

## The tyranny of systems

**By Dr G Sreekumar Menon, Commissioner**

**THE** Cosmos is conceptualised as being conceived, sustained and destroyed by the divine trinity of Brahma - Vishnu - Shiva respectively. Similarly, Democracy is conceived as resting on three monolithic pillars, namely, Legislature, Executive and Judiciary. These three powerful instrumentalities are fundamental in the governance of the country. The Legislature makes laws, the Executive implements them and the Judiciary interprets and adjudicates. This structured framework is meant for carrying on the project of humanism and egalitarianism for the vast human aggregation of our land. Since these three institutions decide and control the destiny of the country, any conflict or antipathy among them can lead to a dangerously dilemmatic quandary.

In the endeavor to explore the actualization of a dynamic social system, where, justice – social, economic and political will be the living reality; these three stately institutions thrive on the willing submission of the citizens. Yet, implanted in its very plurality, there is a foundational crisis which is infinitesimally splintered, everywhere and nowhere at once. So, very frequently we witness an inevitable clash among these three titans for assertion and demonstration of ultimate superiority. When elephants clash the grass underneath suffers, so goes a proverb . Similarly in the clash among these titans the citizens suffer. Instead of a triangular co-operation we see a wider clash of temperaments and perspectives, each institution proclaiming its exclusivity and thereby implied superiority. **This triangular contest for supremacy is at once onerous, delicate and embarrassing.**

This clash for supremacy is a uniquely terrifying crisis and arrives not at solutions but at incomplete and provisional, sometimes unstated, summations of the state of affairs. What becomes abundantly ambiguous is the question of whether such crisis is a state of objective being or a mode of engagement? In other words, the observer, other observers, the crisis being observed, all blur together in a tangled chain of events and transpositions, funneling into the system in the process of trying to understand it. Rather than being occasions for a fundamental re-evaluation of our constitutional framework, crises have become platforms for assuming coercive postures and negative control. Issues and problems get exacerbated and resentments expressed publicly. While one side threatens retaliation in the form of dilution of contempt powers, the other threatens to move into redressive action for enforcement of socio – economic justice, through the medium of Public Interest Litigation.

The Judiciary has been vested with the role of defender of human rights vis-à-vis state authoritarianism. This phenomenal dimension of justice administration can manifest into judicial activism when spurred by Public Interest Litigation. Executive insensitivity and the **Legislature's preoccupation with ballot paper arithmetic, often restricts and dampens progressive governance**, and the medium of Public Interest Litigation is fast gaining popularity as a means to compel functionally ineffective government bodies and organizations to become positive and potent. Intellectuals, intelligentsia and public spirited individuals are increasingly seeking recourse to Public Interest Litigation to cure the woes of a pathetic populace. However the Legislature and the Executive consider judicial interference as perverse that can lead into head-on conflict and disequilibrium within the democratic framework. Therefore **Politicians and Bureaucrats delay the selection of judges, restricts financial autonomy, seek deletion of contempt powers and resort to subtle maneuvers to restrict the scope and sweep of the Judiciary.** Consider the ominous scenario of the pendencies that is choking our judicial system.

**Justice In Wait**

## **Back log of cases at various levels**

**33,635-Supreme Court.**

**33,41,040- High Courts.**

**2,53,06,458-Subordinate Courts.**

**Source – Times of India January 1 , 2006**

How can the judicative system command the confidence of the common citizens? A common refrain of the masses is that the Executive and the Legislative structures betray the Constitution by inaction, corruption and misdirection of growth. The raw realities of Indian Society today are socio-economic deprivation, gender injustice, and the dramatic changes fuelled by globalization and liberalisation. In an emerging new world order, rapacious coteries are trying to grab economic power and manipulate legal justice at the national and international level. Economic colonization by multinational Corporates are leading to emergence of new anarchies. Huge corporations are turning into rapacious controllerates with powers than the States can curb. In the battle for new economic directions and political dominations organized political circuses for aggrandisement of power and **soul-less bloated bureaucracies is not a source of comfort for the suffering masses.**

Inspite of the shortcomings our judicial system it is the only sentinel of hope for the larger betterment of society. The country's good governance depends on the harmonious co-existence between the trinity of Executive, Parliament and Judiciary. The power of the nation state is constantly under threat from divisive forces as well as global corporates who indulge in destructive negativity in the name of globalization. Developmental discontent and dangerous ideologies mar even correct judgements. Trans-national terrorism and private tyrannies are covertly creeping into the state apparatus and instrumentalities that are meant to facilitate our forward march. Are there issues beyond the pale of judicial scrutiny? Under the law of the land any citizen who feels he has been deprived of his right can approach the Judiciary. Have not citizens approached courts for relief when Parliamentary functionaries like the Privileges Committee breached basic democratic rights? A stand off between Parliament and the Judiciary on the issue is better avoided. The Country can ill afford to witness a continuous clash of titans. **The tyranny of systems becomes complete for the common man when confronted by a fractious legislature, a paper logged bureaucracy, and the Judiciary reduced to a functional ineffectual angel.**

**(The views expressed are the personal opinion of the author)**