



## Suspense continues

The split judgment on the MLAs' case gives a further lease of life to the TN Chief Minister

It is a development that prolongs the political uncertainty in Tamil Nadu, and leaves as many as 18 Assembly constituencies unrepresented. As a result of the split verdict by a two-member Bench of the Madras High Court on the disqualification of 18 legislators, Chief Minister Edappadi K. Palaniswami's regime gets a further lease of life. A unanimous judgment would have adversely impacted his government, regardless of the decision. If the Bench had struck down the disqualification, the MLAs owing loyalty to Amma Makkal Munnetra Kazhagam leader T.T.V. Dhinakaran would return to the Assembly - a scenario in which the AIADMK regime would find itself cornered, as it owes its majority to the 18 disqualifications. Had the disqualifications been upheld, the ruling party would have been faced with the uphill task of retaining the seats in by-elections. The case relates to a memorandum given by Mr. Dhinakaran's loyalists to the Governor in August 2017, expressing lack of confidence in the Chief Minister and requesting the Governor to set in motion a "constitutional process" against him. On a complaint from the party's Chief Whip, the Speaker ruled the MLAs had incurred disqualification, as their action amounted to voluntarily giving up party membership, one of the grounds for disqualification under the anti-defection law.

While both judges are cognisant of the limits of judicial review on the matter, Chief Justice Indira Banerjee, upholding the September 2017 order of disqualification, has declined to interfere on the ground that it was proper to examine only the decision-making process, not its merits. She concedes that mere criticism of the Chief Minister or withdrawal of support, by itself, would not attract disqualification; at the same time, she rules that if the MLAs' action results in the fall of their party's government, it is "tantamount to implied relinquishment" of their membership. She finds no perversity or *mala fide* in the Speaker's action. Justice M. Sundar, on the other hand, is categorical that the Speaker's order is vitiated by all the four grounds on which judicial review in such cases is permitted: perversity, *mala fide*, violation of natural justice and the constitutional mandate. He terms as *mala fide* the Speaker's decision not to apply the disqualification rule to S.T.K. Jakkaiyan only because he returned to the loyalist fold. He agrees with the contention that the Speaker's order was aimed at creating an "artificial majority". He is clear that the question of voluntarily giving up membership of the AIADMK would not arise when the party itself was embroiled in a factional tussle before the Election Commission. The third judge, to whom the matter will be referred now, has to choose between the limited view of the decision-making process taken by Justice Banerjee, and the more expansive view taken by Justice Sundar.

## Islands apart

Ties between India and the Maldives have nosedived, to the benefit of neither

Recent moves by Abdulla Yameen, President of the Maldives, have put Malé on a collision course with New Delhi. Even the presidential election, which India has been calling for, is a point of contention. On Thursday, India criticised the government for its incarceration of former President Maumoon Abdul Gayoom and Chief Justice Abdulla Saeed, sentenced to 19 months in prison for an alleged plot to unseat Mr. Yameen. India called the trial a sham, saying the sentencing put a question mark on the credibility of the presidential election process. This tough talk may not be taken kindly to in Malé. There has been a series of setbacks in India-Maldives ties, starting from March 2015 when Prime Minister Narendra Modi cancelled a visit in a show of disapproval of the treatment of Mohamed Nasheed, then in prison facing treason and terror charges. Since then, India has called out many actions of Mr. Yameen's government, including the conduct of polls, treatment of the judiciary and, in February, his declaration of a state of emergency. On the last, it also rejected Mr. Yameen's offer to send an envoy to explain his decision. Bolstered by a newly strengthened relationship with China, Mr. Yameen showed no inclination to heed India's advice. The strain is now evident in two areas where India-Maldives ties had been the strongest: strategic relations and people-to-people engagement. The Maldives has conveyed to India that it will not extend beyond June 30 the lease of Indian helicopters or the visas of personnel manning them. This signals a marked downturn in defence cooperation between the two countries, which normally coordinate maritime and EEZ (Exclusive Economic Zone) patrols together. Meanwhile, hundreds of Indians offered employment in the Maldives at resorts, hospitals and colleges have been denied work visas for the past few months.

The Yameen government must reconsider these policies. India too must pause to consider why relations have soured so badly. Until a few years ago, the Maldives affirmed an "India First" policy. The fact that the Maldives is the only country in the neighbourhood that Mr. Modi hasn't visited is one reason, but there are many others. India's vocal protests on democratic rights in the Maldives have been at variance with the past policy of taking a more muted line in public while encouraging democracy in official conversations. Mr. Gayoom also ran a near-autocracy for three decades from 1978, and India's interventions always aimed at strengthening the government there, with any misgivings conveyed only through quiet diplomacy. India has been the first port of call in crisis for Maldivian leaders; when Mr. Nasheed was deposed in 2012, it was at the Indian embassy that he sought refuge. It's time to restore the bilateral trust.

# The changing nature of violence

The police must develop 'smart tactics' to deal with popular unrest and threats of the new era



M.K. NARAYANAN

Events in Thoothukudi on May 22 and 23 have helped turn the spotlight on the changing nature of violence, and the inadequacy of existing rules and procedures to deal with new-era protests. This should be instructive, for new-era protests are redefining the internal security landscape. At present no one, the courts of judicature included, seems to understand the shifting taxonomy of violence.

### Industry vs. environment

Current challenges to order are multifaceted. Thoothukudi is yet another incident in the expanding saga of industry versus the environment. This segment embraces pollution issues, from Sterlite's copper smelters in Thoothukudi to the tanneries spewing effluents in Kanpur, to the iron mines in Goa today. The mother of all environmental tragedies remains the Bhopal Gas Tragedy of 1984.

Added to this list are the escalating violence resulting from caste conflicts - including the most recent Dalit uprising; farmers' woes across the country; the rape of young women and children; issues revolving around tradition versus modernity; the outsider versus insider syndrome, especially in the Northeast - and we have an unfolding vista of incessant conflict and violence. The issues involved in each of them are highly complex and need careful attention.

Reverting to the violence in Thoothukudi, resulting in at least three police firings and the death of over a dozen individuals, there remain many unanswered questions. The number of deaths in the police firing were unusually high for a situation of this kind, but no one has definitively disputed that

the firing did not take place according to prescribed law and order procedures. References to intelligence failure and police excesses are inevitable in a situation of this kind, but do not answer the question of how peace could be maintained for 99 days, and it was the march to the Thoothukudi Collectorate on the 100th day that seemed to have triggered widespread violence.

In instances of this kind, it is vital to try to determine the actual trigger that led to the violence. For instance, in the December 2012 Delhi gang-rape case, it was the "unsynchronised eruption of simmering anger" which seemed to have been the tipping point. A mere reference to failure of intelligence, the usual litany of charges against the administration, or to excessive use of force by the police is inadequate to explain the turn of events in Thoothukudi. The official version of the events on May 22, including that all procedures had been followed and that the orders to open fire were issued by empowered magistrates, have been openly challenged by the protesters. No answers are forthcoming as to what actually happened or transpired.

The widest gap separating the official version from that of the public is about the presence/absence of 'agent provocateurs' among the protesters. The official version highlights the role of such elements; the administration has identified quite a few such elements, some of whom reportedly belong to known militant outfits. However, reports of the presence of outsiders have been totally rejected by the protesters. It is no secret that many of today's large-scale protests across the country are prompted by militant elements from outside, who are pre-programmed to create chaos.

The Sterlite story is hardly unique. There are many parallels available, some that have an even longer gestation period. The qualitative difference from the past is that protests today are beginning



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to embrace entire communities. Agitations also tend more and more to be 'leaderless'. This is both a strength and weakness. Governments and even tribunals are today viewed by protesters with deep suspicion, limiting opportunities for adjudication. Contrary judgments at different times by the High Courts and the Supreme Court have hardly helped.

There could be many possible explanations for the unbridled violence on May 22. One could be that as long as the agitation was confined to a limited area, it was easy to contain it. It was when the agitation on the 100th day moved beyond this arc that the character of the protests seemed to change. The likely additions to the initial ranks of protesters, of militants espousing different causes, appear to have led to a transmutation of the character of the movement and altered its trajectory. This is a phenomenon seen in other protest movements elsewhere as well.

### Age of repressed anger

This is the age of 'high voltage' revolt, basically an expression of repressed anger. Much of this arises from an "embedded wisdom" that the system is being "manipulated" in favour of the rich, the powerful, and the big multinationals. This is something that is not confined to India alone. It is not uncommon, even in the U.S., to hear accusations against big business of creating an economy built on deals, employing exotic and risky financial instruments, separating those taking risk from those who would bear consequences, etc. Govern-

ment regulatory agencies often tend to be overwhelmed by the phalanx of lawyers that the big multinationals can throw at them, challenging and delaying for years on end decisions, especially when they believe that the verdict would go against them. With several hundreds of workers now thrown out of work following the closure of the Sterlite factory, the danger is that they could become new nodes for instigating fresh rounds of violence. This is an aspect that will need to be closely watched.

In Thoothukudi, the revolt was against Sterlite and its so-called disdain for the environment and the suffering of the locals. Far away in Bhangar, West Bengal, just a few miles away from Kolkata, for months villagers have been up in arms against a power grid project for which land had been acquired many years ago. The conditions may be different, but the opposition remains equally intense. In both instances, we see organisations genuinely interested in the welfare of the locals initially launching the agitations, which gradually tend to be taken over by extreme right-wing and left-wing organisations. The result remains the same: widespread disruption.

It is possible that the initial peaceful nature of the protests lulled the authorities into believing that matters were well under control. What they failed to understand was the metastasising nature of the protests and signs of the growing revolt of an 'underclass' against the so-called 'elite'. The police also do not seem to have taken into consideration the kind of impetus provided to agitational methodologies by the 'digital wave'.

Unfortunately, even now the authorities tend to be look at current agitations through simple equations. They remain prisoners to Newton's Third Law. This is no longer a valid proposition. Physics today incorporates quantum mechanics which describes a micro-world of uncertainty and ambiguity. This is harder to measure. The

same applies to the current world of agitations. Outdated ideas can no longer explain the complex nature of today's agitations.

This qualitative difference has not filtered down enough to effect changes in administrative policies and police methodologies. The latter consequently find themselves severely handicapped in handling agitations, especially those agitations sponsored by today's newest 'elite', viz. the middle class.

### Police effectiveness

Advice from old-timers in the police on how to manage today's crowds, including the erection of barricades and promulgation of Section 144, have little relevance in the circumstances prevailing today. Police effectiveness is also hampered on account of several other reasons, including that they are often outnumbered by mobilised crowds, driven by indignation and rage, predisposed towards creating disorder. The police on their part need to realise that existing laws and procedures notwithstanding, merely putting faith and focus on strength is not likely to succeed. It ignores the asymmetrical measures available to today's mobs, and the limits that these impose on tactics and policies of a bygone era.

One final word - whenever situations of this kind arise, there are a spate of reports regarding revamping intelligence and introduction of new methods to overcome the lacunae in intelligence collection. These are equally unlikely to succeed, unless the police strengthen their 'contextual' intelligence to deal with today's situations. This involves anticipating the meaning of 'street power' - enhanced by information technology and the presence of flash mobs. New 'smart tactics' have to be developed. Simply blaming the police is no answer to the growing volumes of protests everywhere.

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

## Decongesting our cities

It's time to modify regulation to accommodate app-based public transport services



O.P. AGARWAL

India has witnessed a rapid growth in the number of motor vehicles, from a mere 5.4 million in 1981 to 210 million in 2015. This furious pace of motorisation has led to severe traffic congestion and air pollution, adversely impacting the well-being of the people, the energy security of the country, and the economic efficiency of cities.

### Ways to de-clog

Policies to deal with these problems have aimed at improving our public transport systems in the belief that this will enable people to shift from using personal vehicles. Public transport uses less road space, consumes less fuel and emits less pollutants on a per passenger basis. Hence, India has invested large amounts in high quality metro systems in cities such as Delhi, Bengaluru, Mumbai, Chennai, Hyderabad, Kochi,

Jaipur and Lucknow. Several other cities are either building new metros or planning to. Bus systems have also been augmented at a high cost.

Unfortunately, congestion is far from gone and pollution is only getting worse in our cities. At this juncture, it is necessary to stop and look at where we have gone wrong and understand what needs to be done to correct this situation.

Clearly, people who can afford cars and motorbikes are unwilling to compromise on the convenience of door-to-door travel, and the comfort of not having to jostle or hunt for seats in overcrowded buses or trains. If public transport could offer them these conveniences, commuting choices might just shift. After all, no one likes to drive on crowded streets and struggle to find parking at crowded destinations.

In this context, the emerging slew of shared mobility options and app-based ride providers become important. These new players have read the market well and offer the conveniences that commuters are looking for, from door-to-door services to on-demand availability. They allow com-



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muters to travel independently or share the ride with other passengers to save costs. There are a variety of vehicle types to suit individual trips and passenger preferences, ranging from two-wheelers and three-wheelers to cars of different sizes and mini-buses.

Unfortunately, services like the app-based mini-buses do not find favour with regulators. That they are neither "stage carriages" nor "contract carriages" under the Motor Vehicles Act makes it difficult for them to secure permits.

Stage carriages are those that ply along fixed routes and stop at predetermined stations to pick up and drop passengers. Contract carriages are vehicles that serve a single customer or a group of customers, to be picked and dropped

between two designated places.

Unlike these vehicle types, new app-based services are flexible, the kind personal motor vehicle users are looking for to shift to more sustainable modes of transport.

### Convenience as priority

There is a common belief that app-based services wean people away from public transport, and not personal motor vehicles, and so should not be allowed. This is not necessarily the case in India where bus users cannot afford anything priced higher than the bus. Metro rail users who shift to app-based services do so because last-mile connectivity to the metro is very poor and transfers between two lines are often cumbersome. Besides, during peak times, metros can get crowded.

It is for these reasons that personal motor vehicle users did not shift to metro travel to the extent anticipated, and instead shifted to app-based services.

We must aim at leapfrogging with the help of these new services rather than shunning them for old models like 'stage' and 'contract' carriages. Clearly, these services are the need of the hour; Ub-

er's worldwide growth is ample evidence of this. In India, innovations that offer such services on small and medium-sized buses are even more attractive as they offer convenience and are cost-effective.

Is it time then to modify regulation to accommodate app-based services, and hence ensure that they operate in a safe and equitable manner? For example, to safeguard investments in public transport and to ensure that app-based services don't compete with them on price, a floor price could be set for these services. This would mean that these services can charge more than a certain base price but not less.

Developments in technology have given us new services that were not possible earlier. They are serving a public purpose and people are taking to them in a big way. They hold the potential to ease our congestion and air quality challenges. The regulation must, therefore, consider embracing technology-based services for the larger benefit, rather than fighting them.

O.P. Agarwal is CEO, World Resources Institute India

## 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.

### Befriending neighbours

It is worrying that the Maldives has held up thousands of work permits to Indians ("Downturn in ties with Maldives hits Indians' job opportunities", June 14). In spite of Prime Minister Narendra Modi's international visits, it appears that our immediate neighbours like Nepal and the Maldives are not impressed. India's ties with them seem to be on a downward trend and there is no improvement in our relations with Pakistan and China. Every time India has interfered in the affairs of small South Asian countries, overlooking their sovereignty, China has only been too willing to capitalise on these situations and view them as

opportunities to forge new friendships. It is clear that China is able to convince these countries that it is a more bankable ally than India. It is time for the External Affairs Ministry to look again at our neighbourhood strategy to see what is going wrong so that we don't stand isolated in the subcontinent.

V. SUBRAMANIAN,  
Chennai

A new ebb in India-Maldives ties shows that India is not living up to the promise of its Neighbourhood First policy. Malé's growing convergence with China and the weakening of SAARC have left little space for relations between the two countries to flourish.

The Maldives needs democratic intervention to which India alone can be a legitimate party. Instead of being supportive of any particular leader, India should put its weight behind the larger interest of the region. Malé must be taken back into confidence.

DEVANAND VYAS,  
Bhopal

### The fitness challenge

Prime Minister Narendra Modi's tweet of his early morning workout schedule will certainly motivate the nation to take up fitness more seriously ("For H.D. Kumaraswamy, PM's challenge is a stretch", June 14). However, the tweet could end up as a politically unwise decision because there is too much anger at

the government right now to appreciate this indulgence.

HARI ARAYAMMAKUL,  
Kozhikode

Mr. Modi is probably the only leader in India to emphasise so much on physical and mental fitness. His role in the introduction of International Yoga Day is testimony to that. This is highly inspiring.

TALA B. RAGUNATH,  
Thanjavur

Creating awareness about fitness should be welcomed but not for the sake of publicity, especially at a time when the country's economy is anything but fit. In this context, the Karnataka Chief Minister is quite right in his reply to

Mr. Modi that his State's fitness is his priority. Mr. Modi is going to face the biggest fitness challenge in 2019, so he must focus on keeping the economy healthy first.

N. NAGARAJAN,  
Secunderabad

### Disqualification case

Often we come across judgments that are split ("Tamil Nadu MLAs' disqualification case: Madras High Court delivers split verdict; matter to be heard by third judge", June 14, online). If the judiciary knows this well, why can't odd-number Benches be constituted, especially in sensitive or important cases like this one?

V. RAMA RAO,  
Chennai

### Walk the talk

It has become customary for the BJP to assert this point ("Our government doesn't discriminate on the basis of religion", June 13). However, the truth is different as the party has a minuscule minority representation in the Cabinet and utilises members of minority communities largely as spokespersons to parrot the party's view. The high command rarely takes action against those who make statements or indulge in crimes against minorities and this only emboldens others. It is time for the BJP to walk the talk.

C.V. ARAVIND,  
Chennai

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