

Impeachment, a serious matter



BETWEEN THE LINES

IT'S sheer arrogance. True, Chief Justice Dipak Misra denied permission to Allahabad High Court judge Narayan Shukla to prosecute a Lucknow-based Prasad Education Trust, which runs a medical college. But this is not such a violation of law which should invite impeachment of the Chief Justice of India.

The Congress Party was divided but since its president Rahul Gandhi decided to move against the chief justice, even the balanced Kapil Sibal had to fall in line. Ashwini Kumar, another senior Congressman and an advocate, has made it clear that he was uncomfortable with the move for impeachment. Even people like former Prime Minister Manmohan Singh, P Chidambaram and Abhishek Manu Singhvi, also lawyers, did not sign the motion.

Gulam Nabi Azad, also a senior Congress leader, was reading the impeachment motion at the behest of Rahul Gandhi in the Rajya Sabha and collected signatures of its members. It is mandatory for such a motion to be moved in the upper house. The fact that the ruling Bharatiya Janata Party (BJP) did not have a majority in the Rajya Sabha also came in handy to the Congress and six other opposition parties.

Despite the required number of signatures, Chairman of the Rajya Sabha M Venkaiah Naidu, originally from the BJP, rejected the motion out rightly. Vice-president Naidu, in his 10-page note, explained the swiftness of his decision, ascribing it to the seriousness of the charges and unnecessary speculation.

"All facts as stated in the motion don't make out a case which can lead any reasonable mind to conclude that Chief Justice on these facts can be ever held guilty of misbehaviour," said Naidu. He had apparently consulted legal, constitutional experts and took notice of the media opinion, which has vehemently criticised the impeachment move.

Union Minister Arun Jaitley, has understandably, called the impeachment notice a "revenge petition," accusing the Congress and its friends of using as a "political tool" the impeachment notice against the Chief Justice, who retires in six months. The Constitution says the Chief Justice of India can be impeached only on grounds of proved misbehaviour or incapacity.

The opposition backed its demand listing five grounds, which, the Congress said, equals misbehaviour. These included the assigning of sensitive cases to handpicked judges, raised publicly in January by four top judges who accused the Chief Justice of abusing his position as "master of the roster." Subsequently, the next five topmost judges also held a press conference to air their views as the trigger was the Judge BH

Loya death case. It has since been reassigned. This was an unprecedented move. Similarly, the impeachment proceedings have never been taken up against a Chief Justice of India. The chairman forwards such a notice to the Rajya Sabha secretariat to verify two factors—the signatures of the members who signed the petition and whether rules and procedures have been followed. Obviously, Naidu was not convinced.

The debates of the Constituent Assembly indicate that the framers of the constitution comprising all political parties were very cautious in laying down the impeachment clause. The members did not want the impeachment to be taken lightly. I am sorry to say that the Congress Party has thrown all cautions to the wind which the party itself was very careful about. Rahul Gandhi, by his behaviour, has disrespected the wishes of the Congress stalwarts at that time.

impeached by parliament by tendering his resignation. He did so after the Rajya Sabha had passed the motion making him the first judge to have been impeached by the Upper House for misconduct. Justice Sen was found guilty of misappropriating Rs 33.23 lakh under his custody as a court-appointed receiver in the capacity as a lawyer and misrepresenting facts before a Calcutta court in a 1983 case.

Similarly, Justice PD Dinakaran, Chief Justice of the Sikkim High Court, against whom the Rajya Sabha Chairman had set up a judicial panel to look into allegations of corruption, resigned in July 2011, before impeachment proceedings could be initiated against him. Corruption, land-grab and abuse of judicial office were among the 16 charges framed against Justice Dinakaran.

However, Justice V Ramaswami is the only example with the dubious distinction of being the first judge against whom impeachment



Chief Justice of India Dipak Misra.

PHOTO: PTI

But one thing is clear. The Chief Justice has, indeed, compromised his position and the stature of his office. As pointed out by the topmost five judges, he has "abused his exercise of power" in choosing to send sensitive matters to particular benches by "misusing his authority as Master of the Roster with the likely intent to influence the outcome." In addition, the Chief Justice had acquired land when he was an advocate by giving a false affidavit. Of course, he did surrender the land in 2012 after he was elevated to the Supreme Court. But then he took so much time to do so despite the allotment having been cancelled years earlier.

Of course, there are a few cases of High Court judges against whom impeachment moves were made. But before the moves could be made, they themselves resigned. For instance, Justice Soumitra Sen of the Calcutta High Court avoided the ignominy of becoming the first judge to be

proceedings were initiated. In 1993, the motion was brought up in Lok Sabha, but it failed to secure the required two-thirds majority. Justice Ramaswami was caught in a controversy for spending extravagantly on his official residence during his tenure as Chief Justice of Punjab and Haryana during 1990. The Supreme Court Bar Association even passed a resolution calling for his impeachment.

Impeachment is a serious matter. It should never get politicised. Rahul Gandhi has done so. And, to that extent, he has weakened the judiciary. Since he heads an influential all-India party, he should be extra careful about his action. His mother, Sonia Gandhi, may not be familiar with the intricacies of politics. But then she should have advised his son to respect the spirit of the constitution.

Kuldip Nayar is an eminent Indian columnist.

The need for policies on knowledge transfer

SHARMIN AHMED

EVER since Kissinger branded Bangladesh a basket case, development aid and its practitioners have flocked here as it became a testing ground for fine-tuning development models and practices.

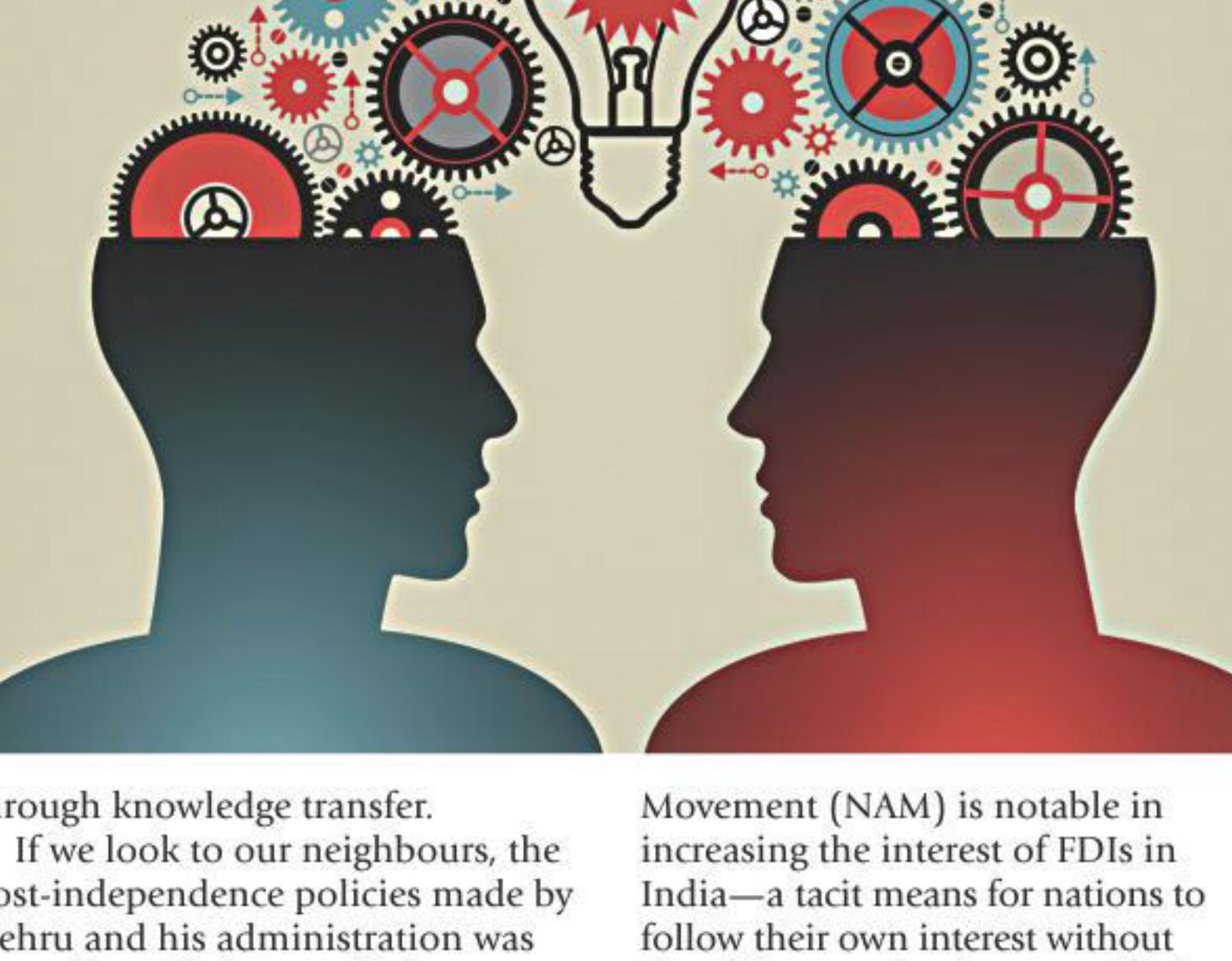
Bangladesh is now among the fastest growing economies, thanks to its thriving businesses and many trade agreements. However, it faces multiple challenges on the road to transitioning to a lower middle-income country, including no longer having LDC benefits. First off, it has a poor record of attracting FDIs, has highly concentrated exports and suffers weak competitiveness because of corruption and poor physical and social infrastructure.

For example, there are no policies or acts for establishing social enterprises, but enterprises in Bangladesh are growing at both social and commercial scales which need governance and policy support. We also need to remember that our greatest resource is our human resource and with increasing tensions/conflicts around the world,

more of our remittance earning workers will be returning home. We will need to absorb them into our economic space and we can do so by expanding home businesses and enterprises. Furthermore, to harness their full potential they will need to develop their skills beyond academic institutions.

The challenge at this point, is not having the know-how but policies that propagates knowledge transfer and the fostering of local businesses—we could look at how high performing countries have done it.

So what is knowledge transfer? It is the transfer of tangible and intellectual property, expertise, learning and skills between academia, non-academic community, practitioners and experts in both tacit and explicit ways. It used a concept in business management for the continued growth of businesses. However, for government and investors it could give an important return on investment, one that provides significant boost to enhance economic growth and societal wellbeing. Sustainability, which is now key to development all throughout the world can be ensured



through knowledge transfer.

If we look to our neighbours, the post-independence policies made by Nehru and his administration was that of knowledge transfer by ensuring that businesses can grow and expand elsewhere, but that knowledge, capacity and network, is passed on to the next generation of Indians. The Non-Alignment Movement (NAM) is notable in increasing the interest of FDIs in India—a tacit means for nations to follow their own interest without disturbing another, in-tune with the domestic requirement of democracy and socialism, so that even opposing superpowers could work with India without finding conflicts of interest. Aid, for example, was welcome from

any region; be it USSR or USA, Germany or Japan. On the other hand, foreign trade and investment were encouraged but regularised with terms and conditions of investment and employment. Thus, when Honda came to India, it came with an exit plan, which was the building of India's own manufacturing capacity, hence emerged Hero Honda. Currently India's "Make-in-India" campaign is a continuation of this drive to locally built domestic industries through knowledge transfer from well-established giants in businesses.

Knowledge transfer is not just about communication, it seeks to organise, create, capture or distribute knowledge and ensure its availability for future users. In an increasingly global locality of practitioners, innovation and ICT, the transfer of policies from one country or region to another in a short span of time has become feasible at a large scale. There has been a lot of attention in the field of public administration for policy transfer and institutional transplantation. This is where we can make our experience as a nation more meaningful especially where our foreign trade and relations are

concerned.

Our unique ability to build resilience in climate vulnerable regions, our crisis management of the refugee influx are aspects that so many countries can learn from. However, because we do not have any policies in place when it comes to these issues, so much of the knowledge that we generate do not get passed on. Which is why we continually need to hire experts from abroad at high costs, also in case of managing our major industries and development projects.

We may not have had policies in the past but there is no reason not to implement them today as that would be in our own best interest. This will also help us develop local capacities, especially from neighbouring countries. There is much to be gained from such collaboration. It is thus extremely important at this stage of our graduation from LDC that the knowledge we have be documented, nurtured and capitalised on, as there are many things that other countries can learn from us and vice-versa.

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CROSSWORD BY THOMAS JOSEPH

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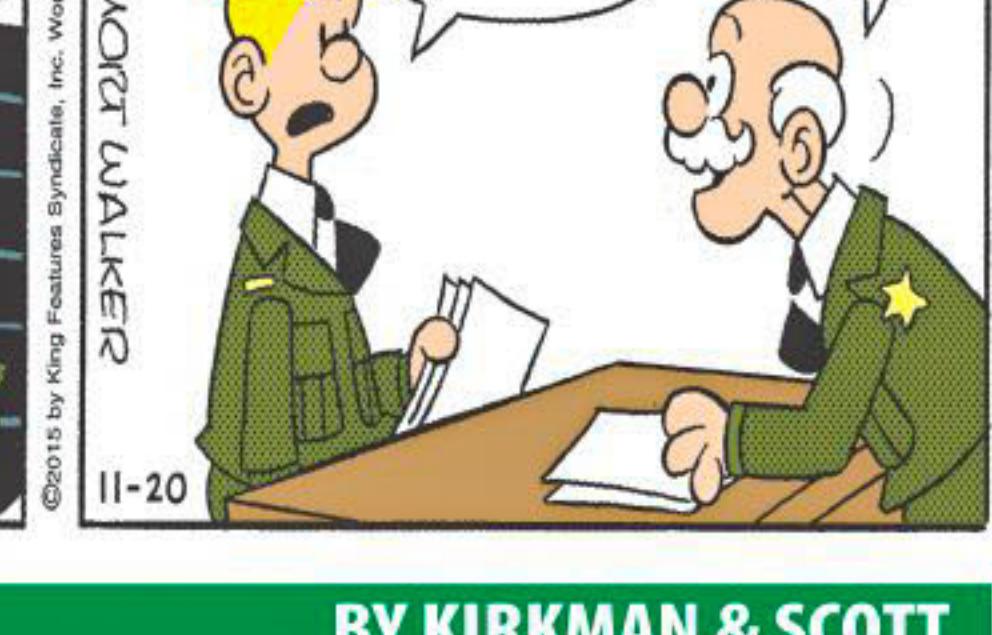
YESTERDAY'S ANSWER



BEETLE BAILEY



BY MORT WALKER



BABY BLUES



BY KIRKMAN & SCOTT



NOAM CHOMSKY

An American linguist, philosopher, cognitive scientist, and political activist

If we don't believe in freedom of expression for people we despise, we don't believe in it at all.

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