

They allowed the blood to flow!

Three cops of Saharanpur have shamed the police force by setting a new record in cruel callousness in full public view. Two boys lay in a pool of blood, having got those injuries in a ghastly road accident on a Saharanpur Road when they were flung into a drain along the road as the motorbike they were riding hit an electric pole. The gravely injured boys were taken out of the drain by passersby and were made to lie on the roadside. Passersby called the police which reached the spot in a Dial 100 in Toyota Innova car. The public pleaded with the three men in uniform to shift the bleeding youths to hospital as their condition was precarious. But the cops bluntly refused to do so saying that carrying them would mean staining the seats of their vehicle with blood. They could not afford to dirty their vehicle with the blood of the youth and asked them to hire a tempo.

So they allowed the blood to flow. The cries, entreaties of the public, all recorded in a video, failed to move the callous heart of the cops who abandoned the bleeding boys to die on the highway. It is the locals who took both the wounded victims to a district hospital in a three-wheeler where both died during the treatment. Meanwhile, the passersby shot the incident and released the video on social media. That is how this chapter of shame hit the headlines. The three cops have been suspended and a departmental probe ordered. DIG, Saharanpur range, Sunil Emmanuel, says: "Such intolerance is uncalled for. They were duty-bound to help the boys struggling for life. After suspension and the inquiry, when their irresponsible and immoral conduct will be established conclusively, further action will be taken against the three."

It is difficult to even imagine, let alone believe, that this could be the face of the Indian police. We won't say that the whole of UP police is like that. But these three cops, who belong to UP police have shamed the entire force in general, given bad name to UP police in particular. But for the video, who could have believed that a group of three cops could collectively be so callous, so cruel, so inhuman as to ignore the cries and entreaties of strangers who were crying out on humanitarian grounds for help without even knowing who those young lads were? Usually, it is the public which behaves callously on such occasions. But in this case it is the public, the unknown strangers who rushed to help the bleeding youth. They deserve a salute—but not the three cops, the three villains who deserve a bigger punishment than mere suspension for their outrageous, unparadonable behavior that cut short two young lives, the only hopes of their families. They were morally responsible for their death as they allowed their blood to flow right in front of their eyes.

SNIPPETS

Amit Shah says, 'Till BJP came to power in UP the State occupied top position on the crime graph. Now it is at the bottom.' Critics will say: 'It may be at the bottom. But Shah concedes that it is not crime free.'

Lalu may ask: 'But which State now occupies the top place in crime? BJP is ruling almost all the states'. Congress may then add: 'We guess Amit Shah will name Punjab!'

Twenty AAP MLAs have been disqualified. Congress and BJP are demanding Kejriwal's resignation on moral grounds. They will be asked: 'Can you say when any one in your parties resigned on moral grounds?'

Kejriwal may hit back and say: 'Those who live in glass houses should not throw stones at others. Did Modiji resign even when no less a person than the then Prime Minister Atal Behari asked him to do so on moral grounds after the Gujarat riots?'

Arun Jaitley may butt in to say: 'Modiji had resigned but he was asked by party leaders to take back his resignation, which he obediently did'. Kejriwal may then ask: 'Was Atalji's code of morality different from the rest of BJP people?'

In Madhya Pradesh, BJP won 4 and Congress bagged 20 out of 24 wards in the Raghogarh Nagar Nigam elections. Have the coming events started casting their shadows already?

A Banda Gram Pradhan was sent to jail for teasing a minor girl. Akhilesh Yadav may ask Amit Shah: 'To which category does this crime belong?'

Let volcanic eruption in the Supreme Court be a blessing

Sometimes blessings come in disguise. The sanguine hope is that the volcano that has erupted in the Supreme Court of India on 12th of January in an unprecedented press conference of four senior-most puisne judges will bring good results for the catharsis of the judiciary. It was like a tremor in the Indian judicial history when four judges—Jasti Chelameswar, Ranjan Gogoi, Madan Bhimarao Lokur and Kurian Joseph took the unimaginable recourse of addressing the media to tell the nation that everything was not hunky dory in the Supreme Court of India. Hectic efforts are going on to paper over this crisis of monumental proportions, but it has already become a historic watershed in the higher judiciary.

The press conference has brought forth the rot that has been simmering in the judiciary but never discussed openly. There has been a general opinion across the country that subordinate judges and its paraphernalia has been in the neck-deep corruption. Even a common man will tell that a Peshkar in the courts openly takes bribes for providing the simple information of the dates to the litigants. Nevertheless, the judges of the High Courts and the Supreme Court have been enjoying the tremendous trust of the people of the country.

The press conference has thrown an opportunity for the self-introspection. Till now the people and the media have been hauling over the coals about the conducts of the Legislature and the Executive but the Judiciary has largely been left untouched. The judicial functioning has not been subjected to public scrutiny as other two organs of the State. Many times, allegations of forum shopping and bench hunting are leveled but they have been mostly in a veiled manner.

During the press conference, the judges also circulated a seven-page letter in which they have raised mainly two points. First is about the Memorandum of Procedure (MoP) for the appointment of the judges in the High Courts and in the Supreme Court, which still remains undecided and the second is the assignment of cases by the Chief Justice of India to other judges and their benches. Both of them lack transparency. The Chief Justice of India, it is accepted by all, is the master of the roster, but he cannot use it arbitrarily for assigning the cases to the benches, which are pliable and favorable to him. The Chief Justice of India is 'first among equals' in the administrative side but in the judicial side, all judges are equal.

Supreme Court Judges are considered to be the wise persons by their learning, experience, and constant training. Barring a few, most of them have been the Chief Justices of one or many High Courts of the country before being elevated to the Supreme Court. The four judges who are being termed as the 'rebel judges' have also been the Chief Justices of different High Courts. Therefore, they are well aware of the duties, obligations, rights, and responsibilities of the Chief Justice of India.

What has, however, happened on 12th January has stunned the nation. There is one incident which has some similarity with this one and that was on

1973 when Mrs. Indira Gandhi had superseded three judges—H.R. Khanna, JM Shelat, and KS Hegde to appoint Justice A.N. Ray, a committed judge, as the Chief Justice of India. All three superseded judges

respect and consideration.

The possible solution to the crisis can be that a part-heard matter may not be divested from the co-justices who are seized with it. Second, the CJ may

'Judicial Panorama' appears every fortnight, wherein important legal issues are discussed and analysed by Parmanand Pandey, an Advocate-on-Record in the Supreme Court of India- Editor



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had then resigned from their posts to express protest and resentment but this time there is not even a whisper of resignation from any judge. Instead, they openly expressed their consternation against the Chief Justice of India and sought the help of the country so that the posterity after 20 years may not accuse them of selling their souls. This was an oblique call for the impeachment of the Chief Justice. When Justice A.N. Ray was made the Chief Justice ignoring the seniority of others, it was solely in the hands of the Executive. However, after 1993, the Executive has practically no role in the appointments, transfers/promotions of the judges. All the present judges of the Supreme Court owe their appointments in the High Courts and their elevation in the Supreme Court to the Collegium System.

There has been a huge hue and cry against the Collegium System, which empowers a group of five judges to appoint other judges. This system does not find any mention in the Constitution of India but has been introduced through a judgment of the Supreme Court. By this system, the Supreme Court has taken over all the powers to itself by rendering the Executive ineffective. Just to clip the wings of the Collegium System, the government, with the support of all political parties, enacted the 'National Judicial Appointments Commission' (NJAC) for the appointment of the judges, which was challenged in the Supreme Court but then again, the Supreme Court struck down the NJAC Act and restored the Collegium System. Justice J. Chelameswar was the loner, which handed down the NJAC judgment. He said that the Collegium System is erroneous, opaque and therefore must be done away with. Incidentally, it is he who has led the rebellion this time.

Obviously, these four senior-most judges must have had their overwhelming reason(s) to defy the ingrained protocol of silence and anonymity. Their grievance, first made privately to the Chief Justice, had remained unaddressed. The letter they have made public draws a portrait of a wayward Chief Justice, unbothered and unwilling to give the four senior brother judges the time of day. The only feasible conclusion is that there is an internal collapse of the highest judicial forum. Any person who gets elevated as Chief Justice of India is called upon to show wise leadership if the institution over which he presides has to retain its vitality and robustness. There is a very little place for—recall what Sardar Patel had to tell Harilal Kania three days before he became the first Chief Justice of India—"petty-mindedness" in how a "Chief" deals with his brother judges. It is incumbent upon a Chief Justice of India indeed for anyone who presides over an institution—to corral fellow-judges into the joys and pleasures of judicial brotherhood and its internal code of mutual

not deny a request for recusal on grounds of conflict of interest. Third, the chief justice may not ignore the requests by co-justices to form a larger Bench. Fourth, a chief justice may not selectively assign sensitive or important cases to the same judges. However, fifth, it is doubtful whether there is, or ought to be, a convention requiring such matters to be heard only by the senior-most justices. No, because the decision to elevate a citizen to judgeship must involve all relevant considerations; once elevated, a justice is co-equal to all other brethren. Sixth, it is true that co-equality occurs within a hierarchy: Not every justice becomes a chief justice, and the SC collegium must comprise the five senior-most justices. Outside this framework, the question about the rank-ordering may not arise; all justices speak for the constitutional court. Any discussion about benches headed by "junior" justices is therefore injudicious. Competitive party politics cannot but take sides in this debate, but justices must act on evidence and arguments before them. Political actors work with an interest in specific outcomes, but a judicial judgment must be devoid of any personal stake in the outcome.

Therefore, it would be in the fitness of the time and the occasion that the Supreme Court Act must be framed for the restructuring of the Supreme Court itself. It is vital that a court of 31 judges if it is to function as an apex court, must develop some degree of institutional coherence. Such coherence is impossible when the court sits on benches of two judges each. And secondly, the existing structure allows the CJ to become the master of the roster, vested with the absolute discretion of allocating judges to particular cases, leading to crises like the present one. An antidote to both the aforementioned problems is a restructuring of the Supreme Court into three divisions: Admission, Appellate, and Constitutional. All Special Leave Petitions under Article 136 ought to be first considered by the Admission division. The division should comprise five randomly selected judges who for one quarter every year should deal only with admission cases.

Such restructuring will have three advantages. First, it will yield more coherent jurisprudence, particularly in constitutional matters, taking us closer to certainty and the rule of law. Second, it will allow for more careful contemplation of which matters actually deserve admission to India's apex court. Third, it will reduce the discretion available to the CJ to select benches, since this will be limited to the appellate division alone.

Fighting a two-front war

Several times in recent years, the chiefs of staff have publicly emphasised the need for the Indian armed forces to prepare to fight a two-front war. Given the ever-deepening nuclear warhead-ballistic missile-military hardware nexus between China and Pakistan, now supplemented by close economic cooperation, the probability of a two-front threat is constantly increasing. The history of military collusion between China and Pakistan goes back over 50 years. During the 1965 India-Pakistan war, though Pakistani president General Ayub Khan had asked China for military aid, China limited its support to making some threatening military manoeuvres in Tibet. The aim was to keep Indian military reserves tied down so that additional divisions could not be moved from the eastern theatre to the western front.

During the 1971 India-Pakistan war, despite Henry Kissinger's entreaties to China to intervene, China chose to restrict its support once again to threatening noises. It is noteworthy that during the Kargil conflict in 1999, Chinese military advisers were reported to have been present in Skardu in Pakistan-Occupied Kashmir (POK). Since at least the early 1990s, China has been using Pakistan as a proxy to embroil India in perpetual conflict. It provided nuclear warhead designs to Pakistan and reportedly some fissile material as well. China helped Pakistan to test its prototype warhead at its Lop Nur range and gave it M-9 and M-11 nuclear-capable short-range ballistic missiles (SRBMs). China also facilitated the transfer of Nodong and Taepo Dong ballistic missiles from North Korea to Pakistan. American journalist Selig Harrison wrote in the New York Times that close to 10,000 Chinese engineers and personnel of the People's Liberation Army (PLA) have been engaged in road and hydel projects in Gilgit-Baltistan (GB) for over a decade.

It is believed that Pakistan has outsourced counter-terrorism operations in GB against extremists of the East Turkistan Islamic Movement (ETIM), active in China's restive Xinjiang, to the PLA. Also, Pakistan has handed over its Gwadar port on the Makran Coast to China. It is possible that as part of China's 'string of pearls' strategy, the port will be turned into a Chinese naval base.

It was in the light of these developments that former army chief General Deepak Kapoor had said during the Army Training Command doctrine seminar

in December 2009 that the Indian Army must prepare for a two-front war. Several armed forces chiefs have repeated this formulation since and it has become the sine qua non for India's defence preparedness.

Gurmeet Kanwal

In fact, some former chiefs have spoken of the need to prepare for a two and a half-front war. The implication is that the army is already engaged in a 'half-front war' by way of counter-insurgency operations that drain resources in Jammu and Kashmir (J&K) and some of the north-eastern states. Also, during a future war with either China or Pakistan, given the unstable internal security environment, there will be a requirement to keep the internal lines of

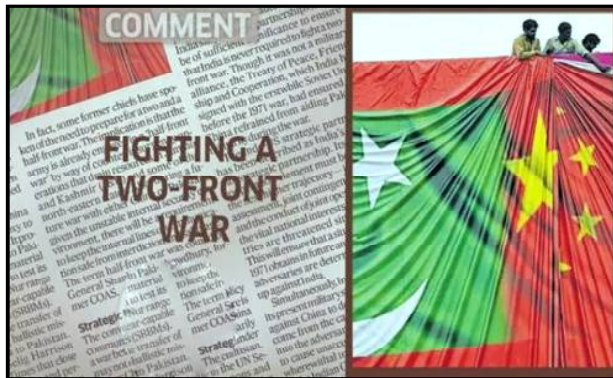
China, Pakistan is unlikely to hold back. It is certain to take advantage of the situation in various ways. Pakistan will step up the infiltration of trained terrorists to play havoc with the lines of communication of the Indian armed forces and may, under certain circumstances, open another front against India. If Pakistan does launch offensive operations in support of China, these will probably begin in J&K, but may not necessarily remain limited to J&K.

Can India fight both China and Pakistan simultaneously? The armed forces will be stretched to the limit but, given adequate resources, they could fight a holding action successfully, though with large-scale casualties. However, with the present force levels and combat capabilities, they cannot fight and win. That implies that they cannot hope to terminate the conflict on India's terms and impose the nation's will upon the adversaries. As such, the political and military aims and objectives will have to be kept low.

Should India enter into a military alliance with friendly powers? Military alliances are passé as these are generally too restrictive and it is necessary for India to preserve its strategic autonomy. Ideally, India's key strategic partnerships should be of sufficient significance to ensure that India is never required to fight a two-front war. Though it was not a military alliance, the Treaty of Peace, Friendship and Cooperation, which India had signed with the erstwhile Soviet Union before the 1971 war, had ensured that China refrained from aiding Pakistan militarily during the war.

The Indo-US strategic partnership has been described as India's 'principal' strategic partnership. Its defence cooperation element must be taken to the next higher trajectory - joint threat assessment, joint contingency planning and the conduct of joint operations when the vital national interests of both countries are threatened simultaneously. This will ensure that a situation similar to 1971 obtains in future and India's military adversaries are deterred from ganging up against India. Simultaneously, India should upgrade its present military strategy of dissuasion against China to deterrence, which will come from the capacity to take the war into the adversary's territory, the ability to cause unacceptable damage and the wherewithal to dominate the sea-lanes of the Indian Ocean.

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communication safe from interdiction and sabotage. The term half-front war was coined by General Shankar Roychowdhury, former COAS.

STRATEGIC PARTNERSHIPS

The conventional wisdom in the policy community in New Delhi is that if there is a war between India and Pakistan, China may not come to Pakistan's aid militarily unless Chinese troops are directly under attack, for example in Gilgit-Baltistan. China will raise the issue in the UN Security Council, provide weapons and defence equipment as well as logistics support and probably demonstrate some military manoeuvres in Tibet to prevent India's dual-tasking divisions from being moved to the western sector, as it has done in the past.

However, if there is a war between India and