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COMMUNALISM

Power in diversity

P.C. Alexander

Demonstrations in public places to protest against certain decisions or policies of the government, or against individuals for some opinions expressed by them, have become common in our country in recent years.

No one can question the right of political parties or groups of people to protest, provided protests are held in non-prohibited areas and during specific times prescribed by the government. However, the most important consideration to be borne in mind by those who wish to stage such demonstrations is that these should be peaceful and not violative of the rights of other political parties, groups or individuals. Unfortunately, the trend in recent times in several parts of the country has been for the protesters to resort to violence and attempt to deprive other peace-loving citizens of their rights guaranteed by the Constitution.

There has also been a tendency on the part of those who wish to register their protests to do so using undignified language and those at the receiving end to counter-attack in equally abusive language. This has lowered the dignity of political controversies even at the level of very senior leaders. The use of the B-word by a former chief minister against a present chief minister very recently is an example of the levels to which political debate has sunk in our country. Those who use abusive language and reply in equally offensive manner often forget that such behaviour will only cause revulsion among the common people and prove to be counter-productive.

Another unfortunate tendency of political parties is to accuse each other of the crime of weakening national integration and unity by their actions or words. By bringing in the issue of damaging national integration into their quarrels, they are, in fact, creating in

the minds of ordinary people doubts and misgivings about the strength of India's national integration. This is a great disservice to the nation because the fact is that India's record of national integration and unity is one of the best among all countries which have acquired sovereignty in recent years.

Given the current situation, it would be appropriate to recall the several handicaps which the country had to overcome in order to achieve the present level of national integration. The first and most serious handicap to national integration was communalism, a legacy India inherited from its colonial rulers. The British rulers had realised after their bitter experience of the great rebellion of 1857 that they could not retain their hold over India unless they succeeded in pitting its two major communities — Hindus and Muslims — against each other. Everyone knows that the award of separate electorates to Muslims in 1909 was the most dangerous and divisive measure taken by the Britishers to create a gulf between the two communities and that it was this which eventually led to Partition in 1947 and the holocaust that accompanied it.

After Independence, the nation was able to achieve national cohesion to a significant degree with the help of an imaginative Constitution written by the founding fathers of our republic. They tried to reduce the destructive impact of communalism. However, caste and sub-caste loyalties emerged as a potent source of danger to national integration when people gained the right to elect their representatives to seats of power. During the early years of Independence, electoral politics was still not seriously vitiated by the caste factor because of strong political leadership at the Central level and in the states. But with the decline of national parties and the dearth of strong leadership, caste emerged as a major factor in electoral politics.

The dominant role of caste led to the proliferation of small political parties. National parties found that they could form governments at the Centre and in the states only if they entered into coalition

arrangements with some state-level parties. Fortunately, most of the small regional parties were committed to national integration and unity and, therefore, the harm that could have been caused by the caste factor and the multiplicity of parties was contained.

Another important factor which contributed to the success of national integration was the strength of India's civilisational identity for thousands of years before Independence. In spite of diversity in religion, language, race and subcultures, its people shared certain common values, ethics and traditions of family and social life and this made the task of national integration easier. There were several countries with civilisations of their own before they gained national sovereignty. However, many of these civilisations collapsed under the weight of colonial rule and building a strong national identity after gaining independence proved to be difficult for them.

India could develop a strong national identity because it had wisely adopted the concept of "unity in diversity". Unity in diversity did not mean that diversity took precedence over unity; nor did it mean that unity in every sphere of activity was necessary for stability. It only meant that diversity in religion, language, race, etc. would not be an impediment to national unity. Recognition of the reality of such diversities facilitated national integration and in spite of shortfalls in several segments of development, weakness in national integration was never a handicap for overall progress.

Doctrines like preference for "sons of the soil" have been propounded by individual leaders or political parties on various occasions, but people's commitment to national integration and unity has always been stronger. While remaining proud of this achievement, people should also be conscious of the urgency and need for appropriate measures to further strengthen the vibrancy of national integration.

Two measures deserve special mention in the present context. One is strengthening the democratic content in the structure, ideologies and

practices of India's political parties and making them effective tools for good governance rather than only as a means to acquiring power. The second is using our education system, right from school years, to inculcate among the youth the importance of national integration based on the moral and ethical values of our civilisational heritage. Both these subjects have been discussed often at several platforms and in the media, but we have to admit that while there is general acceptance of their importance, very little has been done to implement them earnestly.

P.C. Alexander is a former governor of Tamil Nadu and Maharashtra

ECONOMIC DEVELOPMENT

Can euro survive?

Jayati Ghosh

Among the many unfortunate features of capitalist history that tend to repeat themselves with depressing regularity is the conversion of crises of private activity in financial markets into fiscal crises of the state. This is already happening once again, as the very expansion of public expenditure that was necessitated by the financial crisis (which itself resulted from the irresponsibility of private financial players) is being attacked by those who argue that excessive fiscal deficits are unsustainable and must be controlled as soon as possible. The focus of financial market attention in the past week has been on the fiscal problems in some developed countries, in particular the countries that are now rudely designated as PIIGS (Portugal, Ireland, Iceland, Greece, Spain) within the European Union (EU). The fiscal problems in Greece are currently the most pronounced, not least because the previous government apparently fudged the books so massively that the newly elected government is faced with an unexpectedly large deficit even as it needs to increase fiscal stimulus in the midst of economic downswing.

Bond markets have already declared their displeasure by requiring huge spreads on Greek government debt, and a liquidity crisis looms for the country. In a dose of the monetarist medicine familiar to many developing countries, Greece is now being asked by the EU to make wrenching cuts in public spending, which are not only difficult to implement for the new socialist government but unlikely to be accepted by the restive public. The International Monetary Fund waits in the wings.

But the problem posed by the sovereign debt issues of Greece is deeper and potentially more significant since it calls into question

the stability and viability of the eurozone itself. Without currency union, devaluation of the currency would have been one of the most obvious easy ways to ensure adjustment in Greece and similar economies. With that option closed, adjustment based entirely on domestic economy measures will require such severe cutbacks on public spending and private consumption that they are unlikely to be accepted in a democratic set up. The only other option is bailout by Brussels, but the European Charter did not provide any bailout clause, and this depends crucially on the ability and willingness of countries like Germany and France to set such a precedent.

The euro has always been an unlikely major currency, based as it is on monetary union between countries who do not share political union. Its creation was remarkable, a tribute to idealism and a reflection of the triumph of political will over economic barriers. To outsiders, it is a fascinating experiment since its apparent stability thus far calls into question a belief that was axiomatically held by many economists: that monetary union is difficult if not impossible without fiscal federalism underpinned by more comprehensive political union. Of course the eurozone is not the first attempt at monetary union in history, nor is it likely to be the last. But thus far it has been the most successful. It is the culmination of the century-long drive in Europe towards greater integration, punctuated by wars, other conflicts and instabilities, but proceeding regardless of those hurdles.

The driving force of such a union may well have been political, but there are also clear economic benefits. These stem mostly from the reduced transaction costs of all cross-border economic activities, including trade in goods and services. In addition, the stability provided by a single currency serves to reduce risk in a world of very volatile currency movements driven by mobile capital flows, and this is seen to be an additional inducement to invest in productive activities.

But there are also significant costs of such union, which are

becoming especially evident now. The most obvious is the loss of two major macroeconomic policy instruments: the exchange rate and monetary policy, which can otherwise be used to prevent an economy from falling into a slump. For example, Greece could have tried to use a combination of exchange rate devaluation and lower interest rates to stimulate demand, increase income and reduce unemployment, as well as prevent the external deficit from deteriorating.

Of course this is not foolproof, as many countries know, but trying to adjust without such instruments is that much harder. The other way to resolve this would be for workers in Greece to move to other parts of the eurozone, and so reduce the pressure on the domestic economy. This obviously requires free flow of factors across borders, which is often seen as a basic economic condition for currency union, and this was sought to be created by the single market in 1994.

Even till date labour does not really move freely across European borders despite the removal of official restrictions.

Finally then, the option would be to have fiscal transfers (implicit bailouts) to Greece from stronger segments of the eurozone economy. This fiscal federalism is quite important in the US, which is another large area that is a currency union (in this case backed by political union). But so far, such fiscal federalism is less developed in the European Union, and there is already a backlash in several countries against ceding more powers to Brussels. In this context, temptations on the part of some members to free ride on the strength of others, and equally strong attempts to resist such pressures by the stronger members, can even make the union unviable.

This is what makes some commentators question the medium-term future of the euro. It is not just the current problem of Greece or any

other country, but the larger structural issue of whether the currency union can survive without more explicit fiscal federalism. This requires political commitment to European unification which goes far beyond anything we have yet seen, but it may still occur. If not, we may be witnessing a 21st century Greek tragedy unfolding on a grander European scale.

HINDU 12.2.10 ECONOMIC DEVELOPMENT

Moving towards normal growth

In its advance estimate of economic growth for the current year (2009-10), the Central Statistical Organisation has projected a rate of 7.2 per cent. Though lower than the 7.5 per cent forecast by the Reserve Bank of India recently and the 7.75 per cent by the mid-year economic survey, the CSO's projection gives room for optimism. If it materialises, India might well be seen creeping back towards the high growth trajectory, from which it slipped in 2008-09. After recording an average growth of well above 9 per cent for three years between 2005 and 2008, the GDP rose by 6.7 per cent last year — a commendable performance, given the difficult situation caused by the global financial crisis and the ensuing recession. A rate of above 7 per cent will be further proof of the Indian economy's resilience. Besides, the economy has, by and large, weathered the consequences of a poor south-west monsoon during 2009. The agricultural sector has been particularly hit by severe droughts and floods in several parts of the country. Under the circumstances, a projected growth rate of minus-0.2 per cent for agriculture, though below last year's 1.6 per cent, is better than expected and is unlikely to drag down the overall growth substantially as feared earlier. The contraction is partly attributed to a sharp drop in the production of food grains and oil seeds. Inadequate supply of food articles is the principal factor behind the raging food inflation.

Economic growth during the first half of 2009-10 has averaged 7 per

cent, thanks largely to an extraordinary 7.9 per cent growth in the second quarter. While the government expects agriculture to recover sharply during the fourth quarter on top of a bumper winter crop, it is clear that it is the stellar performance of industry that will lift the GDP growth rate above 7 per cent. Manufacturing is expected to grow at 8.9 per cent. The mining and quarrying sector and the electricity, gas and water supply segment are predicted to post a growth rate of well over 8 per cent. The growth momentum is broad-based, with most of the sub-segments in industry and services performing above their long-term trends. The services sector, which is the traditional growth driver, is forecast to grow at around 8.3 per cent, less than last year. Construction as well as the segment comprising trade, hotels, transport, and communications will grow faster than last year. However, community, social and personal services may not do so well. With the spectre of high inflation looming large, the relatively strong growth might well induce the authorities to opt for a calibrated withdrawal of the stimulus packages.

INTERNATIONAL RELATION

HINDU 8.2.10 INTERNATIONAL RELATION

Southeast Asia's new focus on India, China

P. S. Suryanarayana

Evocative, against a newly researched historical trail of India in Southeast Asia, is the call for a “new rationale, new passion” in the equation between New Delhi and Beijing.

The expanding focus on China and India in Southeast Asia can be seen as a popular fashion or, more fundamentally, a matter of practical diplomacy. Either way, India and China were in such focus, in the alternate order of their names, as the week-long ‘Singapore Airshow 2010’ ended on Sunday (February 7).

Neither India nor China courted undue attention at the show, but they were seen, alongside the United States, as the architects of a future Asia-Pacific order. Such a nuanced view, which did not eclipse Japan’s potential role, was evident during the Airshow-related Asia Pacific Security Conference on February 1. The big idea was not the result of any extraordinary insights or, alternatively, crystal-gazing or even wishful thinking. For the pundits, just some conventional logic of futurology, based on the present-day trends in

world politics, was sufficient.

Of greater interest was the novelty of India being celebrated at the popular cultural level in the ongoing countdown for the Chinese New Year Day. A mini musical show at Chinatown in Singapore on Sunday (February 7) had a Bollywood song on India as an interlude. A greater awareness of India and its potential as a multidimensional power is increasingly evident in Malaysia as well, especially at the official levels.

The India-centred sequence of a few unrelated events in Singapore in recent weeks has, therefore, come as no surprise. On a different track, China remains in constant view on the regional horizon, with some commentators even raising speculation about a futurist Pax Sinica.

The India-centred events in Singapore have presented many shades. A Bollywood-theme song-and-dance show by an Australian producer in mid-January was about one of India's current passions: the cinema. Another passion, cricket, was not ignored. Sunil Gavaskar was the special guest for Singapore's own Twenty-Twenty cricket tournament. India's High Commissioner to Singapore, T.C.A. Raghavan, inaugurated the event on January 30. The City-State's President, S.R. Nathan, presented the trophy on the following day. The tournament has been so designed as to launch Singapore's bid to host major matches as a neutral venue for the current international cricket teams.

Of relevance to political diplomacy, a book on India's place in the world-view of Singapore's elder statesman Lee Kuan Yew was released on January 7. President Nathan released the book by Sunanda K. Datta Ray. It studies India's Look East policy, first enunciated by P.V. Narasimha Rao, in a larger perspective than commonly understood. In a sweep of the global idiom, India is seen

to have sought links with the political West by looking towards the East in the first place.

Signifying a thematic leap to the mediaeval era from such perspectives, a book on India's historical links with Southeast Asia was launched on January 27. Published by the Singapore-based Institute of Southeast Asian Studies (ISEAS), the book was released by Sugata Bose, a Harvard University Professor. The title of the volume edited by ISEAS Director K. Kesavapany and two others, is a tale in itself. An unusual historical phase is sought to be narrated in *Nagapattinam to Suvarnadwipa: Reflections on the Chola naval expeditions to Southeast Asia*.

The broad theme is best conveyed in the words of Hermann Kulke, a German scholar in Asian history and a co-editor of this book. Under the scanner is the "claim" of the Chola King, Rajendra I, about his naval expeditions to Southeast Asia nearly one millennium ago. His "claim" relates to the Cholan conquest of over a dozen harbour-cities of the Southeast Asian kingdom of Srivijaya in the early 11th Century A.D.

Kulke writes: "The first distinct South Indian influences [in Southeast Asia] are usually linked with the famous Buddhist art of Amaravati [in Andhra], and the Pallava Grantha of present-day Indonesia's earliest inscriptions in the 5th A.D." These ancient South Indian influences in Southeast Asia were "followed by the strong impact of Pallava and Chola art and architecture." In this perspective, the maritime triumph "claimed" by Rajendra I in about 1025 A.D. "was a unique event in the otherwise peaceful and culturally exceedingly fruitful relation of India with its neighbours in Southeast Asia" in historical times.

The mystery of missing references to the Chola expeditions in the relevant Chinese texts is sought to be addressed in the book. And,

Tansen Sen, Head of the Nalanda-Sriwijaya Centre at the ISEAS in Singapore, has traced the “Chola-Srivijaya-China triangle.” On the mystery itself, Kulke writes that “it is one of the ironies of the history of Indo-China relations [India-China relations] that the extant Tamil inscriptions in China date only from 1281 [A.D.], two years after the final fall of the Cholas.” He emphasises that the Cholas were, historically, the Indian dynasty that was “most actively involved in maritime trade with China.”

Predating such links was the influence of Nagarjuna’s thoughts on the evolution of Buddhism in China, a subject expounded by a present-day Chinese diplomat Jiang Yili. Evocative, against such a newly researched historical trail, is the latest call by a Chinese security expert, Zhu Feng, for a “new rationale, new passion” in India-China ties.

In today’s global perspective, the India-China relationship, a matter of national interest to Southeast Asia, acquires a wider canvas. A key factor, as outlined by Dean Cheng at the Asia Pacific security conference in Singapore on February 1, is the current space race in the region. The major powers in such focus are the U.S., China, India, Japan, and Russia.

The Association of Southeast Asian Nations (ASEAN) has a vital stake in the stability of the India-China equation. Also, the latest dissonance in the China-U.S. ties over the American arms sales to Taiwan and the status of Dalai Lama is viewed seriously in Southeast Asia. In a related sense, the proposal of a non-official China-India-U.S. dialogue is an idea whose time may have come.

HINDU 15.2.10 INTERNATIONAL RELATION

Building stability in India-Pakistan relations

High-level Track II meeting suggests way to take forward the bilateral relationship.

Senior former officials (including Ambassadors, Foreign Secretaries, Intelligence Chiefs and top-ranking members of the Armed Forces), academics, journalists and political leaders from India and Pakistan conducted a comprehensive two-day dialogue in Bangkok, Thailand, on February 8-9 on a range of issues impacting on the relationship. Terrorism, Jammu and Kashmir, hydro-resources, Afghanistan and nuclear stability were some of the issues discussed.

Welcoming the decision by the two governments to resume the official bilateral dialogue at the Foreign Secretary level, participants at the Chaophraya Dialogue agreed to the following:

1. Peace between and stability in India-Pakistan relations is essential for the well being of South Asia. After nearly 63 years of hostility between India and Pakistan, it is critical that all stakeholders work

for sustainable peace between the two countries. Civil societies in India and Pakistan, by and large, support the goal of peace and reconciliation; peace constituencies in both countries must, therefore, be further strengthened by providing them greater space and support. It is essential that the trust deficit and the burden of history not be allowed to impact on the task of moving relations forward.

2. Trust can be best built through multiple uninterrupted dialogues, positive incremental steps, Confidence and Trust-building Measures, and most critically through acts of statesmanship by the leaders of the two countries.

3. A grand reconciliation can only be ensured, in the long-term, through engagement at every level: civil society meetings, official dialogues, engagement of political leaders, cooperation between business and corporate leaders, visits of artists, sportsmen, media, talks between the armed forces, Track II engagements, etc.

4. Temporary setback in inter-governmental relations should not be allowed to impinge on people-to-people cooperation. Attempts should be made to create a visa-free regime for important stakeholders: including academics, journalists, businessmen, students, artists and former senior officials.

5. Progress made in previous rounds of talks should be carried forward in the official dialogue.

6. Terrorism is of deep concern to India and Pakistan. The memory of the Mumbai attacks is still alive and continues to inform public opinion in India. Today, terrorism and extremism pose an existential threat to Pakistan. Indian concerns about terrorism and the terrorist threats to India are as much of a serious concern for Pakistan. Terrorism and extremism need to be comprehensively and

permanently defeated.

7. India and Pakistan should seriously consider initiating an institutionalised, regular but discreet dialogue between the intelligence chiefs (the heads of R&AW, IB and ISI and IB Pakistan) of both countries.

8. The back channel on Jammu and Kashmir must be resumed at an early date keeping in view the fact that all stake-holders, particularly the people of J&K, will have to be consulted at some stage. If Jammu and Kashmir is considered as a piece of real estate there is little hope of a way ahead. Therefore, the welfare of the people of Jammu and Kashmir must be considered to be of paramount concern. In this context, all agreed CBMs must be more robustly implemented.

9. The media are playing a critical role in shaping popular perceptions. They have thus a great responsibility to help strengthen the constituency for peace. A continuing dialogue between journalists, editors and proprietors of media houses is needed.

10. A sustained dialogue on ensuring strategic stability in South Asia must be an essential part of the bilateral dialogue. There is also need for discussion amongst experts on critical doctrinal issues and the need to work towards creating a Nuclear Safety, Assistance and Collaboration Regime in the region within the framework of minimum deterrence. In this context, a trilateral nuclear dialogue which includes China must also be pursued.

11. The problem of water is becoming a matter of great concern and there is a need to address misperceptions in this regard. The Indus Water Treaty has withstood the test of time and has a well established dispute-settlement mechanism. Any concern about hydro-resources of the Indus river system should be taken up through the Permanent Indus Water Commission. Within the

framework of the treaty, the two countries must also share best practices on water management with each other. Environmental and other experts with domain knowledge, from both countries, must be encouraged to provide concrete recommendations for better and optimal management of hydro resources given the huge challenge that the scarcity of water will pose for the region in the future.

12. A stable, prosperous, sovereign and independent Afghanistan is in the interest of India and Pakistan and both countries must work for this goal and hold talks to allay each other's apprehensions.

13. Track-II dialogues are designed to move beyond officially stated positions, find a way forward, and can provide alternative approaches to the governments of Pakistan and India as well as other important stakeholders. It is vital that Track II dialogues be encouraged by both New Delhi and Islamabad.

Pakistani participants: Samina Ahmed, South Asia Project Director at the International Crisis Group, Gen. (retd.) Ehsan ul Haq, former Chairman, Joint Chiefs of Staff, Amb. Aziz Ahmad Khan, former High Commissioner of Pakistan to India, Gen. (retd.) Aziz Mohammad Khan, former Chairman, Joint Chiefs of Staff, Amb. Humayun Khan, Foreign Secretary of Pakistan, Amb. Riaz Khokhar, Foreign Secretary of Pakistan, Amb. Rustam Shah Mohmand, former Ambassador of Pakistan to Afghanistan, and Sherry Rehman, Member of Parliament

Indian participants: Maj. Gen. (retd.) Dipankar Banerjee, Director, Institute of Peace and Conflict Studies, A.S. Dulat, former Director, Research and Analysis Wing, Sagarika Ghose, senior editor and prime time anchor, CNN-IBN, Happyman Jacob, Assistant Professor, Centre for International Politics, Organization and Disarmament, Jawaharlal Nehru University, Amitabh Mattoo, Professor, Centre for International Politics, Organization and

Disarmament, Jawaharlal Nehru University, Rear Adml. (retd.) Raja Menon, Chairman, Task Force on Net Assessment and Simulation, National Security Council, Amb. G. Parthasarathy, former High Commissioner of India to Pakistan, Vikram Sood, former Director, Research and Analysis Wing, Siddharth Varadarajan, Strategic Affairs Editor and Chief of National Bureau, *The Hindu*.

JUDICIARY

PIONEER 8.2.10 JUDICIARY

Our courts are choked

Joginder Singh

The Union Law Minister has recently announced that the number of undertrial prisoners languishing in various jails across the country will be reduced by two-thirds within six months. Under the law, the Government has powers to release convicted prisoners after certain years of imprisonment. However, it has no such powers when the matter involves an accused undertrial. Of course, the Government can at any time withdraw any case pending in a court of law as well as deny sanction to prosecute any accused in cases where sanction is required. But convicting or freeing those under trial falls within the ambit of the judiciary.

The Government's stated reason for freeing a large number of them is that many of those who are under trial and languishing in our prisons are in such a position because they could not get adequate legal aid. In some

cases, prisoners have been behind bars for more than the maximum term of imprisonment for offences they had been charged with.

According to the Law Minister, the Chief Justices of High Courts would appoint a task force to monitor the plan. The task force, under the chairmanship of the state legal service authority or a senior judge, would depute teams to visit jails and identify prisoners who deserve to be freed. The teams would look into individual cases to identify those who were entitled to be released. The Law Minister has said, “Of the undertrials, roughly around two lakh have been in jail for several years essentially because of delays in the justice delivery system.” It appears that the Union Cabinet has approved the plan.

On the face of it, the plan seems excellent and a small step towards decongesting our prisons. According to a survey conducted and released in November, last year by the International Centre for Prison Studies, Kings College, London, in 218 countries and territories, a total of 3.73 lakh prisoners are lodged in nearly 1,336 prisons in India. As per the study, more than 9.8 million people are held in different prisons throughout the world. The study stated that the maximum number of prisoners across the globe is in the prisons of the US, which host 2.31 million prisoners. The US is followed by China (1.57 million), Russia (0.89 million) and Brazil (0.47 million).

The real problem does not lie with the courts but with the Government that knows what needs to be done to solve the problem of delay in our courts. Yet it chooses to skirt the issue.

As per the information furnished by the Law Minister to Parliament in December, 2009, a total of 3,11,39,022 cases were pending in courts across the country. The detailed break up is as follows:

Supreme Court: 52,592 pending cases

High Courts: 38,74,090 pending cases

Maximum pending cases: Allahabad High Court — 9,11,858

Pending cases in Uttar Pradesh district and subordinate courts:
51,60,174

n Total pending cases in subordinate courts: 2,64,09,163

Strength of judiciary:

High Courts — Sanctioned: 886, Actual in position: 606

Subordinate courts — Sanctioned: 16, 685, Actual in position: 13,556

Average disposal per judge:

High Courts: 2,504 cases per year (2008)

Subordinate courts: 1,138 cases per year (2008)

According to one estimate, the number of judges required to dispose of the total pending cases promptly is 1,547 in the High Courts and 4,400 in the subordinate courts.

Addressing a gathering in Chennai in July last year, Chief Justice of India KG Balakrishnan said: “We are not able to bring it (the number of pending) cases down significantly, though we want to. Some States in the country don’t pay enough attention to the judiciary. Unless there is a large number of courts, how can the pendency come down?”

For speedy and quick disposal of cases, several committees have been formed in the past. In 1924 a committee was formed under the chairmanship of Justice Rankin. After independence, other committees constituted included the Justice SR Das Committee in 1949, Justice JC

Shah Committee in 1972, the Satish Chandra Committee in 1986 and the Justice VS Mallimath Committee in 1990. But the situation from 1926 to 2010 remains virtually the same. The Law Commission, in its 120th report submitted in 1987, examined the problem of understaffing in the judiciary and recommended 50 judges per million of population instead of the present 9.5.

The inadequate number of judges is a major reason for the delays in the disposal of cases. Thus, the solution to the problem lies in the hands of the executive and administrative wings of the Government, and not the judiciary. Former Attorney-General of India Soli Sorabjee, in a lecture in London, lamented that the criminal justice system in India was on the verge of collapsing because of understaffing in the judiciary. He also observed, “Justice delayed will not only be justice denied, it will be the rule of law destroyed.”

More than 60 per cent of the pending court cases in India are due to the action or inaction of some Government official towards a citizen or a group of citizens. The same observations have been made by the Supreme Court more than once. The Arrears Committee headed by Justice VS Mallimath (1990) has identified the following causes for the accumulation of backlog of cases in the High Courts.

- (i) Litigation explosion;
- (ii) Accumulation of first appeal;
- (iii) Inadequacy of staff attached to the High Courts;
- (iv) Inordinate concentration of work in the hands of some members of the Bar;
- (v) Lack of punctuality among judges;
- (vi) Granting of unnecessary adjournments;
- (vii) Indiscriminate closure of courts; (viii) Indiscriminate resort to writ jurisdiction;
- (ix) Inadequacy of classification and granting of cases; and,
- (x) Inordinate delay in the supply of certified copies of judgements and

orders, etc.

The problem of court pendency, delay and quick disposal of cases is not something new. Letting off those under trial and in judicial custody is no solution. The initiative taken by the law Minister is commendable. But it doesn't do anything to alleviate the misery of the common man seeking justice. Much bolder steps are needed. The Government must remember that unless it maintains justice, justice will not maintain us. A crisis looms large and a solution brooks no further delay.

HINDU 13.2.10 JUDICIARY

A judge extraordinaire

Karuna Nundy

Justice A.P. Shah — who retired this week — leaves the mark of his work across a spectrum of cases.

In May, 2008 when A.P. Shah took over as Chief Justice of the Delhi High Court, he came with a reputation. He had spent the larger part of his career in the Bombay High Court, where he had ruled that no political party had a legal right to call for a bandh because it violated the fundamental rights of Bombayites. He made the Shiv Sena and the BJP deposit fines of 20 lakh rupees each, and directed that the money be used to improve public services in the city. In another case, Justice Shah had prevented the Maharashtra government from suppressing Doordarshan's telecast of a film about terrorism in Punjab and *Ram Ke*

Naam, a documentary about the Ayodhya issue. At the Madras High Court, where Justice Shah had spent two years building up the infrastructure of justice delivery, he set up a child centre in the family court, mediation centres in the districts and decentralised training programmes for judges.

Standing at the back of Court No.1 in Delhi, while complaining about the heat and the parking, a small group of public interest lawyers noted his arrival with measured hope.

On Thursday the same lawyers, joined by many more, gave Justice Shah a standing ovation at his farewell. They came in such large numbers that even the cavernous Court No.1 could not contain them, and large screens were set up in the corridors and atrium to relay the event. In less than two years as Chief Justice of Delhi, Justice Shah's name has become associated with a number of rulings that have changed the city, but many people will remember him for the judgment that decriminalised homosexuality.

When the Delhi High Court limited Section 377 to protect consensual gay sex, they did so on constitutional grounds so stringent that the Central government hesitated to appeal the order, despite having lost. It is true that historical events like this aren't achieved by a single man alone. There was much serendipity behind the decision, the breadth and form of which hadn't even been expected by optimistic queer activists. To begin with, next to Justice Shah sat Justice Dr. S. Muralidhar, a man with a long experience of human rights jurisprudence and the criminal law. For once, the weight of legal argument and research was on the side of the marginalised. The lawyers arguing for decriminalisation were Anand Grover, an experienced human rights lawyer and the dynamic, young Senior Counsel Shyam Divan. Divan also brought to the case the personal education and commitment that comes from having a prominent queer activist as a family member. Their arguments were fed with solid research by a dedicated team of young lawyers in

cities across the country, and supported by arguments emailed in by Oxford faculty. But without the leadership of Justice Shah, even Aristotle's arguments could not have succeeded.

The 377 judgment drew media attention to the winds of change rustling through the High Court. In subsequent months, Justice Shah, Justice Muralidhar and other associates on the Bench have become something of a newspaper phenomenon, punctuating timely rulings with direct, apt critique. For instance, when an overzealous Delhi government was on its way to sending beggars back to their native states, Shah and Muralidhar intervened to stop them. "Poverty is not a crime," they observed. "It's strange that a criminal can reside in the city but if someone is asking for alms, then he is thrown away."

Last month, as temperatures dropped to 4 degrees, the MCD demolished a night shelter for the homeless on Pusa road. Responding to a newspaper article, Justice Shah and Justice Endlaw directed the MCD to restore the shelter immediately, demanding "(The) Commonwealth Games is after 10 months, and for the city's beautification you will throw out people in a chilling winter like this?" The MCD has now been directed to draw up a plan to construct 144 permanent shelters for the homeless across the city.

In a stream of rulings like these above, Justice Shah has led bench after bench in defending those very ordinary Dilliwalas — cycle-rikhshawalas, the disabled, slum-dwellers and most recently the victims of the 1984 massacres — whom no one else has time to remember.

Very recently, the Supreme Court itself made a rare, self-critical comment. "Of late, there has been a visible shift in the courts approach in dealing with the cases involving the interpretation of social welfare legislations," said the ruling, authored by Justice Singhvi. "The attractive mantras of globalisation and liberalisation are fast becoming the *raison d'etre* of the judicial process." In a time when the

government and the judiciary have fallen into a hard consensus on corporate-led development, modest regard is paid to its social and environmental cost. Many courts place implicit trust in the intentions of companies and in the idea that any corporate interest result directly in the improvement of the lives of others. The time spent on corporate disputes has increased as the importance given to matters concerning the underprivileged has fallen.

It's this context that has made Justice Shah's court an extraordinary one. Late last year, a judgment of Justice Shah's reminded a corporation of its obligations to pay the city back, he directed Apollo Hospitals to give 33 per cent of its beds and 40 per cent of its Out Patient services for free, as they're legally bound, saying, "Health care... cannot be left to be regulated solely by the invisible hands of the market."

During his brief tenure on the bench, Justice Shah's judgments have held off some of the Darwinian forces trying to morph Delhi into a city free of too-poor people. When Justice Shah retires, the mark of his work will be the relief of India's gay and transgender citizens, sick Indians receiving healthcare, disabled people with government jobs and children who have a place to sleep tonight.

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POLITICS AND GOVERNMENT

HINDU 10.2.10 POLITICS AND GOVERNMENT

The blame game around food prices

C.P. Chandrasekhar

The special meeting of Chief Ministers convened by the Centre indicates that food price inflation remains worrisome. But at the meet the problem was underplayed and little of substance emerged.

With food price inflation still running at close to 18 per cent, the UPA government at the Centre has been forced to recognise that it constitutes a problem that deserves as much or more attention than the objective of achieving a 9 or 10 per cent rate of growth. But there is little of substance that it appears to be doing to rein in prices. In fact, the effort seems to be to declare the problem as being partly unavoidable and temporary and as partly the result of acts of commission or omission of the State governments or of non-Congress segments of the Central government.

This appears to have been the intent also of the special meeting of Chief Ministers convened in Delhi to ostensibly discuss the food price inflation and work out solutions. The outcome of the meeting is indeed surprising. After getting the heads of 24 State governments together, the Prime Minister in his inaugural address declared that the worst was over on the food inflation front and that the government would be able to stabilise food prices soon.

Having thus induced a sense of complacency about future price trends, the Centre chose to identify the inflation that has been with us for the past few months as being the collateral fallout of policies and developments elsewhere in the domestic and world economy. Among the reasons reportedly cited for the price rise in the course of deliberations at the conference were increases in the minimum support price for farm produce instituted to help the farming community, increases in international prices, increases in demand “due to the increase in purchasing power” resulting from higher growth, excess liquidity in the system, “inefficiencies” in marketing of farm produce and the high cost of intermediation. While action to deal with some of these has been promised in the past and that promise reiterated at the meet, many of the factors seen as driving inflation are either out of the Centre’s control or otherwise positive economic outcomes that cannot be countered.

This amounts to an implicit declaration that food price inflation of some intensity is inevitable. Hence the principal outcome of the Chief Ministers’ meet was a set of proposals aimed at monitoring inflation so as to act early whenever it threatens to be excessive and to deal with inflation-inducing supply constraints in some commodities, through long-term efforts at strengthening agriculture. Towards this end, the meeting constituted a Standing Core Group to suggest measures to deal with price rise, propose steps for improving the public distribution system and the procurement of foodgrains and find ways of reducing the gap between farm gate prices and retail prices. For the long term,

the Standing Group will also suggest measures for increasing agricultural production and productivity, including long-term policies for sustained agricultural growth.

Besides the Union Finance Minister, the Union Agriculture Minister, the Deputy Chairman of the Planning Commission and the Chairman of Prime Minister's Economic Advisory Council, the Group will comprise the Chief Ministers of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Madhya Pradesh, Punjab, Tamil Nadu, and West Bengal.

While all efforts at consulting with the States on issues of economic importance are laudable, the constitution of this committee seems to be motivated by political considerations rather than a search for improved economic management. To start with, a joint committee of the Centre and the States sends out the signal that the governments in the States are as much responsible for allowing inflation to reach the levels it has reached. Second, it underlines the argument which has been made for some time now that the States need to do more to help the Centre combat the current inflation and prevent the recurrence of such episodes of inflation in future. In fact, the Prime Minister, who had earlier argued that the States were not doing enough to deal with speculation, attributed the wide gap between farm gate and retail prices partly to the proliferation of State and local taxes, cesses and levies. When claiming that taxes on food items added an additional cost burden of as much as 10-15 per cent at the retail level, he was implicitly suggesting that the States should forego revenues to neutralise some of the price increase. Besides this, he made a case for enhancing competition at the retail level by opening up the retail trade, though the evidence elsewhere is that this merely increases concentration at the retail level and widens rather than reduces trade margins.

All this helps divert attention from the longer term and more recent policies of the Central government that were responsible for generating

the current high levels of commodity price inflation even when demand-supply imbalances are restricted to a few commodities. While there is some consensus on the role of speculation in driving inflation, official statements ignore the importance of liberalised marketing arrangements, liberalised futures trading, long-term supply-demand imbalances resulting from the neglect of agriculture and errors in supply management in the case of commodities like sugar in ensuring that speculative expectations of a rise in prices are realised. Moreover, with its emphasis on subsidy reduction and targeting of food distributed through the public distribution system, the Centre has paid little attention to enhancing the spread and penetration of the PDS, making it a less potent instrument to combat speculation. In fact, many States have complained that they have not been allocated adequate supplies to cater to the demands of the above poverty line population, undermining the role of the PDS as a safeguard against inflation in open market prices. Given this background, it is unclear why the State governments should accept the Centre's reading of the intensity, temporal spread and determinants of the current inflation and endorse the policies it recommends to deal with the problem.

The problem is unlikely to just go away as the Prime Minister expects because the foreign exchange reserve the country has accumulated, which facilitates imports to augment supplies, is also not an effective antidote against inflation. There are two difficulties here. First, as the RBI's recent policy review statement notes, "the global rates of increase in the prices of sugar, cereals and edible oils are now appreciably higher than domestic rates," so that the opportunity to use imports to contain domestic food prices is limited. Second, even where imports can be resorted to, managing distribution to reach supplies to where they are needed is not easy given the limited spread of the public distribution system. It is the resulting erosion of its ability to ensure low inflation while pushing for reasonable growth that the government's anti-inflation propaganda seeks to conceal. While leaders of the Opposition parties and Chief Ministers of the States ruled by non-Congress parties

have declared in the conference and outside that the current inflation is largely a result of the Centre's policies, their participation in the centrally driven effort to rein in inflation does amount to playing into the hands of the Centre. Rather than serve as honorary advisers to the Centre, the State governments would do well to devise their own strategies to protect the vulnerable sections from the adverse effects of the recent price increase and ensure that inflation is kept in control in the future. They could then support each other in their effort to get the Centre to fall in line, both in terms of adopting similar policies as well as providing the States the resources needed to pursue their strategies. This, rather than participation in meetings and committees in which they are talked down to, would be much more in their interest.