



The fruits of defeat

In the face of a series of losses to the BJP, the Congress seems to have learnt its lessons

After the fractured verdict in Karnataka and the hastily concluded post-poll marriage of convenience between the Congress and the Janata Dal (Secular), the Bharatiya Janata Party had the option of taking the high moral ground as the single largest party that was thwarted by the opportunistic politics of its rivals. Instead, the BJP chose to mud-wrestle its way to power by pulling strings at the Raj Bhavan and trying to entice newly elected members of other parties. The end-result was predictable: the party had dirt all over and nothing to show for it. B.S. Yeddyurappa resigned rather than face a vote of confidence that he was sure to lose, but not before the BJP's brazen attempts to buy votes and support were exposed. The BJP took a serious dent to its image at the national level, and was left without both power and the moral authority to attack the political opportunism of the Congress and the JD(S). Although parallels have been drawn to the BJP's Operation Lotus that engineered defections in 2008, the situation was different then. The BJP was only three short of a majority in a House with six Independents, many of whom were eager to offer their support. And, unlike now, no combination of parties that excluded the BJP could have commanded a majority.

The deal-clincher for the Congress now was its readiness to hand over the post of Chief Minister to the JD(S), a course of action it did not contemplate in 2004 when it formed a post-poll coalition with the JD(S). The Congress-JD(S) government did not last the full term then, and the JD(S) formed a short-lived government with the BJP's help. In the face of the BJP juggernaut in the post-2014 phase, the Congress seems to have adopted a new pragmatism that recognises the importance of smaller players. Some of this was seen in Gujarat, where the Congress accommodated different caste and identity groups in stitching together a broad social coalition against the BJP. In Karnataka, it went one step further in the post-poll situation, allowing the JD(S) the leadership of the government despite winning more seats. Regional parties such as the Trinamool Congress have been suggesting that the Congress vacate political space for parties best equipped to fight the BJP. A more pragmatic, more humble Congress is what they want at the head of an Opposition alliance ahead of 2019. But, for the same reason that the Congress found it easier to stitch together a post-poll understanding than a pre-poll alliance with the JD(S), seat-sharing will be difficult where there are three-way contests. The BJP's misadventure in Karnataka may have brought the Congress and the JD(S) closer, but this is no blueprint for 2019. Pre-poll alliances are not made without the pain of defeat and the hard knocks of reality.

Rise of Sadr

If Iran doesn't play spoilsport, Iraq could get a more inclusive government soon

Iraq's parliamentary election results marked a remarkable comeback for Muqtada al-Sadr, the nationalist Shia cleric who for years had been sidelined both by the Iraqi establishment and its Iranian backers and was seen as an enemy by the Americans. The May 12 parliamentary vote was crucial for all the main blocs in Iraq. Prime Minister Haider al-Abadi, who led the Victory Alliance, bet on the gains the Iraqi army made under his leadership in the war against the Islamic State to win political points. For the Al-Fatih bloc, a coalition of parties and leaders that have close ties with Iran, capturing power was important at a time when Iran is facing new regional challenges, and they ran a largely pro-Shia campaign. Mr. Sadr, on the other side, shed his early sectarian image, focussed his campaign on social justice and government failure, attacked Iran's deepening influence in Iraq from a nationalist perspective and stitched up alliances with liberals and communists to expand his base. This strategy paid off, with Mr. Sadr's Sairoon bloc emerging as the largest coalition in the 329-member Iraqi parliament, with 54 seats. Mr. Abadi's alliance came third with 42 seats while the pro-Iranian bloc secured 47. Mr. Sadr's surprise success suggests that the cross-sectarian narrative he put forward in a divided Iraq, that is yet to recover from the wounds of the U.S. occupation and the war against the IS, is gaining popularity. While it is certainly a good sign for the future of Iraq, it may not be easy for Mr. Sadr to turn his electoral performance into a lasting political victory.

Since no bloc has absolute majority, a new government will have to be formed through political negotiation. Mr. Sadr himself cannot become Prime Minister as he did not contest the election. But it is not clear whether his bloc could get the prime ministerial berth at all. Iran would be wary of Mr. Sadr's rise, as he is critical of its interventions in Iraq. Mr. Sadr had visited Saudi Arabia last year in what was widely seen as an effort to strike a balance between the two regional powerhouses. He has demanded that the Iran-trained popular mobilisation militias, which were in the forefront of the fight against the IS, be merged with the Iraqi national army. Besides, his nationalist narrative runs counter to the cross-border Shia brotherhood that Tehran is trying to promote in order to gain regional influence. However, despite the bad blood between them, both sides could also find some common ground in rebuilding post-war Iraq. It is not in Iran's interest to see Iraq become dysfunctional again, triggering further chaos and breeding more violent militant groups. Iraq is a complex multi-sect society that needs cross-sectarian politics in order to be stable. Mr. Sadr's broad-based politics offers hope in this. Mr. Abadi has already offered support for a peaceful transition of power. If Iran doesn't play spoilsport, Iraq could get a government soon.

Making sense of the Wuhan reset

The 'informal summit' must be seen in the context of Beijing preparing for a pole position in the global sweepstakes



M.K. NARAYANAN

On the cards was a possible reset of ties between India and China in the wake of the 'informal summit' in Wuhan (April 27-28) between Prime Minister Narendra Modi and Chinese President Xi Jinping. The outcome is uncertain, however. The choice by China of Wuhan, a city situated in the middle reaches of the Yangtze, though was not accidental. Wuhan is symbolic of China's resilience and economic might today. It was possibly chosen by Mr. Xi to showcase China's progress since Mr. Modi (as Chief Minister of Gujarat) had last paid a visit to the region. As Mr. Xi proceeds towards his next goal, 'Made in China 2025', he may also have wanted to demonstrate the wide gulf that seems to separate his programme from Mr. Modi's own struggles to make a success of India's 'Make in India' programme. The visit to the museum and the boat ride on the lake, in turn, were possibly intended to demonstrate the extent of China's soft power.

Trust-building exercise

An 'informal summit' is different from a regular summit. India clearly viewed this 'informal summit' as a trust-building exercise, hoping to quietly sort out problems that existed between the two countries, including the vexed border issue. Absence of any formal joint communiqué that is sacrosanct for any summit also enables each side to spell out its own impressions of any outcomes. India has already used this to project that India and China are on the same page in dealing with global problems. It cannot be certain though that China sees the world through this same prism.

Mr. Modi used the occasion to convey his ideas on what was needed to be achieved, viz. a shared vision, a shared thought process, a shared resolve, a strong relationship and better communication, between the two countries. He further emphasised the importance of a global leadership role for both nations – two major powers linked by history across more than two millennia. He provided his vision of the Five Principles defining the relationship: *Soch* (thought), *Sampark* (contact), *Sahyog* (cooperation), *San-kaip* (determination) and *Sapne* (dreams).

Enumerating the main takeaways, in the absence of a joint communiqué, is not easy. One outcome was to have more such summits, alongside an agreement between the leaders for provision of greater 'strategic communications' at the highest level. Another was the opportunity it provided to give 'strategic guidance' to the respective militaries to build trust and understanding for 'prudent management of differences with mutual sensitivity'. A third was the agreement between India and China to work together jointly on an economic project in Afghanistan, with details to be worked out through diplomatic channels.

Both sides also reiterated the need to cooperate on counter-terrorism, and to strengthen the dialogue mechanism to deal with contentious issues and concerns. Both have agreed on the importance of maintaining peace and tranquillity in all areas of the India-China border. The claim by the Indian side that the two countries today have 'wider and overlapping regional and global interests' meriting sharper 'strategic communications' is, however, subject to interpretation.

On the border issue, the summit appears to have reinforced the validity of the April 2005 Document on 'Political Parameters and Guiding Principles for the Settlement of



the Boundary Question', which was signed in the presence of then Prime Minister Manmohan Singh and the then Chinese Premier Wen Jiabao. This document happens to be one of the very few that implicitly acknowledges India's claims to certain 'disputed' areas in the Arunachal sector of the India-China border. Ever since signing on to the 'Political Parameters and Guiding Principles' in 2005, China has been trying to reinterpret the contents of the document. If the informal summit, as claimed by the Indian side, has endorsed adherence to the letter and spirit of the 2005 Agreement, it marks an important milestone in the settlement of the border issue.

The wisdom of holding an informal summit when other, and possibly better, avenues of diplomacy are available is debatable. India's preference for an informal summit so as to be able to discuss contentious issues with China away from media glare and publicity – and the many trappings of diplomacy – is understandable. China's acquiescence in this form of diplomacy is less understood. At best, China could have hoped to extract some concessions from India as the price for agreeing to an informal summit, viz. putting curbs on the Dalai Lama's activities in India or backing away from the U.S. policy of containment of China in Asia.

A pivotal moment

China is today at a pivotal moment in its history, having embarked on preparations for a pole position in the global sweepstakes. The U.S.

and the West are not ready to openly confront China, despite U.S. President Donald Trump's rhetoric. China currently has a vital role to play in the maintenance of peace in the Korean Peninsula, and in ensuring that the forthcoming Trump-Kim Jong-un talks are not jeopardised. The China-Russia equation today is much stronger than previously. China may be feared in East and South Asia, but no country here has the capacity to challenge China. It has established new equations in West Asia, including with Iran. In the South Asian neighbourhood, China is positioning itself as an alternative to India.

One must, hence, look for reasons elsewhere as to why China is adopting a less than belligerent attitude towards India. It appears that China is positioning itself for bigger things and to play bigger roles. This period is thus a defining one for China. Behind the rubric of a looming trade war between the U.S. and China – which is, without doubt, one of China's major concerns – is China's unstated struggle to redefine the rules governing economic and power relations worldwide. At a time when the U.S. is busy lining up the vast majority of Western democracies to checkmate China's advance, the latter is equally anxious to build support in its favour in Asia and elsewhere to counter the U.S.

The India-China reset talks must, therefore, be seen in this wider perspective and context. It cannot be seen in isolation. At about the same time, on the India-China reset talks, Chinese Prime Minister Li Keqiang was in Tokyo to meet his Japanese counterpart Shinzo Abe as part of a major two-stage initiative. The Li-Abe meeting has reportedly helped remove many of the cobwebs in China-Japan trade and strategic relations. Leaders of China, Japan and South Korea also met in Japan at about the same time to devise measures that were needed to move ahead

with the Regional Comprehensive Economic Partnership (India is a part of the RCEP, but a reinvigorated RCEP, alongside a China-Japan reset does not augur well for India).

No concessions

It should not, therefore, be surprising that in spite of China's acquiescence in an informal summit, the report card from Wuhan does not add up to much in real terms. No manifest concessions appear to have been made by China. The Doklam issue (which was not discussed at the summit) remains unresolved, with China still in the driving seat. There are no indications that China has softened its attitude *vis-à-vis* India's position in Arunachal Pradesh, or that it will refrain from accusing India of further transgressions here. China's penetration of India's neighbourhood is set to continue, with special emphasis on countries such as Nepal and the Maldives. China again has not conceded anything with reference to the China-Pakistan Economic Corridor. India may believe that it has demonstrated good faith by putting certain curbs on the Dalai Lama's activities, but this is hardly likely to satisfy China's concerns about his role.

Meanwhile, India should be concerned about Beijing's defence budget for 2018. This is being increased by 8.1% over that of the previous year, and is in keeping with the decision of the Chinese 19th Party Congress (October 2017) to build a world class military. Mr. Li is on record that China would now focus on building strong naval and air defences, bolstered by the infusion of high technology. This can only further encourage China to expand its activities in the Indian Ocean region.

M.K. Narayanan is a former National Security Adviser and a former Governor of West Bengal

Steering reform in clogged courts

Management practices and technology can help transform court processes

AMRITA PILLAI, NITIKA KHAITAN & SHRIYAM GUPTA

The spotlight was on the Bombay High Court in early May when one of its judges sat well past midnight hearing cases before the month-long summer break kicked in. While this was a rare occasion in the court's 156-year history, the incident highlights the systemic issues common to courts in India. Ad hoc measures such as what the judge did, though laudable and well meaning, hardly resolve these issues. Instead, they can only be addressed through a transformation of court processes.

Two areas of concern

While there is general acceptance that the Indian judicial system suffers from case delay and the use of antiquated methods, the discourse on judicial reform remains focussed on areas such as appointments and vacancies. It is time that organisational barriers and court processes that also contribute to case delay are studied. We focus on two areas that greatly affect court efficiency: case listing practices and court infrastructure. The need to scientifically deter-

mine how many cases should be listed per day cannot be stressed enough. It is not uncommon to see over 100 matters listed before a judge in a day. When a judge is pressed for time, not only does the quality of adjudication suffer but it also means that several cases will inevitably go unheard. Matters listed towards the end (usually cases near the final stage of hearing) tend to be left over at disproportionate rates and often end up getting stuck in the system.

The consequences are manifold, affecting judges, lawyers, registry staff and, ultimately, case disposal. The uncertainty around which cases will come up for hearing means neither judges nor lawyers can plan their preparation. This situation compels lawyers to waste time waiting in court and enables them to cite the simultaneous listing of multiple cases as an excuse for adjournments. Registry staff must manage the massive task of re-listing leftover matters in an already bulging docket, instead of streamlining case flow.

The second issue is infrastructure: from inadequate support staff for judges to the dearth of basic courtroom facilities. Without research and secretarial support,



judges are unable to perform their functions in a timely manner. For instance, in a private interview, a judge said that even though he managed to hear close to 70 cases in a day, it took two days for the stenographers to finish typing the orders. A 2016 report published by the Supreme Court showed that existing infrastructure could accommodate only 15,540 judicial officers against the all-India sanctioned strength of 20,558. The lack of infrastructure also raises serious concerns about access to justice.

A recent Vidhi study on district courts in the National Capital Region found that even basic needs such as drinking water, usable washrooms, seating and canteen facilities are often not available in

court complexes.

Solutions for such challenges will require a fundamental shift in how courts are administered.

Looking at modernisation

Courts must become more open to applying management principles to optimise case movement and judicial time. In this, external support agencies competent in strategic thinking should be allowed to work with judicial officers to understand and help the institution function better. This is already a widely-adopted practice in executive departments across the country. Courts have partially realised this need and created dedicated posts for court managers (MBA graduates) to help improve court operations. But more often than not, court managers are not utilised to their full potential, with their duties restricted to organising court events and running errands.

Judicial policymakers will also have to expand their reliance on empirical data and courtroom technology. On the former, there appears to be little quantitative evidence available to back judicial policies, from how long cases at various stages actually stay in the

case pipeline to audits of judicial infrastructure. Recording and analysing appropriate court-related data is thus the first step in addressing any problem that plagues courts – from arriving at reasonable case listing limits to improving infrastructure. Second, court processes must be modernised, and the role of technology is critical. Courts have taken various initiatives over the years to digitise case records and filing; the case information system (CIS) 2.0 is currently being implemented across the country. But as a judge rightly pointed out, using technology in courts cannot remain limited to digitising records alone but must affect how cases actually move through the system. Initiatives such as CIS must be supplemented with file-tracking and knowledge management systems, to help courts achieve an optimal level of functioning.

For courts in India to dispense speedy justice, there must be a change in leadership thought and the willingness to seek help where it is evidently required.

Amrita Pillai, Nitika Khaitan and Shriyam Gupta are Research Fellows at the Vidhi Centre for Legal Policy, Delhi

LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

Drama in Karnataka

Whatever happened in Karnataka – whoever may be actors in the drama, the parties or their leaders involved in the sordid episode – ultimately proved to the world that Indian democracy stood rock solid and overcame the despicable attempts to subvert and destroy it. Legislators were sought to be bribed and purchased, the executive, in the form of the Governor, stooped low, and the media was divided and on a weak footing. But the knight in shining armour has been the judiciary which towered above all, stood firm and strong and cut the path.

P.V. SUBBARAO,
Visakhapatnam

■ The Supreme Court, without a shadow of a doubt, played a pivotal role and emerged as a beacon to maintain correct political and democratic norms which

the Governor of Karnataka had sought to derail. It is unfortunate that he functioned as a party man to the core. The loopholes he sought to introduce have exposed the hollowness of the Prime Minister's claims of eliminating corruption in public life.

V.N. GOPAL,
Chennai

■ But for the sharp directives of the Supreme Court, we may have been treated to the ugly circus of "luring" by the BJP as even a child knew that it was the only way left to prove its majority in the Assembly ("Yeddyurappa out, Kumaraswamy in", May 20). It is unpalatable that the "party with a difference" – as the BJP claims itself to be – wanted to form the government by hook or by crook. The post-poll alliance between the Congress and the JD(S) too is opportunistic.

A. JAINULABDEEN,
Chennai

■ B.S. Yeddyurappa has exited ingloriously. The Governor's controversial decision to invite him was totally against logic, law and simple arithmetic. It is obvious that he acted on his master's voice, which led to the fiasco. The dignity of the high office of Governor has been lowered.

S.V. VENKATKRISHNAN,
San Jose, California, U.S.

■ The turn of events in Karnataka are a slap in the face for the BJP which tried to trample on all democratic norms and constitutional dictates in its desperate bid to form the government. In the end, the intervention of the Supreme Court ensured that justice prevailed. People have now seen the real face and colour of the saffron party.

THARCUS S. FERNANDO,
Chennai

■ The Karnataka episode has once again highlighted how

the post of Governor is misused to benefit the ruling party at the Centre. While the BJP has been busy raking up past precedents of such chicanery by Governors under Congress rule, it is not at all a valid defence. If the Bharatiya Janata Party is hellbent on following the same path as the Indian National Congress, then why should voters prefer the BJP over the Congress? After this perturbing episode, the least the Governor of Karnataka can do now is to put in his papers.

VIKAS KAMAT,
Aquiem, Margao, Goa

■ It is a bit rich for the Congress to be talking about democracy being throttled ("PM lead horse-trading, Rahul claims", May 20). The Congress president's barrage of accusations against Prime Minister Narendra Modi and BJP president Amit Shah were undignified. Has he forgotten his party's long list

of grave democratic misdeeds? The fact that even the Congress had to resort to "resort politics", almost holding onto its MLAs like captives, says a lot. In the end, both the BJP and the Congress have bludgeoned democratic norms.

RAVI MANNETHU,
Pulad, Kerala

Slow poisoning

I remember reading articles about arsenic-contaminated groundwater in West Bengal about 20 years ago. Much water has flown in the Ganga

since then and governments have come and gone but people continue to use the same dangerous groundwater source, falling ill and dying ("Ground Zero" page – "Death by slow poisoning", May 19). Take my word for it. I am sure that even 20 years from now, nothing would have changed and there will be another article highlighting the people's sorry plight.

T.V. SREEKUMAR,
Puducherry

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CORRECTIONS & CLARIFICATIONS:

In the report, "In Bengal's Para, women never vote" (May 19, 2018), the name of the CPI-M leader was erroneously given as *Binunath* Lodha. It should have been *Dinanath* Lodha.

In "Governor's discretion has its limits" (May 19, 2018), the reference to the power of the Court to judicially scrutinise the attack made to the proclamation under *Article 361(i)* of the Constitution should be corrected to read as *Article 356(i)*.

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