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A NARRATIVE OF DISTRUST

Judiciary is being disparaged for personal and political gain

JUDICIAL INDEPENDENCE goes hand in hand with judicial accountability. However, some have confused judicial independence with the proclivity to strike down legislation or executive action in a cavalier fashion. The job of the judiciary is to be accountable by dispensing justice. But some self-anointed people feel the judiciary should be accountable, given how they were disappointed with nation's rejection of listless political opposition. This does, though, raise questions on the logic behind their covert demand for a remote control on the judiciary.

The people of India have believed that the venerable judges objectively dispense justice. Now, there is an ongoing attempt to browbeat the judiciary manifesting itself in the uncalled-for attacks on the Supreme Court.

There are multiple recent example to demonstrate how the judiciary has stood contrary to the government of the day. Be it the striking down of the National Judicial Appointments Commission (NJAC) or Goa mining case, the Supreme Court gave verdicts that cannot be deemed as favourable to the government. Similarly, in the Aadhaar case, although the Supreme Court upheld its constitutional validity, the judgment went against the government's policy objective of stemming leakage, while affecting the then nascent fintech industry. The Supreme Court also struck down the Reserve Bank of India's framework resolution plan for debt recovery that was proposed to ease the pains related to stranded assets.

Those making deprecating comments about the judiciary should realize that an independent judiciary is a basic feature of our Constitution. It is the guardian and protector of our fundamental rights, a role which barring some exceptions, it has performed with courage and vision.

Some people have expressed their grief at certain Supreme Court judgments or the lack of appointment of judges of their choice despite the government having a very limited role in such appointments. Moreover, we have certainly not witnessed an aggressive government, as we did during the dark days of the Emergency. It would be a travesty if anyone denies that during the Emergency, all bail applications were rejected by the courts, despite their awareness of the false hood of those cases. That is a classic example of when the courts abdicated their role in enforcing rule of law.

The judiciary has surprisingly been accused of being overly aggressive against a certain political dispensation when it was in power. Observing the rule of law and calling out illegality is not bias. The quashing of a Central Vigilance Commissioner (CVC) appointment was not a political decision-----it was a result of procedural illegalities surrounding the act in question. Similarly, quashing the spectrum allocation or striking down the allocation of coal mines was an act of calling out the loot of India's resources.

Those making deprecating comments about the judiciary should realize that an independent judiciary is a basic feature of our Constitution. It is the guardian and protector of our fundamental rights, a role which, barring some exception, it has performed with courage and vision. Issuing threats such as impeachment for deemed "misbehavior" is a serious matter and not to be used so causally, as it can adversely impact the judiciary by questioning the trust of the nation in the institution. Therefore, imputing motives to judges for their decisions, or referring to their caste, or saying that the judiciary was subservient to the government or toeing a party line, cannot be construed as legitimate criticism. Seeking recusals on demand as seen in the Judge Loya case or on the PIL on Assam's detention centers are prime examples of wanton politics for ulterior motives and creating doubt where none exists.

One must be able to distinguish between a narrative of distrust being peddled for personal and political gains from reality. The Supreme Court is not a political organ of the state. It is not the duty of the Court to appease the aspirations of political proxies and under no circumstance can retributive attacks on its integrity and independence be condoned. To attack the independence of the Supreme Court and to continuously attack its authority is the true unraveling of the rule of the law. Moreover, lawyers and politicians seeking to cast aspersions on the independence of the judiciary ought to remember that the Supreme Court is not avessel to navigate the seas of their personal ambitions.

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