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MEA must be far more proactive

India needs to radically enhance its diplomatic capabilities

India diplomacy is running to stand still given the enormous expansion of the country's overseas interests. The ministry of external affairs held its annual heads of mission meeting with a much larger backdrop than in the past, thanks to the many new challenges facing Indian diplomacy. These are just a few of them.

One is that India's economic relations are now almost unrecognisable in their dimensions from even a decade ago. India's economy was about \$150 billion when it began economic reforms in 1991. Today it is over \$2 trillion. Where it once worried about the import of a few bulk food commodities and oil, today New Delhi must also worry about access to automobile markets, medical patents, immigration policies and other arcane issues. Today, with roughly half of even the Tata Group's investments and earnings based overseas, India's corporate and strategic interests are effectively one. Two, New Delhi has interests in countries many Indians cannot place on a map. New Delhi talks of having at least one high-level Indian visit to every country in the world. Earlier this would have been treated as a gimmick. Today, it is probably because India actually has a genuine interest in almost all of these countries. This poses its own problems. It is no secret that many embassies, particularly in places like Africa and Latin America, were treated as the backwaters of Indian diplomacy. Such marginal areas no longer really exist, putting a considerable burden on India's already undersized diplomatic corps.

Finally, the world order is in flux with the United States' influence declining and China's capacities rising. India, like many countries, had become used to the global public goods provided by the US like the guaranteed security of supply of Persian Gulf oil and gas, freedom of navigation in the high seas and the maintenance of the world trading system. All of these are now in question and the gaps are largely filled in by China. India is being forced to take a less passive role in global issues. Brainstorming sessions are fine but what all these point to is a more radical enhancement of India's diplomatic capacities whether it is in sheer numbers or the use of new tools like big data.

Stop this latest effort at digital policing

Haryana's new data-gathering initiative is even more intrusive than Aadhaar

The controversy over Aadhaar is yet to end but the Haryana government has come up with another mega data-gathering initiative. The objective of this exercise is to get details of land holdings and the status of facilities such as social security pension, scholarship, MGNREGA, loans and LPG connections. During the survey, the address of each house, photo, location, details of owner of the house, electricity connection, water connection, details of electronic devices, bank account numbers including IFSC code and Aadhaar and personal details such as mobile number, e-mail ID, educational qualification, religion and other details will be gathered. The data, the government said, will be used to make sure that the benefits of 150 services of 87 departments are provided online. During the survey, bank accounts will be opened for those who do not have one and Aadhaar cards will be made for the left out population.

Why is Haryana government keen on gathering so much new data when there is already such stiff opposition against Aadhaar, a vigorous debate on lack of privacy laws and questions over security of data? In other countries, data security laws require that a person be notified if her data has been breached. But not here. One would like to know what is the legal mechanism that Haryana to respond to data breach? The UIADAI in Supreme Court has said Aadhaar is foolproof, and that leaks of "details may have been from the States... their offices and agencies".

Can Haryana promise its residents that its technology is foolproof and that there will not be any leaks like the one we saw in Jharkhand late last month? Digital identities of more than a million citizens have been compromised by a programming error on a website maintained by the Jharkhand Directorate of Social Security. The glitch revealed the names, addresses, Aadhaar numbers and bank account details of the beneficiaries of Jharkhand's old age pension scheme.

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BOBBY GHOSH



Kashmir urgently needs new symbols

Pellet guns have replaced Papa-2 as proof that the State cares nothing for the people's concerns

In the two decades since I first went to Kashmir as a reporter, everything has changed — on the surface, anyway. In Srinagar last week, I struggled to find my old bearings: many of the buildings are new, most of them hotels and homestays. Some old structures have been repurposed in more unexpected ways. Astonishingly, the infamous "Papa-2," where an unknowable number of Kashmiris were brutally tortured and disappeared during the 1990s, is now the official residence of Chief Minister Mehbooba Mufti.

I remember feeling a bilious upheaval when I first drove past the place on Gupkar Road in 1999, when I was working on a cover story on Kashmir for TIME Magazine. Since then I've felt that way in close vicinity of some of the world's worst torture chambers, from Abu Ghraib, outside Baghdad, and Evin, in Tehran, to Scorpion, near Cairo. But there's something especially egregious about torture practised by a democratic state: in addition to being bestial, it is also a betrayal, of values and expectations.

Driving past the green-and-white building last week, I felt... baffled. Whose idea was it to turn this symbol of state repression into the home of the state's elected leader? It must have been someone with little understanding

of political optics. Much better to have destroyed the building, and replaced it with a park, or some other public space.

As it stands now, the repurposed Papa-2 symbolises the superficiality of change in Kashmir. The conversion of its function has not altered the fact that Kashmiris feel deeply disillusioned about their place and future in the Indian state.

The glass-half-full argument: thank goodness there's no Papa-3. In the late 1990s, much of the talk among Kashmiris was about the atrocities by the security forces, from torture to "encounter killings." The forces today exercise considerable restraint: the cruelty visited upon the previous occupants of Mufti's residence is unheard of.

But Kashmiris aren't comparing their current condition with the worst years of the 1990s; why should they? To them pellet-guns have taken the place of Papa-2 as proof that the Indian state cares nothing for their concerns. The state may argue that the pellets of today are better than the bullets of yesterday, but such gainsaying ignores the larger reality that parleys are better than projectiles of any kind.

Everybody I met in Kashmir agreed on this. In the quest for complete candour, my discussions were all private, so you'll



File photo of a policeman aiming a pellet gun at protesters in Srinagar GETTY IMAGES

have to take my word that I met credible representatives of every category that counts: mainstream politicians, separatists, security forces, students, civil servants, civilians. They were unanimous that the problems can only be solved with politics, not pellets.

No change there: this was the consensus view in the late 1990s. Every government that has tried to punish Kashmiris into submission has eventually accepted the futility of such an approach. I have no doubt that the current dispensation in New Delhi will do so — but when? Time is running short. The differing perceptions of the latest symbol of the Kashmiri conflict points

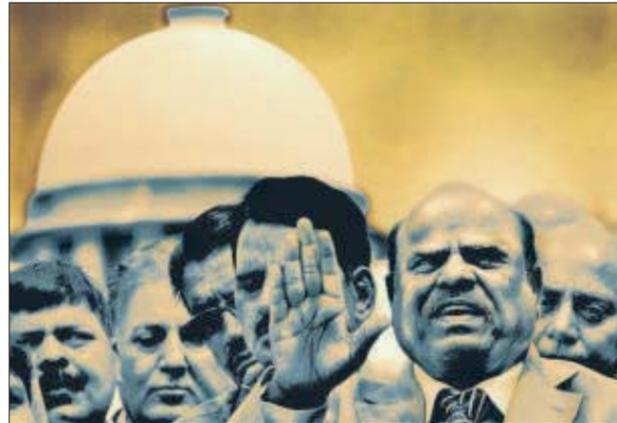
to a hardening of hatreds.

Farooq Ahmed Dar became a symbol on April 9, when, tied to an army jeep, he was used as a human shield against a stone-throwing mob. He had, by his own account, gone to vote in the Lok Sabha by-election. Dar's plight brought him accolades from all quarters. Prominent Indians, including the attorney general, defended his mistreatment. On social-media platforms, hyper-nationalists labelled him as a Pakistani-sympathizer deserving no consideration. Most telling of all, many fellow-Kashmiris condemned him as Indian-sympathizer, for voting.

Even when the two sides agree on something — that Dar got what was coming to him — it's for the completely opposite reasons. What's the way out from here? Kashmir needs new symbols. A grand symbolic gesture would be a good start: a visit to Srinagar by Prime Minister Modi, perhaps. A speech in Lal Chowk, offering balm, not bellicosity. Maybe even a 'Mann ki Baat,' in which he chats with young Kashmiris speaking their minds. Then the opening of dialogue, first with the mainstream political parties, followed by a widening circle of the willing. Gestures in other directions would help, too: a stern warning to those who spout hate speech about Kashmiris; an appeal that Kashmiris living in other parts of India be treated with courtesy; an encouragement of other Indians to visit the valley.

Oh, and it's not too late to tear down Papa-2. letters@hindustantimes.com

TRIAL TRAVAILS



Calcutta High Court Judge CS Karnan addresses journalists outside the Supreme Court in New Delhi, March 31 HT PHOTO

Delinquency may blow up in the face of our judiciary

Never before has a sitting judge of the high court been arrested and sent to jail as Justice CS Karnan has been



ASHOK BAGRIYA

Never ever has a sitting judge of the high court been sent to jail. On May 9, the Supreme Court ordered the arrest and imprisonment for six months of the controversial Calcutta High Court Judge, Justice CS Karnan. This incident, where judges traded arguments in full public view and questioned each other's sanity, has damaged the judiciary's reputation.

This has once again brought into focus the need to have a mechanism — a half way house — to deal with problems of delinquency among judges, outside the impeachment process. It becomes even more important because of rising instances of misconduct among judges and the inadequacy of mechanisms to discipline them.

Under the current regime, there is an informal practice of appointment of committee judges to look into charges of indiscipline and impropriety by judges. But this mechanism is found to be wanting as a judge found guilty of misconduct cannot be removed from office or suspended.

Even the tried and tested method of transferring erring judges to different high courts has proved to be ineffective. An attempt to deal with the problem was made by the government in 2006, when it enacted the Judges

Inquiry Bill, proposing a committee of judges to deal with instances of misbehaviour by judges. However, it was shot down by the parliament on the premise that judges will be judges in their own causes and the process will not be fair. In the absence of a constitutional amendment and out-of-the-box thinking by judges, this problem of delinquency threatens to blow up in the face of the judiciary.

It will be a better idea to have a bill that gives more power to judiciary to deal with its in-house problems. The way forward will be an amendment in the constitution and carving out of a half-way house between the impeachment process and the informal mechanism to persuading erring judges to retire voluntarily and contempt proceedings like the one in Justice Karnan's case.

No doubt Justice Karnan's actions have been unparalleled and extremely contemptuous but the Supreme Court may have just set a wrong precedent. The constitution guarantees independence to high courts by clearly defining the appointment and removal process of judges. But after the order in this case, apprehensions are bound to cloud the minds of high court judges and could have the effect of compromising their independence.

Not many countries have faced this kind of problem. And the ones that faced it have dealt with it by persuading the judges to resign. The example of noted British judge Lord Denning comes to mind. He resigned as a judge after charges of racism were made against him. However, these informal methods to deal with delinquency in India have failed.

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Time to shed 'masculinist' responses to rape cases

'Collective disbelief', like 'collective conscience', should not influence verdicts on sexual violence



VRINDA GROVER

From the 1983 judgment of the Supreme Court in Mathura's case to the 2017 judgment in the December 16 Delhi gang rape case, the issue of absence or presence of physical brutality as a concomitant element of rape, continues to lurk in the judicial mind while determining guilt and quantum of sentencing.

Both cases sparked campaigns by the women's movement for changes in the law to reflect women's actual experience of sexual violence, culminating in the Criminal Law Amendment Act, 2013.

The horrific injuries in the 2012 gang rape played a central role in galvanising the high decibel public condemnation of the crime. In this judgment, the brutality and severity of the injuries inflicted by the accused finds repeated echo, and is cited as the overwhelming reason for the court to call this the "rarest of rare" case. To award the death sentence, the apex court falls back on the "tsunami" of shock caused to the "collective conscience".

Over the past three decades, due to the consistent efforts of the women's movement there is a grudging understanding of the absolute right of a woman over her body. Even within the courtroom, jurisprudence is developing that a victim of rape should not be viewed with suspicion; most rapes do not leave marks of physical injury; and, by its inherent nature this crime often leaves behind no "evidence" apart from the victim's testimony.

With brutality and injuries once again taking centre stage, there is an apprehension that even as the din of "zero tolerance for sexual violence" reaches a crescendo, rape has become a spectacle, as an outrage of the "collective conscience", where the impact of rape is measured by the physical injury accompanying rape; where the abhorrence to rape is calibrated by who the perpetrator is and who the victims is; thus

IF 'COLLECTIVE CONSCIENCE' IS INVOKED AS A REASONABLE GROUND, HOW WILL COMMUNAL ATTACKS, LYNCHING OF DALITS AND MUSLIMS, ALL ENJOYING SOCIAL ENDORSEMENT, BE HELD UNLAWFUL?

routinely sidelining the understanding of sexual violence as an exercise of power and entitlement.

It has been argued that the determinative test of "rarest of rare" is inherently arbitrary. When the same is premised on the outrage of the "collective conscience", it will not only be selective and subjective, but also necessarily majoritarian. The Constitution and the apex court are tasked with safeguarding against a coup d'état by dominant tendencies. If "collective conscience" is invoked as a reasonable ground, how will communal attacks, fake encounters, public lynching of Dalits and now Muslims, all enjoying social endorsement, be held unlawful?

Uncannily, a day prior to the court's 430-page judgment, the Bombay High Court delivered a judgment, also on gang rape and murder, in the case of Jaswanthbai Chaturbhai Nai & Ors v State of Gujarat (Bilkis Banocase), where 11 people were convicted for life imprisonment. While the macabre details of the Delhi case are known to all, few are familiar with the fact that 15 years ago, in 2002 in Gujarat, 11 men murdered 14 members of Bilkis's family, smashed her three-and-a-half-year-old daughter to death against a rock, killed a one-day-old baby, and gang raped a five-month pregnant Bilkis and other women of her family, who were fleeing the targeted violence unleashed against Muslims.

The court did not find any reason to disbelieve Bilkis' testimony, and the absence of medical evidence to corroborate the gang rape, was rightly considered inconsequential for the conviction.

The verdict is also significant for it holds guilty five policemen who had intentionally refused to record in the FIR the names of the accused or the crime of gang rape as narrated by Bilkis. The two doctors who manipulated and suppressed evidence in the post mortems were also convicted. This judgment marks an important jurisprudential recognition of institutional bias, thereby drawing a wedge in the State's shielding of perpetrators of communal attacks.

Perhaps the mirror image of the "collective conscience" is "collective disbelief", which sanctions sexual violence within the home; refuses to accept that 'men like us' routinely abuse office and position to commit sexual harassment and rape.

At the conclusion of the Delhi gang rape case we need to move away from 'masculinist' responses where death sentence is seen as just, towards ensuring that all forms of sexual violence are treated as a violation and all perpetrators are held accountable.

Vrinda Grover is a lawyer at Supreme Court of India. The views expressed are personal.

innervoice

WHEN THE GOING GETS TOUGH, IT'S BEST TO TAKE A FEW STEPS BACK

Himika Chaudhuri

This week, two of my close friends are facing the same problem — their love lives have hit a road block. And these aren't frivolous relationships; these are relationships that they have nurtured for a few years, with hopes of a future. But the current complexities make that possibility look bleak.

My friend confessed that she had spent so much time obsessing if she would get her love back that it drained her completely. And it's not just love. There are so many times when

we complicate things by unnecessarily spending time contemplating — what if a competitive colleague gets past us, what if we don't get through the job we want, the list is endless.

But where can such thinking take us? All it will do is take us round and round in circles. It's like sitting in a rocking chair — there is movement, but we're not advancing.

So, what can we do? Get off that rocking chair and move ahead. Often, stepping back is the best decision that one can take in a complex situation, because that's the only way to

gain a better perspective of things and take the right decisions.

Think of it like this: If you hold something too close to yourself, you can only see a part of it, never the whole. What may be evident from a distance may not be visible when you are too up close. The same holds true for problems as well. So, step back and step up your chance of resolving your issues.

(Inner Voice comprises contributions from our readers. The views expressed are personal.) innervoice@hindustantimes.com