climate change with its mitigation and adaptation goals to be reached by 2030.

The prime minister and the government of Bangladesh have taken these global goals very seriously and the GED has already mapped

the 17 SDGs across the different ministries within the government and assigned a lead ministry for each goal. At the same time, the Ministry of Environment and Forests is the lead on two of the climate change related goals.

The prime minister has also set up a high-level SDG monitoring unit in the Prime Minister's Office (PMO) to both support the different ministries and monitor their progress.

Civil society groups have also organised themselves across the different SDGs under the coordination of the Centre for Policy Dialogue (CPD) with a lead organisation for each SDG. They have already started their work and are seeking to support the efforts of the government.

The third time-horizon is until the year 2041 that the prime minister has asked GED to prepare as a 2041 Perspective Plan. This is

**The 8FYP from 2021 to 2026 will be an extremely important period for Bangladesh's development as we hope to graduate from Least Developed Country status during that time.**



For the 2030 time-horizon for the SDGs and climate change goals, we have 12 years to develop our plan and to start implementing it in earnest.

PHOTO: ABM AMINUL ISLAM

to mark Bangladesh's 70 years as an independent country and is over 20 years from now.

The GED has already commissioned a series of 18 background papers for different sectors with the help of experts from Bangladesh in each topic area. The GED will then synthesise these papers into the 2041 Perspective Plan.

The fourth and final time-horizon is until the year 2100 which is over 80 years from now. This time-horizon comes to us from the Netherlands which has a similar Delta Plan in their own country and is supporting a number of other delta-located developing countries including Bangladesh, Vietnam,

extremely important period for Bangladesh's development as we hope to graduate from Least Developed Country status during that time. This means that we have to become independent of official development assistance and grant-based support from the developed countries. We have become used to receiving nearly a billion dollars in grant-based development assistance and we will need to find a replacement for that.

For the 2030 time-horizon for the SDGs and climate change goals, we have 12 years to develop our plan and to start implementing it in earnest. Bangladesh has done well with implementing the Millennium Development Goals (MDGs) which preceded the SDGs and hence we have high hopes to achieve the SDGs as well. However, this cannot be left to the government alone as we will need the entire society to come forward in order to achieve these goals.

With regard to the 2041 time-horizon we are actually moving beyond planning to form a vision for the country to become a middle-income country by then. One very important element of this time-horizon is that it is less about our generation and more about our children's future. We need to focus on capacity building of the next generation.

Finally, in terms of the timeframe of 2100, we are actually talking about several generations ahead and hence it not only goes beyond a "normal" planning horizon but also focuses on ensuring that future generations are empowered to become the biggest assets to the country.

Egypt and others.

The Dutch government has supported an initial set of studies done over the last two years mainly by a group of Dutch experts and some local experts.

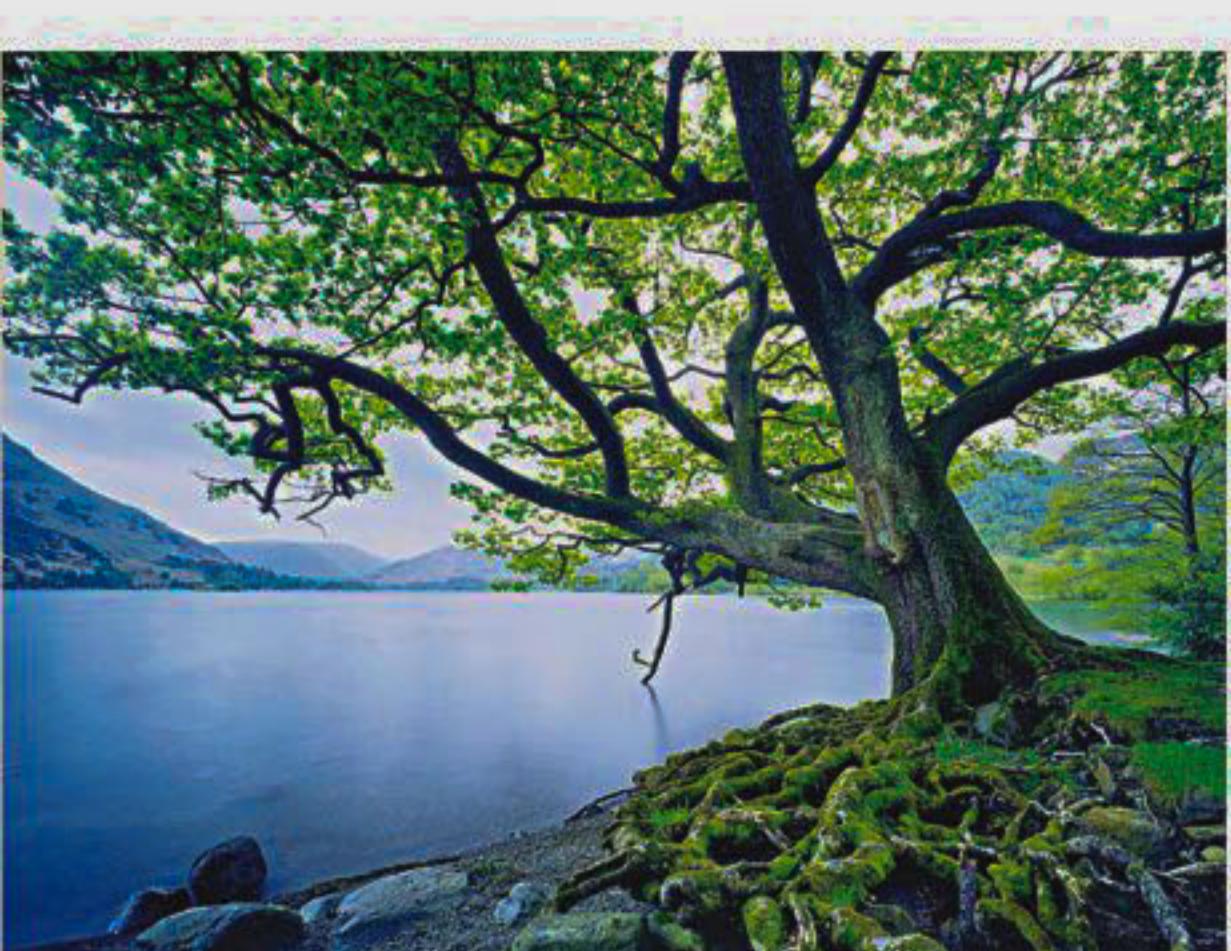
The resulting Bangladesh Delta Plan 2100 has been reviewed by a technical advisory group and is currently awaiting approval by the prime minister and National Economic Committee. Once it is approved it will be implemented by the Planning Commission with Bangladeshi experts and institutions.

I would like to share my thoughts on these different time-horizons and what they mean for the country.

The 8FYP from 2021 to 2026 will be an

Saleemul Huq is Director, International Centre for Climate Change and Development, Independent University, Bangladesh. Email: Saleem.icccad@iub.edu.bd

## A WORD A DAY



**[ARBOREAL**  
adjective

*Relating to trees.*

## CROSSWORD BY THOMAS JOSEPH

### ACROSS

- 1 Barracks sights
- 5 Engine parts
- 9 Candidate of the '90s
- 10 Knock for –
- 12 Battle site of 1836
- 13 "Little Rascals" girls
- 14 Become angry
- 16 Cochlea setting
- 17 Before, in a ballade
- 18 1969 Beatles #1 hit
- 20 Gambler's method
- 22 Regrets
- 23 In harmony
- 25 Jai –
- 28 Paraphrase
- 32 "Scram!"
- 34 Fresh beginning?
- 35 Caesar's "hail!"
- 36 "Be serious!"
- 38 Strand unit
- 40 River of France
- 41 Commercial cow
- 42 Town leader
- 43 Vast expanses
- 44 In need of recharging
- 45 One who appetitions
- 48 Patsies

### DOWN

- 1 Crunchy veggie
- 2 Gives an address
- 3 Some turkeys
- 4 Patsies
- 5 West Point student
- 6 Imitating
- 7 Actress Jeanne
- 8 Comfort
- 9 Tablet units
- 11 Urban oases
- 15 Contriteness
- 19 Make tea
- 21 Plane part
- 24 Irritated
- 25 Clearly stunned
- 26 Flattens
- 27 Not anxious
- 29 Lake of New York
- 30 Brought up
- 31 One who appetitions
- 33 Eyeballs
- 37 Part
- 39 Small inlet

## YESTERDAY'S ANSWER

B	E	A	E	T	S
O	R	A	T	R	A
N	A	K	E	D	H
U	S	E	D	A	P
S	E	S	S	R	S
Y	E	T	E	S	T
S	T	E	E	S	T
H	A	S	B	A	H
S	T	E	D	A	M
I	M	A	M	E	S
R	E	R	E	R	S
T	E	E	E	E	T
A	V	A	A	A	P
R	I	R	I	I	S
D	O	D	D	D	O

## BEETLE BAILEY



## BABY BLUES



## BY MORT WALKER



## BY KIRKMAN & SCOTT

