

The Business

Chief Editor

Irfan Athar Qazi

E-mail: editorthebusiness@yahoo.com

thebusinesslhr@gmail.com

Tijarat House, 14-Davis Road, Lahore
0423-6312280, 6312480, 6312429, 6312462
Cell # 0321-4598258 Fax: 042-363627671270-B, Peoples Colony No I, Off: Chenone
Road, Faisalabad, Ph: 041-8555582
Cell: 0307-6000375, 0321-4598258

ISLAMABAD / RAWALPINDI

N-125 Circular Road, Ph: 051-5551654,
5532761, Cell # 0300-8567331

KARACHI

3rd Floor Kehkashan Mall 172-I Block II PECHS
Opp Rehmania Masjid Main Tariq Road
Ph: 021-34524550, Cell # 0300-8251534

Harsh winter

The weather prediction is of a somewhat harsh winter. Successive governments have failed to do anything meaningful to solve this problem that has persisted for years and has aggravated with the passage of time. The media debate has largely revolved around procurement of imported RLNG and its rates besides oil and its products and energy mix for producing electricity. The elephant in the room is the woefully declining local gas production, and growing reliance of households on imported RLNG in winters. That is feeding into the gas circular debt. The debt started in the previous PML-N government and kept growing in the PTI's government. Now the PML-N is having a taste of their own medicine. With over Rs100 billion expected growth in the gas circular debt due to mixing imported gas into the domestic sector the overall gas circular debt is likely to cross the Rs1 trillion mark. The country is on a tight leash under the IMF programme. The Fund is asking for fiscal consolidation by imposing new taxes. The recent trip of Finance Minister Ishaq Dar to Washington has not yielded any relief. The demand is to 'do more'.

The government's focus is on reviving the dwindling political capital of PML-N. In this milieu, the 'long march' being undertaken by PTI has possible portents of further worsening of the economic morass that the country has found itself in. In the gas sector, the main issue is non-acceptance of the core problem. Every political government desires to provide gas through pipeline to households at dirt cheap rates. In case of failure, every winter, media and opposition bash the incumbent government. And the sitting governments often have to take unwise decisions by displaying populist approach to politics. The solution is to either increase the indigenous supply or move away from piped gas. The core of the Pakistan energy problem is growing share of imports in the country's prime energy supply.

The increase in imported energy in the mix is correlated with the decline in the domestic gas share in the total primary energy supply: it was 50 percent in 2005 and is below 30 percent today. This is simply unsustainable — both fiscally and externally. The growing share of imports in energy supply is putting pressure on current account and making the external account unsustainable. Supplying expensive imported energy at lower rates (especially gas) is making the energy circular debt (and subsidies) to grow. This issue is choking the economy silently. And the debate continues on ensuring imported gas which the country simply cannot afford. It is important to note that there is less focus on recovery while the efforts are on supply without consideration of the costs. The sector is now completely unsustainable, to say the least. This winter would not only contribute to the highest addition in the gas circular debt, but the shortage could be the highest as well.

MIRZA MOIZ BAIG

Opacity erodes the public's trust and confidence in the judiciary. The judiciary would, therefore, do well to hold itself to the same standards of transparency, objectivity, and meritocracy that it holds every other institution to.

— Justice Maqbool Baqar IN early 2019, the Judicial Commission of Pakistan (JCP) approved the nomination of justice Qazi Amin to the Supreme Court, shortly after he retired from the Lahore High Court while being 26th on the list of seniority.

Writing for these pages after justice Amin's nomination, this contributor had bemoaned the opacity that shrouds the commission's proceedings and the fact that judges not confirmed by the commission have their competence questioned while also becoming victims of unwanted whispers and murmurs. Such concerns may have been dismissed as exaggerated at the time, given that justice Amin's nomination has been approved unanimously. Nonetheless, nearly four years later, the issue of appointments to the apex court has fractured relations between the bar and the bench while also paralysing the functioning of the court. Moreover, given the escalation of differences between the chief justice and the senior puisne judge, as evident from the bitterness that characterised the previous meetings of the commission, it may be time for each side to take a step back from and review their unflinching positions.

SALMAN MASOOD

The unparalleled press conference by the country's intelligence chief and the military's spokesman represents a tectonic shift in the military's approach since the current political crisis erupted after the ouster of former prime minister Imran Khan in April.

For months, Imran Khan has been on a political offensive, emphatically stamping his popularity across a vast swathe of the electorate. But the former ruling party had also unleashed an unprecedented torrent of invective and abuse at the top brass. Senior intelligence officials have been mocked and ridiculed as Mr. X, Mr. Y and Dirty Harry as the former prime minister exerted pressure on the security establishment, livid at being stripped of support in the political arena. His former benefactors and supporters were now dubbed as traitors and facilitators of a 'regime change.' The salvo of attacks was chipping away at the prestige and mystique so essential for the pride and honour of the institution. DG ISI Lt Gen

Where does the money go?



ZAFAR U. AHMED

According to an exhaustive analysis based on 2017-18 data and which was published in the National Human Development Report (NHDR) 2020, Rs2,660,000,000,000 (Rs2.6 trillion) are spent each year on the privileges and benefits enjoyed by powerful interest groups in Pakistan. That is close to seven per cent of the GDP. Compare that to expenditures on debt servicing, which account for 5.4pc of GDP; security, 4.1pc; and social services (education, health-care, water and sanitation, etc), at just 3.5pc. The government's total tax collection is only around 11pc of GDP.

This appropriation equivalent to 7pc of the GDP is one of the primary reasons Pakistan has been unable to provide its citizens with good health-care, give them education or skills training, facilitate their economic development, or ensure welfare for the deserving needy. To understand how it happens, we need to see whether the country's economic policies were designed for the benefit of the popu-

lation at large. If not, then whom do they benefit? How is it done and what is the scale of the problem? In its early years, Pakistan was deeply influenced by the then prevailing Western economic approach for developing countries, which was based on the assumption that the rich would save more and then invest, making the economy grow, and, eventually, benefits would also reach the rest of the population. This was embraced in the Planning Commission's Third Five-Year-Plan 1965-70: "It is clear that the distribution of national production should be such as to favour the savings sectors."

Here, 'savings sectors' includes large-scale industry, capital markets and investors in agriculture. The country's pre-eminent economic thinker of the time, Dr Mahbubul Haq (chief economist of the Planning Commission from 1957-1970, and later finance minister) wrote in his book, *The Strategy of Economic Planning*: "There exists, therefore, a functional justification for inequality of income if this raises production for all and not consumption for a few. The road to eventual equalities may inevitably lie through initial inequities." But the high savings assumption did not materialise and the policy of concentrating national income in the hands of the upper-income groups did not result in transformative expansion in the economy nor the passing on of substantial 'trickle-down' benefits to the rest of the population.

Due to this economic approach, interpersonal and inter-regional inequalities rose dramatically. "In the pursuit of securing its power base, the government, by means of subsidies, manipulation of tariffs and the exchange rate mechanism, transferred rents to the industrial elite," Dr Akmal Hussain wrote in 2004. Here,

'rents' refers to unearned income, such as through restrictions on competition and reliance upon government subsidies. "In the decade and a half ending in 1967, real wages in the industry declined by 25pc [...] and among the poorest 60pc per capita consumption of food grain declined [...]. This set the 'mould' for Pakistan's narrow export base [...] and the debt problem," Dr Hussain said. Such a grip on a country's economy by a few segments of the population is often referred to as 'state capture by the elite'. It means that favoured people and sectors are protected against open competition, given undue preference by public institutions and granted concessions and subsidies. This may be done through an unfair taxation system, by providing them with cheaper inputs, facilitating higher output prices for their products, and giving them preferential access to land, capital, infrastructure and services. The NHDR calculations, from where the data below has been cited, found that the greatest beneficiaries of these annual privileges were, in order of magnitude, the corporate sector, including both the industry and the banking sector; the feudal class; high-net-worth individuals; large traders; state-owned enterprises; the military establishment; and exporters.

The corporate sector refers to large domestic and foreign limited companies and banks. Multinationals often do not face strict competition because of high tariff protection and generally operate in Pakistan in import substitution. The corporate sector's powerful associations and well-connected Chambers of Commerce lobby for and protect them. The corporate sector receives the highest level of privileges and benefits, totalling Rs724 billion. Less than 0.7pc of Pakistan's popula-

tion are owners or shareholders in these companies. Just 1.1pc of the total number of farmers in the country are part of the feudal elite. Perhaps the most important benefit that the feudal class enjoys is an extremely low tax rate on agricultural income. The total annual agricultural income tax revenue yielded countrywide is less than Rs3bn, while concessionary rates for water, electricity, fertiliser, tractors, produce 'support' prices and preferential access to credit add up to Rs370bn in benefits.

Tax evasion by the richest 1pc (those who file returns) is some Rs168bn, largely by the urban elite; mostly self-employed professionals and businesspersons. The tax credit provisions for investments in approved securities, capital gains exemptions, outdated land valuation rates, and income from various sources treated as separate blocks all add up to a total benefit of Rs368bn for high-net-worth individuals.

"Today, the military establishment owns the largest conglomerate of business entities in Pakistan, besides being the country's biggest urban real estate developer and manager, with wide-ranging involvement in the construction of public projects," the NHDR noted. It is estimated that annual privileges received by the military establishment amount to some Rs257bn. It is a national pastime to talk about all the illegalities in the country. Yet, it is the legalised privileges and benefits — some might call it the legalised distribution of spoils — where the real money is! This Rs2,660,000,000,000 could be used for national development; to promote science and research; for clean drinking water or better economic infrastructure and such. Instead, every year, this massive amount is appropriated to pay for privileges for the 'elite'. That is where the money goes!



Democratising appointments

The seniority principle: While a section of the judiciary and the majority of bar associations advocate fidelity to the principle of seniority in the absence of objective criteria for judicial appointments, another section of judges insists that merit alone ought to dictate appointments to the apex court. Nonetheless, the seniority versus merit binary is entirely illusory given that the two are not mutually exclusive. Additionally, the life of law, in the words of justice Holmes, "has not been logic. It has been experience." Experience suggests that unbridled powers, particularly when vested in unelected institutions compromises the quality of decision-making and stunts the evolution of democratic institutions.

Having said that, can seniority become a strait-jacket even where there are compelling reasons to depart from it or should seniority merely be a starting point? Additionally, while bar associations and a section of the judiciary continues to insist on an objective criterion, can a function as subjective and qualitative as the dispensation of justice be reduced to a precise formula based on metrics such as a judge's rate of disposal and the number of decisions overturned on appeal? More critically, where do we go from here?

Amending the procedure: Article 175A of the Constitution provides that a judicial commission, com-

prising judges, members of the bar, and members of the executive, shall nominate judges to the Supreme Court. Introduced through the 18th Amendment, the purpose of Article 175A was to democratise the process of judicial appointments by making it more inclusive and representative. Notwithstanding the unanimous passage of the 18th Amendment, however, Article 175A was watered down through the promulgation of the JCP Rules, 2010, by judges who continued to view the executive's role in judicial appointments with suspicion.

Keeping in view the fact that the 2010 Rules were framed in the aftermath of the lawyers' movement where chief justice Chaudhry came to symbolise the public's desire for the rule of law and a democratic dispensation, at the centre of such rules lies a desire to protect the court from judges who may be susceptible to extraneous pressures and would, thus, be amenable to validating undemocratic interventions. Unsurprisingly, the rules conferred unbridled powers on the office of the chief justice, with Rule 3 of the JCP Rules stipulating that only the chief justice of Pakistan shall have the power to initiate nominations to the Supreme Court. Nonetheless, the opaque structures that were established by the judiciary to shield itself from undemocratic interventions now threaten to erode its credibility.

While it would be remiss to not acknowledge the manner in which successive regimes have endeavoured to emasculate the judiciary, judicial independ-

ence may not be used as a tool to preclude accountability and consolidate all powers in the office of the chief justice. Needless to say, Rule 3 ought to be amended to bring the same in line with the spirit of the Article 175A and to allow all members of the commission to initiate nominations. This would not only democratise the process of judicial appointments but also address concerns with respect to certain judges not being considered merely because the chief deems them unworthy of being appointed to the Supreme Court.

Present crisis: While the elevation of Justices Athar Minallah and Hassan Azhar Rizvi is a welcome development, the decision to defer the appointment of Justice Shafi Siddiqui and the repeated refusal to initiate the nomination of Justice Aqeel Abbasi is likely to engender feelings of disenchantment amongst two of the finest judges at the Sindh High Court. Given the importance of maintaining the federal character of the Supreme Court, and considering that three of the five vacancies at the court emanate from the retirement of judges from Sindh, the JCP ought to amend Rule 3 and initiate the nominations of both Justice Abbasi and Siddiqui.

Will the members of the commission review their positions in the interest of preserving the legitimacy of the apex court? Will the process of judicial appointments be amended to make it more inclusive or will judges who are censured for being nominated despite being junior continue to face unnecessary embarrassment due to the commission's failure to undertake meaningful reform? More critically, can those dispensing justice at the high courts expect justice from their own colleagues? The fate of judges

DG ISI steps into the picture

Nadeem Ahmed Anjum decided to take the matter into his own hands. He finally stepped into the picture. Obviously, when the intelligence chief himself comes to the fore, it does show pressure felt by the brass but also indicates a new policy direction. The presser was not meant to win over PTI's hearts and minds. That's not possible now. It was a broader political message for the public. DG ISI called out the former prime minister on his doublespeak. He revealed the late-night meetings and attempts to win back the support of Army Chief Gen Qamar Javed Bajwa by offering him an indefinite extension. DG ISI effectively seized the initiative, and dented the anti-security establishment narrative just a day before PTI embarks on the 'Long March.' Lt Gen Anjum, lucidly and coherently, emphasised that he is for accounta-

bility, but the measure of this standard cannot be gauged by how much he, and his organisation, support a political party. DG ISI and Lt Gen Babar reaffirmed the institutional policy of remaining 'apolitical', a decision taken after the Senate elections last year.

The crux of the presser was two-fold. PTI was communicated that there is no issue with a peaceful political exercise. But attempts to create anarchy through civil unrest will not be tolerated; only constitutional demands are acceptable. This effectively seals the fate of the Long March if the intent is to force a change in the civil government through the specter of violent protest. The presser also indicated that the policy direction will be followed by whoever is appointed as the next Army Chief. The resolute tone of the DG ISPR and DG ISI coming

out in the open showed the military had finally had enough of the restraint it had exhibited so far. It was being taken as a sign of internal discord or weakness. That impression was set aside. Now, it was time for straight talk. It would be followed by tough action.

The unprecedented presser was met with an equally defiant and retaliatory tone by Imran Khan. After kicking off the protest movement Friday, Oct 28, Imran Khan used a threatening tone for the DG ISI and publicly named senior ISI officials, accusing them of custodial torture of PTI leaders, breaking away from his earlier oblique references. Some observers criticised the move to lift the veil of secrecy and coming out in the open during the presser. Others, including security officials, thought it was a necessary act to 'inject reality in a post-truth era.' The real impact of the presser and the confrontation between Imran Khan and the military will be visible in the coming weeks. One thing is for certain. The political showdown in the country has been going on for months. It has now come close to a collision impact point.