

Editorial

Imphal, Monday, December 14, 2015

Progressive Parliament

The best of intents does nobody any good unless acted upon. The same goes for issues that needs resolved. Protests, demonstrations, marches, rallies and agitations provides a means of raising social and political issues and flaws that needs to be addressed in time. Protests have a remarkable emotional appeal - often morally persuasive and deeply moving. Yet they can also be disappointing, with the immediacy and vitality of the protest often challenged and sometimes marked by the reassertion of existing authority. In an article reflecting on 'The Alchemy of Protest', Christian Caryl points out that the power of demonstrations lies in the overtly public nature of the challenge that they pose. On the same breadth, it must be understood that protests are not, and should not be considered the means to obtain or achieve the stated objective or goal. Protests create space for discussions and deliberations on the issues and objections raised by the participants. A more objective view of protests should be one where it is treated as a catalyst for the change and a point of initiation of public dialogues, discussions and negotiations. Perhaps the recent developments in the social spheres of the state bear testimony to the above points. The successful conclusion of the 3-day 1st NorthEast Indigenous Peoples' Parliament in Manipur with the participation of representatives of various ethnic communities from the North East states augurs well for the numerous indigenous communities in the region and must be regarded as a welcome change from the suffocating one sided declarations and dictations of the communities. The event is a culmination of the protests and agitations being raised by the communities highlighting their grievances and concerns, some of which appears contradictory to one another thus raising the very real danger of starting a communal flare-up which will leave everybody the worse for it. The parliament also provides a timely and vital opportunity for the concerned and proactive groups of individuals and organizations representing the different communities to interact and rest their points and views for discussion and deliberation. In effect, it sets a healthy precedent of openly discussing sensitive social issues and concerns which otherwise could very well snowball into hostilities and unsettling suspicions. The already regressively administered region does not need the extra impediments to progress and development. And while the initiative might not have produced any definite resolution or result, the cordial atmosphere it created amongst the different indigenous communities should be counted as the greatest achievement. The agreement to invite and entertain recommendations on a wide range of issues from representative organizations of every indigenous community in the region in an attempt to draw up amicable resolutions after subsequent sessions also raises the opportunity of these groups to iron out the glitches and sensitive subjects not covered earlier, and hopefully, the resolutions will reflect the collective aspirations and dreams of the region without the threat of the larger communities trampling on the interests and rights of the smaller ones.

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Questioning the National Herald Case Judgment

- Ningombam Bupenda Meitei

Cont. from yesterday

The argument is on the fundamental question of whether the courtroom shall decide the nature of the relationships of a political party with its supporters/donors or shall such relationship be as per the rules framed by the political party's constitution. Whether a political party owes an explanation to its supporters/donors or what explanation it owes to them, is to be best left to the party itself and not to a person who is not even a registered member of the party. What would happen to political parties in a democracy if their own financial relationship, such as donations and the ways to utilise the donations, is to be dealt with in the manner the parties do not like but instead in that manner which is liked by a person who is not a registered member of the party? Even if a Political Party of national stature acts is everybody's concern, will or can anybody from the set of everybody file a legal complaint complaining any wrongdoing in the party in which that 'anybody' is not even a registered member of the party, and if that is so, then how will democracy be if a member of a treasury bench files a complaint, alleging a wrongdoing, for the in-party wrongdoing of the opposition party or if a member of the opposition party files another such complaint, alleging a wrongdoing, against the internal wrongdoing of the party in treasury bench? If one argues that the freedom of a private citizen to proceed against the corrupt cannot be restricted, and therefore, the

third party, who does not even claim to be cheated, can still complain on cheating, the question is not whether the private citizen, even if he or she is a third party, can complain or not, but whether that private citizen, who can be a third party too, has sufficiently proved 'the corrupt' to be corrupt and not merely stating the allegation of 'the corrupt' much before the private citizen begins exercising to proceed against the corrupt. As 'the corrupt' and 'the allegation of the corrupt' are two different entities, therefore, without justifying the existence or commission of 'the corrupt', how can any third party private citizen go ahead to proceed against the corrupt merely quoting 'the freedom of a private citizen to proceed against the corrupt cannot be restricted'. Though, the trial court has concluded that the complainant has established a prima facie case against the accused u/s 403, 406 and 420 read with section 120B I.P.C, the Delhi High Court uses the adjective 'presumptive', to qualify the observations, in order to note that the presumptive observations made by the trial court are uncalled for. (iv) On ownership/management/control of AJL According to para 15, it was pointed out that neither the Representation of the Peoples Act nor the Income Tax Act or any other Act prohibits giving of loans by Political Party. To assert that a shareholder is not the owner of the assets belonging to the Company, reliance was placed upon Apex

Court's decision in *Bacha F. Guzdar, Bombay v. Commissioner of Income Tax, Bombay (1955) 1 SCR 876*.

According to para 21, (i) No conversion, appropriation by YI for benefit is possible. (ii) YI is Section 25 Company-banned in law from giving any benefit, salary, remuneration, dividend etc. to its shareholders. (iv) Ownership of shares in company is not ownership of properties of company.

The words 'Management' and 'Control' are used in para 24 as '...the Management of AJL...' and '...the control of AJL...' respectively.

The argument is that the perception of management or control appears to be same as ownership while the three words - ownership, management and control - are three distinct entities with regard to the functioning or existence of any company. YI, being Section 25 Company, does not give any benefit, salary, remuneration, dividend, etc. to its shareholders and its shareholders include the petitioners (Mrs. Sonia Gandhi, Sh. Rahul Gandhi and others), and therefore the petitioners do not or have not obtained any benefit from YI. The petitioners too are also shareholders with some shares in the company, but they do not own the company as having shares in a company does not amount to becoming the owner of the company. Therefore, the petitioners, though are shareholders, but are not the

owner of the company YI.

Conclusion

In para 36, it states, "It needs no reiteration that this is not the stage to even prima facie opine that the ingredients of any of the alleged offences exist to justify putting petitioners on trial or not. Any observation made in this regard by the trial court or this Court shall have no bearing when the case of petitioners is considered at the charge stage." The point is to understand the background of the politically charged environment under the present Narendra Modi's prime ministership in uprooting the Indian National Congress Party and destroying the legacy of Jawaharlal Nehru, and therefore, to dispassionately and arguably discuss whether Modi will be indeed satisfied if Sonia Gandhi and Rahul Gandhi go to the court and divert the nation's problems into dark by blaming the Nehru-Gandhi family. The more the court summons the Gandhis, the more support the Congress party will be blessed with from the entire people of India. To any legal battle, the battle has to be fought legally. The former Prime Minister Indira Gandhi's arrival to a lower court in Imphal of Manipur is a sign of the honour that the Nehru-Gandhi family has for the rule of law.

(The writer, Ningombam Bupenda Meitei, is the Founder of *The Nehruvian* - www.thenehruvian.com.)

National & International News

Indo-Pak talks to mark beginning of peace, development

PII
New Delhi, Dec 14: India today expressed hope that re-engaging with Pakistan under a 'Comprehensive Bilateral Dialogue' will mark beginning of peace and development as continued estrangement was a hurdle to peace and prosperity in the region. Making a suo motu statement in Rajya Sabha on her last week's visit of Islamabad and recent developments relating to ties between the two neighbours, External Affairs Minister Sushma Swaraj said Prime Minister Narendra Modi had discussed with his Pakistani counterpart Nawaz Sharif on the sidelines of the environment conference in Paris "again re-engaging with each

other." "The underlying sentiment, on which I am confident that this House concurs fully, was that the continued estrangement of two neighbours was a hurdle to the realisation of our shared vision of a peaceful and prosperous region," she said. "At the same time, there was also a "sharp awareness" that principal obstacles to the growth of ties, especially terrorism, would have to

be clearly and directly addressed. She read out her statement as members of several opposition parties were in the Well vociferously raising slogans on several issues. Swaraj said following her visit to Islamabad a 'Comprehensive Bilateral Dialogue' with Pakistan will begin with the objective of "removing hurdles in the path of a constructive engagement by addressing issues of concern."

Also, it aims at "exploring and establishing cooperative ties," she said, adding initiatives on trade and connectivity, people-to-people exchanges and humanitarian issues would contribute to welfare of the entire region and promote better understanding and mutual trust. "The new Dialogue, we sincerely hope, marks a new beginning also for peace and development in the whole region," she said.

Four dead, 10 missing in Indonesian boat sinking

AFP
Jakarta, Dec 14: Four people, including a baby, were killed and 10 others left missing after a speedboat sank in a river on the Indonesian part of Borneo Island, a rescue official said today. The boat was carrying 53 people up the Kapuas River Sunday when it hit a log and sank, Slamet Riyadi, the head of the local search and

rescue office told AFP. As well as the baby, three women were killed. "We have been searching the river for the 10 missing people since yesterday but so far we have not found anything," Riyadi said. Among the missing were three children, aged five and six. Riyadi said a dozen boats had been deployed to search the river

near the site of the accident, but murky water, currents and floating logs had hampered rescue efforts. Indonesia relies heavily on boats to connect its more than 17,000 islands, but has a poor maritime safety record. Borneo, the world's third-largest island, is shared between Indonesia, Malaysia and Brunei.

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Women of Manipur Rise Up For

Although the tradition of resistance prevails; the women's democratic forces operate in a fragmented society that is disunited due to vested ethnic (communal), party, partisan, sectarian, individual and political interests. Women's resistances and democratic assertions, therefore, occurred in different regions in different times and led by different forces; thereby, sporadically organised, localised, sectarian, and some of them ended with self-defeating tactics. There is no unified command structure; no common ideological, strategic and tactical position to strive for a collective goal across communities,

sections, and regions. Inasmuch as there is lack of internal cohesion, there is also lack of 'internationalism' as many do not endeavour to relate their struggle with the international movement against imperialism, neo-liberal exploitation and local reactions; except some breakthrough in internationalisation of certain selective issues by the NGO networks that operate within the framework of international human rights movement. Despite weaknesses and shortcomings, women's resistances against misuse and struggles for justice at different layers, locations, sectors, times

and issues constitute a general trend that deserves commendation. Instead of being completely fallen to become silently submissive to injustice, there are women who resist and fight for justice in their own ways. Their actions exemplify progressive role; as these expose the bourgeoisie misuse, keep the spirit of resistance alive, and pose some forms of threat to the regime. We valorise these resistances with the hope that these can keep the door open to future consolidation of common goal towards building a society free from subjugation, exploitation and oppression.