



Filled to the nines

Appointment spree in SC is welcome, and augurs well for diversity and representation

It is not often that nine judges are appointed to the Supreme Court at one go. In a welcome sign of cooperation between the judiciary and the executive, the President of India has signed warrants of appointment within days of the five-member Collegium recommending eight High Court judges, including three women, and a lawyer for elevation. It is nearly two years since Supreme Court appointments were made, and some vacancies have been around for quite some time now. The latest round of appointments possibly signifies the onset of an era in which the two branches agree more and agree faster on the Collegium's recommendations. The strength of the Bench goes up to 33, in a court that has a sanctioned complement of 34 judges. The presence of three women and the fact that different High Courts are getting representation are positive features and augur well for increasing diversity on the Bench. In particular, Justice B.V. Nagarathna's elevation at this point of time means that she may become the first woman Chief Justice of India (CJI). The trend of appointing members of the Bar directly to the Supreme Court continues with the honour going this time to former Additional Solicitor-General, P.S. Narasimha, who is also in line to be Chief Justice by efflux of time.

A notable candidate whose name does not figure in the list is Justice Akil Kureshi, Chief Justice of the Tripura High Court, who is fairly high in the all-India seniority list of High Court judges. That the finalisation of the recommendations came about after the retirement of Justice Rohinton Nariman – and a change in the composition of the Collegium with it – may indicate that the names were the outcome of a compromise. It is not idle speculation to say that Justice Kureshi's candidature may have been behind stagnation in the appointment process for a long time. Two years ago, a proposal by the Collegium to name Justice Kureshi as Chief Justice of the Madhya Pradesh High Court was recalled for accommodating the Centre's sensitivities. He was later assigned to the Tripura High Court. In the larger scheme of things, the omission of individuals may not matter much, but it must not become a practice to sidestep suitable candidates without sufficient cause solely to accommodate the executive's reservations. After all, the opaque collegium system is sustained only by the belief that it is a bulwark against executive intervention. This *raison d'être* should not be lost sight of. Going forward, one would wish for fewer spells of impasse in judicial appointments, quicker processing of names, and greater consideration to social and regional representation.

Near and present

India does not have the luxury of distance from the ticking bomb in its neighbourhood. The suicide bombing at Kabul airport which claimed close to 100 lives has shattered any residual optimism the world had that the West pulling out forces and handing the country over to the Taliban, as part of negotiations in Doha, would result in a more peaceful Afghanistan. Instead, what the complex attack claimed by the Islamic State-Khorasan (IS-K) has proven is that no matter what assurances the Taliban's new regime or its benefactors in Pakistan may provide, they are unable or unwilling to stem the terror threat emanating from the country, despite being provided key intelligence inputs about the attack. There are also suspicions of some collusion within the Taliban regime, as the Haqqani group that is securing Kabul and the airport periphery, is a UN designated terror entity that has carried out attacks with the IS-K in the past. That the U.S. maintains that it continues to "coordinate" with the Taliban on security should further set the seal on any idea of investigations or operations against the Taliban. As this is an alarming scenario, the Government must now acknowledge and prepare for the threats to India. The situation will further enhance India's already hostile continental flanks, in consonance with threats from Pakistan at the LoC and support to cross-border terrorism, as well China's LAC aggressions.

New Delhi must also focus on diplomacy to highlight its concerns, beginning with the UN where India will have a salient role. As a UNSC member, and President, India must ensure that the UN's most powerful body does not appear helpless in the face of the Taliban's challenge, and must make the red lines clear for the kind of government it must guarantee – including one that recognises human rights, adopts some form of representation for its people, and distances itself from terror groups. Chief among these will be the need to ensure that the Haqqani group, including its chief Sirajuddin Haqqani who is the Deputy to Taliban chief Haibatullah Akhundzada, is not included in the official power structure. The group has been responsible for terror and suicide attacks on Indian consulates and the Embassy in particular in 2008-09. As Chairman of the 1988 Sanctions Committee that lists 135 Taliban members as designated terrorists, India must stand firm on any move to ease sanctions on them, including travel, funds access and weaponry. The UN General Assembly (UNGA)'s accreditation committee must also decide on whether to allow a future Taliban-led government to occupy Afghanistan's seat. Given Prime Minister Narendra Modi's visit to the U.S. later in September, where he is expected to address the UNGA, and then the Quad summit, it is important that India's position on the Afghan situation and its impact on Indian security are articulated strongly. While briefing MPs, External Affairs Minister S. Jaishankar said the Government is pursuing a "wait and watch" policy, but that assumes the luxury of distance from the ticking time bomb in India's neighbourhood, which New Delhi does not have.

Asset monetisation — execution is the key

The Government's plan needs an Asset Monetisation Monitoring Authority to evaluate the execution



T.T. RAM MOHAN

The Government has announced an ambitious programme of asset monetisation. It hopes to earn ₹6 trillion in revenues over a four-year period. At a time when the Government's finances are in bad shape, that is money the Government can certainly use. Getting asset monetisation right is quite a challenge, though.

In asset monetisation, the Government parts with its assets – such as roads, coal mines – for a specified period of time in exchange for a lump sum payment. At the end of the period, the assets return to the Government. Unlike in privatisation, no sale of government assets is involved.

By monetising assets it has already built, the Government can earn revenues to build more infrastructure. Asset monetisation will happen mainly in three sectors: roads, railways and power. Other assets to be monetised include: airports, ports, telecom, stadiums and power transmission.

First, under-utilised assets

Two important statements have been made about the asset monetisation programme. One, the focus will be on under-utilised assets. Two, monetisation will happen through public-private partnerships (PPP) and Investment Trusts. Let us examine each of these in turn.

Suppose a port or airport or sta-

dium or even an empty piece of land is not being used adequately because it has not been properly developed or marketed well enough. A private party may judge that it can put the assets to better use. It will pay the Government a price equal to the present value of cash flows at the current level of utilisation.

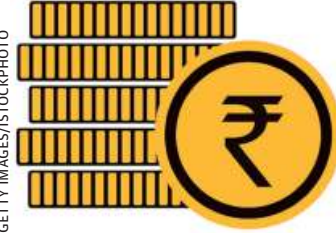
By making the necessary investment, the private player can reap the benefits of a higher level of cash flows. The difference in cash flows under Government and those under private management is a measure of the improvement in efficiency of the assets. This is a win-win situation for the Government and the private player. The Government gets a 'fair' value for its assets. The private player gets its return on investment. The economy benefits from an increase in efficiency. Monetising under-utilised assets thus has much to commend it.

Those well utilised

Matters could be very different in monetisation of an asset that is being properly utilised, say, a highway that has good traffic. In this case, the private player has little incentive to invest and improve efficiency. It simply needs to operate the assets as they are.

The private player may value the cash flows assuming a normal rate of growth of traffic. It will pay the Government a price that is the present value of cash flows minus its own return. The Government earns badly needed revenues but these could be less than what it might earn if it continued to operate the assets itself. There is no improvement in efficiency.

Suppose the private player does plan to improve efficiency in a



well-utilised asset by making the necessary investment and reducing operating costs. The reduction in operating costs need not translate into a higher price for the asset than under government ownership. The cost of capital for a private player is higher than for a public authority. A public authority needs less equity capital and can access debt more cheaply than a private player. The higher cost of capital for the private player could offset the benefit of any reduction in operating costs.

As we have seen, the benefits to the economy are likely to be greater where under-utilised assets are monetised. However, private players will prefer well-utilised assets to assets that are under-utilised. That is because, in the former, cash flows and returns are more certain. Private incentives in asset monetisation may not accord with the public interest.

Valuation and issues

There are other complications. It is very difficult to get the valuation right over a long-term horizon, say, 30 years. Does anybody know what would be the growth rate of the economy over such a period? For a road or highway, growth in traffic would also depend on factors other than the growth of the economy, such as the level of economic activity in the area, the prices of fuel and vehicles, alternative

modes of transport and their relative prices, etc. If the rate of growth of traffic turns out to be higher than assessed by the Government in valuing the asset, the private operator will reap windfall gains.

Alternatively, if the winning bidder pays what turns out to be a steep price for the asset, it will raise the toll price steeply. The consumer ends up bearing the cost. If transporters have to pay more, the economy suffers. There is also the possibility that roads whose usage is currently free are put up for monetisation. Again, the consumer and the economy bear the cost. It could be argued that a competitive auction process will address these issues and fetch the Government the right price while yielding efficiency gains. But that assumes, among other things, that there will be a large number of bidders for the many assets that will be monetised.

Lastly, there is no incentive for the private player to invest in the asset towards the end of the tenure of monetisation. The life of the asset, when it is returned to the Government, may not be long. In that event, asset monetisation virtually amounts to sale. Monetisation through the PPP route is thus fraught with problems.

Another way of going about it

The other form of monetisation the Government has indicated is creating Infrastructure Investment Trusts (InvIT) to which monetisable assets will be transferred. InvITs are mutual fund-like vehicles in which investors can subscribe to units that give dividends. The sponsor of the Trust is required to hold a minimum prescribed proportion of the total units issued.

InvITs offer a portfolio of assets, so investors get the benefit of diversification.

Assets can be transferred at the construction stage or after they have started earning revenues. In the InvIT route to monetisation, the public authority continues to own the rights to a significant portion of the cash flows and to operate the assets. So, the issues that arise with transfer of assets to a private party – such as incorrect valuation or an increase in price to the consumer – are less of a problem.

The pathway

What conclusions can we draw from the above? First, a public authority has inherent advantages on the funding side. In general, the economy is best served when public authorities develop infrastructure and monetise these. Second, monetisation through InvITs is likely to prove less of a problem than the PPP route. Third, we are better off monetising under-utilised assets than assets that are well utilised. Fourth, to ensure proper execution, there is a case for independent monitoring of the process. The Government may set up an Asset Monetisation Monitoring Authority staffed by competent professionals. The authority must put all aspects of monetisation under the scanner – valuation, the impact on price charged to the consumer, monetisation of under-utilised versus well-utilised assets, the experience across different sectors, etc. – and document the lessons learnt.

Asset monetisation is fine if executed properly – and that is always a big 'if'.

ttrammohan28@gmail.com

Kerala's rising COVID-19 cases explained

Concerns that the surge, largely by the Delta variant, potentially leading to a third India-wide wave may be exaggerated



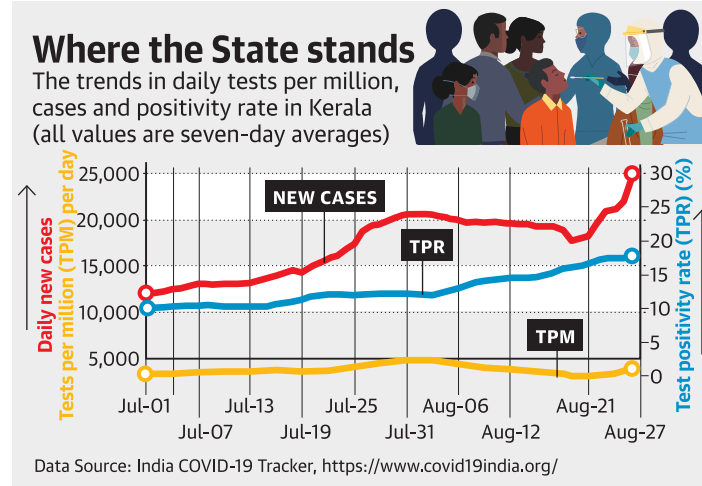
RIJO M. JOHN

Once again, the COVID-19 situation in the State of Kerala is in the spotlight, albeit for all the wrong reasons. More than 60% of the newly reported cases in India in the past week came from Kerala alone, and that naturally raises many eyebrows. How can a State with only 2.5% of India's population contribute to 60% of its caseload?

Antibodies prevalence

One thing that we need to acknowledge first is the fact that the most recent nationwide seroprevalence survey in May 2021 by the Indian Council of Medical Research (ICMR) had estimated that the prevalence of COVID-19 antibodies was the lowest in Kerala at 44% compared to the national average 68%. It meant Kerala had the highest proportion of the population still unexposed to the virus at that time. Given that the virus will keep spreading until a certain level of herd immunity is achieved in the population, either through vaccinations or through natural infections, it is a foregone conclusion that the cases will continue to be high whenever there is increased crowding.

Kerala has already vaccinated



75% of its adult population (55% of the total population) with at least a single dose. The daily new COVID-19 cases after peaking at around 40,000 daily during the first week of May have been on a decline ever since and reached a plateau of about 11,000 cases to 12,000 cases and a test positivity rate (TPR) of about 10% during the first week of July this year. Since then, however, the State has been seeing a steady but gradual rise in daily new cases assisted by increased daily testing which reached a peak of nearly two lakh in early August.

Decline in daily testing

However, the daily caseload saw a decline since August 1 largely owing to a decline in daily testing. The seven-day average daily testing had decreased from 1.7 lakh to 1 lakh leading up to Onam on Au-

gust 21 even as the TPR went up from 12% to 17%. A series of irrational lockdown relaxation measures and the resulting intermittent spike in mobility on random days, along with reduced daily testing and increased festivities leading up to Onam, were all resulting in increased infections.

Yet, the decreasing reported daily new cases in the days leading up to Onam largely assisted by reduced testing gave an inadvertent feeling that the cases were under control. But, it is now understood that the decline was not organic as cases shot up above the 30,000 mark for the last couple of days owing to a slight increase in daily testing. If the State did even two lakh daily tests now, it would be reporting close to 40,000 daily cases. But the low level of testing is still keeping the reported daily case count well below that.

Important questions remain. There are genuine apprehensions on whether the current surge in cases in Kerala is due to a new variant of the virus, whether it will mark the beginning of a third wave in India, and if the present surge could result in the collapse of Kerala's health-care system.

Delta variant spread

It is to be noted that the Delta variant – a variant that was the primary reason for the majority of cases during the second wave in the rest of India – was detected in nearly 90% of the samples tested from Kerala recently. It implies that this variant of the novel coronavirus is still catching up with the Kerala population while the rest of India has already witnessed one major wave of this variant that resulted in 68% seroprevalence in India. So, concerns about the present surge in Kerala, predominantly by the Delta variant, potentially leading to a third wave in the country may be exaggerated.

Kerala's health-care infrastructure had reached near saturation during the peak of its second wave when daily new cases had passed 40,000 and TPR reached a high of 28%. Given the current surge in cases and increasing TPR, it is highly likely that the State will once again experience a similar situation in the days ahead and overwhelm its health-care infrastructure. Hence, the authorities must be extremely cautious of this situation and make sure that the rising numbers and increased hos-

pitalisation do not exhaust the health-care system.

An action plan

The State must immediately take stock of its existing health-care infrastructure and see how long it can hold given the current caseload and its inevitable rise in the days ahead. If it cannot handle the impending surge which may potentially see more than 40,000 daily new cases in the immediate term and the associated increased hospitalisations, it may be wise for the State to go in for a complete lockdown for a very short period of one to two weeks to arrest this surge and allow the cases to cool off in the immediate term. In the meantime, the State should make every effort to increase the pace of vaccination, significantly increase testing and tracing efforts so that not many cases go undetected. Once the cases are brought under control, it must evaluate options and envisage a more rationalised lockdown relaxation than the ones that are presently in effect.

If managed effectively, the current surge will slow down in a week or two and, by then, the natural infection and vaccinations would have taken the population-level COVID-19 immunity in Kerala to at least 60% to 70%, bringing it closer to the rest of India, but with a lesser human toll compared to other larger Indian States.

Rijo M. John is a health economist and an adjunct professor at the Rajagiri College of Social Sciences, Kochi

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.

Danger zone

It is distressing that those who desperately want to flee Afghanistan are now being targeted though it is not altogether surprising considering the brutal and vengeful intent of the terrorists involved (Page 1, August 27). Though America's decision to pull out cannot be faulted, the tight time frame is questionable as there is no scope for any leeway if the humongous evacuation exercise has to be extended. Now that the Taliban is armed with more sophisticated weapons left behind, the task is doubly difficult. President Biden is sure to be aware of the magnitude of the situation.

V. LAKSHMANAN,
Tirupur, Tamil Nadu

One needs to visualise the reign of terror that could be let loose on the people of

Afghanistan in the days ahead. The incidents underscore the imperative need to combat terrorism with global efforts, which now shows ominous signs of a resurgence under the Taliban. India needs to ramp up security in all sensitive and vulnerable border States.

P.K. VARADARAJAN,
Chennai

The horrors have now raised the spectre of an Afghanistan under Taliban rule becoming an epicentre of international terrorism to the detriment of international peace and stability. Mr. Biden may have vowed to avenge the killings of his country's soldiers while asserting his administration's determination to continue with the evacuation, but he has his task cut out in stabilising Afghanistan and

preventing it from becoming a safe haven for terrorists.

M. JEYARAM,
Sholavandan, Tamil Nadu

The details in the report were horrible to read and visualise. The Taliban's return is a nightmare for the hapless Afghans. And the said entry of the Islamic State makes matters worse. One is reminded of the following lines from W.B. Yeats' poem, 'The Second Coming': "Things fall apart; the centre cannot hold; Mere anarchy is loosed upon the world ..."

SUKUMARAN C.V.,
Kongad, Palakkad, Kerala

One of the key concessions the U.S. could extract during the Doha negotiations with the Taliban was that they (Taliban) would not allow terror groups to operate on Afghan soil. But that condition already stands violated as the U.S. believes

that the Islamic State is responsible. It clearly shows that the Taliban wield no influence over or are unwilling to control other terror groups. China and Russia should exercise restraint in rushing a decision on conferring legitimacy to the Taliban's capture of power in Kabul.

KOSARAJU CHANDRAMOULI,
Hyderabad

India's voice

A point or two about the article, "Finding India's voice on Afghanistan" (Editorial page, August 27). The question to be asked is: if the Afghans themselves cannot fight to retain their own liberties, why should India be more concerned than them? After all, we do not share a common boundary. In another five years or so the 'good relations' between the Taliban and Pakistan are bound to wilt. Is it not,

therefore, prudent for India to wait? We are not in the same league as China, Russia, Pakistan or Iran which either share boundaries with Afghanistan or would like to see the U.S. involvement there to end in ignominy. The old 'Nehruvian' foreign policy of trying to strut the world stage with an independent voice, without having good military strength, does not work any more.

J.K. ACHUTHAN,
Kochi

Congress infighting

The Indian National Congress is weakening and in the absence of a strong leader, its regional satraps no longer feel the need to give up their personal ambitions in the larger interest of the party. The BJP is sure to be looking at supporting the overgrown ambitions of some Congress leaders and

To read more letters online, scan the QR code



cannot be blamed if it does so. It is time the Congress sets its house in order before bringing together the Opposition in time for the general election in 2024.

K. RAMACHANDRAN,
Chennai

Paralympics

The essence of the Tokyo Paralympics, with the motto, 'United by Emotion', is perhaps being overlooked by a majority of the masses. The usual sports enthusiasts are quite indifferent and there is a difference even in the coverage when compared to the Tokyo Olympics and even other games. India's glorious medal tally in the Tokyo Olympics should by no means overshadow the spirit of the Paralympics; rather, it should ignite it.

GOPIKA K.,
Palakkad, Kerala