

**Mother & Son
on warpath**

The Mother and Son are on the warpath. The two went hammer and tongs at Prime Minister Narendra Modi when Sonia Gandhi, former Congress President, described him as "arrogant", "power hungry" and "dramebaaz" and the newly elected Congress President Rahul Gandhi branded him as someone using "anger" to divide the nation. The two were addressing the 84th plenary session of the Congress, when Sonia exhorted party workers never to give in to power plays and intimidation and to stay at the forefront of the fight against the saffron party's "dictatorial" and "intolerant" behavior. Of the two, the mother was more fiery with words than the son. But there was no mistaking about their strong determination to restore the old glory of the Congress which, the mother said, "is not a political term, it is a movement."

The Congress, however, blundered recently by not joining the Bua-Babua brigade for the UP Lok Sabha by-elections. It contested on its own and could not save its security deposit. After that how can it stake its claim to lead the secular front against the BJP when the regional parties have independently started giving sleepless nights to the saffron brigade? It is true that the Congress gave a tough fight to BJP in Gujarat where it did not allow the latter to reach the 100 mark despite it being the home state of Modi and Amit Shah. The Congress also defeated the BJP in the Lok Sabha by-elections in Rajasthan and Madhya Pradesh. But unless the Congress wins Karnataka again and also stages a comeback in MP and Rajasthan as it did in Punjab, there wouldn't be a strong case for the party to claim the leadership of the anti-BJP front.

But BJP won't take the challenge lying down. However, right now it faces the threat posed by the no-trust motion which the TDP is desperately trying to table in the Lok Sabha. The numbers are still with the BJP even after several NDA partners have already left or have threatened to quit the alliance. But BJP may find itself in a real tight corner if, in addition, some of its own MPs decide to emulate Shatrughan Sinha, Ram Jethmalani, Yashwant Sinha and take this opportunity to hit back in retaliation against the humiliation suffered by their ideals and idols in the party like L.K. Advani and Dr Murli Manohar Joshi. The no-trust motion, therefore, would pose no external threat if there is none within to upset the Modi appellation. But can Amit Shah ensure that there will be no 'Gaya Rams' from the party angered as some of them could be by the entry of some 'Aya Rams' whom they may be detesting?

SNIPPETS

Chandrababu Naidu and his party TDP have abandoned the BJP. The latter is now trying to save defections from its Andhra MLAs to the TDP—all because of the BJP debacle in the UP Parliamentary by-polls!

A no-trust motion is coming up in the Lok Sabha backed by Congress and the rest. What would happen if some of the suppressed BJP MPs, provoked by Yashwant Sinha and Bihar's Shotgun choose to vote with the Opposition?

Lalu may quip: 'Entry of Amit Shah in Rajya Sabha seems to be proving inauspicious for the saffron brigade!'

Mamata Banerjee has complimented Naidu for quitting the NDA. Amit Shah may say in disgust: 'These women have become a headache. Sometimes it is the Bua-Babua menace, sometimes the Mamata taunts and sometimes Sonia's anti-BJP dinner parties.'

Cricketer Muhammad Shami has charged his wife with squandering away one crore and a half rupees of his for personal shopping. Then why is she annoyed? Is it because he is no longer prepared to let her spend his hard-earned money on frivolous shopping?

Saudi Arabia's heir apparent has threatened to manufacture an atom bomb if Iran makes one. Pakistan may tell the Crown Prince: 'Why should you bother? We are there, ever ready to sell you atom bombs from our stock.'

Yogi Aditya Nath had described the Bua Babua friendship as an alliance between a rat and a snake. He apparently did not foresee that the rat would nibble away the party's credibility and the snake would bite it.

'Living Will' to Die With Dignity

The legend goes that Dharmaraj Yudhishthir told Yaksha that the greatest wonder is that whosoever is born will have to die but nobody wants to believe it. The five-judge constitution bench of the Supreme

Court recently delivered a judgment, laden with philosophical conundrums, ethical values, and legal scopes. Many a time it is the same life that becomes burdensome for the person,

who is face to face with inevitable death, and also for his/her family members. This judgment has now given the right to people to die with dignity and can write a 'Will' of death, saying that if he/she is in the coma or vegetative state, the plugs of life may be pulled off. The poet Alfred Tennyson has said that 'no life that breathes with human breath has ever truly longed for death.' But this perception is not always the same at every stage. There comes a phase in life when the spring of life is frozen, the rain of circulation becomes dry, the movement of body becomes motionless, the rainbow of life becomes colourless and the word 'life' which one calls a dance in space and time becomes still and blurred and the death comes near to hold it as an octopus gripping firmly with its tentacles so that the person 'shall rise up never'.

Ernest Hemingway expounded the idea that man can be destroyed but cannot be defeated. Nevertheless, life sans dignity is an unacceptable defeat and life that meets death with dignity is a value to be aspired for and a moment for celebration. It is a vexed question whether a person should be allowed to remain in the stage of incurable passivity suffering from pain and anguish or should he/she not be allowed to cross the doors of life and enter, painlessly and with dignity, into the dark tunnel of death that is full of resplendence.

The Court said that the legal question does not singularly remain in the set framework of law or, for that matter, morality or dilemma of the doctors but also encapsulates social values and the family mindset to make a resolute decision which ultimately is a cause of concern for all. There is also another perspective to it. A family may not desire to go ahead with the process of treatment but is compelled to do so under social pressure especially in a different milieu, and in the case of an individual, there remains a fear of being branded that he/she, in spite of being able to provide the necessary treatment to the patient, has chosen not to do so. The social psyche constantly makes him/her feel guilty.

There is always the fear of misuse of Euthanasia because some greedy kith and kin with the help of unethical doctors may accelerate the death of the comatose person. Thus, the Court observed that in an action of this nature, there can be abused by the beneficiaries who desire that the patient's heart should stop so that his property is inherited in promptitude and in such a situation, the treating physicians are also scared of collusion that may invite the wrath of criminal law as well as social stigma. The medical, social and ethical apprehensions further cloud their mind to take a decision. The apprehension, the cultural stigma, the social repression, the allegation of conspiracy, the ethical dilemma and eventually the shadow between the individual desire and the

collective expression distances the reality and it is here that the law has to have an entry to alleviate the agony of the individual and dispel the collective attributes and perceptions.

result in passive euthanasia.

Euthanasia is basically an intentional premature termination of another person's life either by direct intervention or by withholding life-prolonging measures

'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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The factum of the case, in brief, is: The petitioner, a registered society, seeks to declare "right to die with dignity" as a fundamental right within the fold of "right to live with dignity" guaranteed under Article 21 of the Constitution; to issue directions to the respondents to adopt suitable procedure in consultation with the State Governments, where necessary; to ensure that persons of deteriorated health or terminally ill patients should be able to execute a document titled 'My Living Will and Attorney Authorisation' which can be presented to the hospital for appropriate action in the event of the executant being admitted to the hospital with serious illness which may threaten termination of the life of the executant; to appoint a committee of experts including doctors, social scientists and lawyers to study into the aspect of issuing guidelines as to the "Living Wills"; and to issue such further appropriate directions and guidelines as may be necessary.

The execution of a 'Living Will' has become a necessity in today's time keeping in view the prolongation of treatment in spite of irreversible prognosis and owing to penal laws in the field that creates a dilemma in the minds of doctors to take the aid of the modern techniques in a case or not. A comparison has been made between the fundamental rights of an individual and the State interest focusing on sanctity as well as the quality of life. However, it was opposed by the Government of India due to the following reasons among others: (a) Hippocratic oath is against intentional/voluntary killings of the patient. (b) Progression of medical science to relieve pain, suffering, rehabilitation, and treatment of so-called diseases will suffer a setback. (c) Wish of euthanasia by a mentally ill patient/in depression may be treatable by good psychiatric care.

Earlier in Gyan Kaur vs the State of Punjab, the Constitution Bench of the Supreme Court had said that 'Right to life' is a natural right embodied in Article 21, but suicide is an unnatural termination or extinction of life and, therefore, incompatible and inconsistent with the concept of 'right to life'. Adverting to the concept of euthanasia, the Court observed that existence in the persistent vegetative state (PVS) is not a benefit to the patient of terminal illness being unrelated to the principle of 'sanctity of life' or the 'right to live with dignity'. The Court addressed the legal issues, namely, active and passive euthanasia. It noted that such legislation is prevalent in Netherlands, Switzerland, Belgium, U.K., Spain, Austria, Italy, Germany, France and United States of America. An example was cited by stating that if a patient requires kidney dialysis to survive, not giving dialysis although the machine is available is passive euthanasia and similarly, withdrawing the machine where a patient is in the coma or on heart-lung machine support will ordinarily

and resources either at the express or implied request of that person or in the absence of such approval/consent. While dealing with active euthanasia the Supreme Court in Aruna Shanbaug said that the euthanasia entails a positive act or affirmative action or act of commission entailing the use of lethal substances or forces to cause the intentional death of a person by direct intervention, e.g., a lethal injection given to a person with terminal cancer who is in terrible agony. Passive euthanasia, on the other hand, also called "negative euthanasia" or "non-aggressive euthanasia".

Quoting the Law Commission report, the Court said 'A hundred years ago, when medicine and medical technology had not invented the artificial methods of keeping a terminally ill patient alive by medical treatment, including by means of ventilators and artificial feeding, such patients were meeting their death on account of natural causes. It is well-settled law in all countries that a terminally ill patient who is conscious and is competent, can take an 'informed decision' to die a natural death and direct that he or she be not given medical treatment which may merely prolong life.

The word 'liberty' is the sense and realization of choice of the attributes associated with the said choice, and the term 'life' is the aspiration to possess the same in a dignified manner. Liberty allows freedom of speech, association, and dissemination without which the society may face hurdles in attaining the requisite maturity. History is replete with narratives how the thoughts of individuals, though not accepted by the contemporaneous society, later on, gained not only acceptance but also respect. The Court further said: 'Life is precious in itself. But life is worth living because of the freedoms which enable each individual to live life as it should be lived. To live is to live with dignity. So fundamental is dignity that it permeates the core of the rights guaranteed to the individual. Dignity is the core which unites the fundamental rights because the fundamental rights seek to achieve for each individual the dignity of existence. Privacy with its attendant values assures dignity to the individual and it is only when life can be enjoyed with dignity can liberty be of true substance. Privacy ensures the fulfillment of dignity and is a core value which the protection of life and liberty is intended to achieve.'

The Court said that: It will be open to the executor to revoke the document at any stage before it is acted upon and implemented. The Court has set strict Guidelines to prevent its misuse so that the person may be able to die with dignity.

Dealing with 'emperor' Xi

Chinese President Xi Jinping is now officially the most powerful Chinese leader since Mao Zedong, who died more than 40 years ago, after the National People's Congress voted overwhelmingly in favour of a constitutional amendment which gives Xi the right to remain in office indefinitely.

Not that there was any doubt about it, but when it finally happened it seemed to be marking another red line in China's evolution as the pre-eminent global power of our times. It was only last month that the Chinese Communist Party had moved a proposal to remove a constitutional clause limiting presidents to just two terms in office. This is one of the most significant developments in global politics today given China's growing heft in the global order.

Xi began his second term as head of the party and military last October at the end of a once-every-five-years party congress. His real source of authority emanates from him being the CPC's General Secretary - a post that has no term limit - as well as being the head of the powerful Central Military Commission.

His political doctrine, "Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era," is now part of the amended constitution. This takes China back to the good old days of Mao when he was the supreme leader, deciding on the fate of millions based on his whims and fancies. Recognising the dangers of one-man rule, Deng Xiaoping got the limit of two five-year presidential terms written into China's constitution in 1982 after Mao's death.

There have been some isolated critical voices in China, mostly on social media, who have compared their changing political system to that of North Korea or underlined the dangers of a Mao-type cult of personality, but mostly there has been support for the move in the name of protecting the country's long-term stability. Some have argued that as Xi's anti-graft movement and his key Belt and Road Initiative (BRI) are still in their infancy, such a move was necessary. But let there be no doubt that this is all about Xi's ambition.

In a marathon address to the 19th party congress last October, Xi had unveiled his vision of China's future of achieving 'moderate' prosperity in the next four years, and emerging as an advanced socialist nation by 2050.

Underlining that China would pursue its own path of developing "socialism with Chinese characteristics" and inviting "peoples of all countries

to join China's effort to build a common destiny for mankind and enduring peace and stability," he was building a case for the 'Beijing Consensus' as an alternative to the 'Washington Consensus'.

Harsh V Pant

Xi's address was one of the most resounding of Chinese articulations about its growing weight in global



politics and its intent to acquire the central position in the global order after years of keeping a low profile. Like the rest of the world, India will also be affected by this change in manifold ways. New Delhi has no option but to deal pragmatically with whoever is ruling

China given the enormous stakes in the Sino-Indian relations. Yet, at a time when Sino-Indian bilateral ties are passing through one of their worst times, a centralising figure in China's governing system will only complicate matters.

China has always managed to have a consistent strategic approach towards India - to contain India within the confines of South Asia by assisting Pakistan to balance India. It has refused to recognise New Delhi's global aspirations and not budged an inch on key issues pertaining to Indian interests. But the growing power disparity between India and China as well as the lack of any effective leverage vis-à-vis China has also meant that India has not been in any position to challenge China.

NO TIME TO LOWER GUARD

The Modi government started off promisingly by resetting the terms of engagement with Beijing. Its principled position on the BRI has been effective in shaping the global discourse and its effective handling of last year's Doklam crisis enhanced its stature. But there is a danger now of slipping back into the old mode of China policy - a mistaken belief that a semblance of normalcy will return to Sino-Indian ties only if India can brush aside the hard issues. It is a myth, and especially now when Xi, who remains unambiguous about his desire to make China a global superpower, has all the time and resources at his command, it is highly unlikely that India can attain win-win outcomes with Beijing.

Xi's growing authority will mean that he will double down on his efforts to militarise the Indian Ocean and expand Chinese influence in South Asia. His pet project BRI will also see a renewed focus and Indian opposition will rankle his ambitious outreach. He will also wait to "teach New Delhi a lesson" for what many in China feel was a diplomatic drubbing for Beijing in Doklam. And this will likely happen when India is in election mode and political bickering attains new heights.

The Indian political class is yet to learn to speak in one voice on national security matters. How easy it is to divide the Indian polity was clear when even at the height of the Doklam crisis, the leaders of India's main opposition party decided to get a briefing from the Chinese Ambassador than their own government! So, as Xi's power rises to its zenith, there are many reasons to worry, but mostly it is India's own inability to get its house in order which should concern us the most.