

“Twenty Years of Selfless Service”: The Unmaking of India’s Chief Justice

Adeel Hussain

2019-04-22T20:24:20

Ranjan Gogoi is a man of firsts. When he took the oath as India’s Chief Justice on 3 October 2018, he was the first Assamese to do so; the first sworn in by a *dalit* (former untouchable caste) president; and the first to break ceremonial protocol by seeking *aashirwad* (blessings) from his mother as his [first act in office](#). After a former staffer accused him of touching her inappropriately (“he hugged me around the waste, and touched me all over [my body](#)”), Gogoi is now the first CJI accused of sexual harassment. If America’s #metoo movement is a rough guide for how things will pan out in India, Gogoi will either be stripped of all honours and shipped back to the North-East – or elected president.

“I was a junior court assistant in the Hon’ble Supreme Court from 1st May 2014 – 21st December 2018”, reads the [sworn affidavit](#) circulated to twenty-two Supreme Court justices on Good Friday, in which the victim asks for “a special enquiry committee of senior retired judges” to look into the “charges of sexual harassment and consequent victimization”. Gogoi took immediate *suo motu* action. The very next day, he headed a bench to look into the accusation. Gogoi refused to “[stoop low](#) even to deny this allegation”. He went even lower. From the Court’s pulpit he thrashed the victim’s reputation and painted her as a woman with loose morals.

It takes about three generations, they say, for a judiciary to grow into a strong pillar of democracy. To dismantle the entire edifice of the judiciary, however, takes only minutes. In a glaring transgression of judicial procedure, Gogoi staged a 23-minute *suo motu* [hearing](#), in which he presided over a bench made up of Justices Arun Mishra and Sanjiv Khanna. Gogoi feels justified to adjudicate his own case because of extraordinary circumstances. “A great force” was conspiring to “[deactivate](#) the office of the Chief Justice of India because sensitive matters are being heard by the Court next week”, he said, while remaining coy about the names of said sensitive matters directly.

A look at the cases landing on his desk next week may give us an inkling of what he is referring to. There is the [contempt of court](#) case against Rahul Gandhi, the leader of the Indian National Congress, who stands accused of having attributed a false ruling to the Court. During an election rally on 10 April, Rahul Gandhi jubilantly announced that the Court had ruled against Narendra Modi, the sitting Prime Minister of the Hindu nationalist *Bharatiya Janata Party*, in the [Rafale case](#). According to Gandhi, the Court had found that Modi had “committed theft”. Gandhi had misconstrued the facts of the Court’s Rafale ruling, which concerns a dispute between the government and the opposition over irregularities in the procurement of French fighter jets. In their ruling the Court had merely followed the US Supreme Court regarding the Pentagon papers and deemed admissible such classified documents already circulating in the public domain.

Gogoi may also be insinuating that the dark force edging him out of office is connected to the BJP. Last year, he [revolted against](#) the then Chief Justice Dipak Misra. Gogoi accused Misra of pandering to the BJP government by slotting sensitive cases to benches favourably disposed to a wide interpretation of executive power. This week, Gogoi would be assessing whether the deletion of citizens from the voting register in Assam – many of whom belong to minority denominations – was legitimate. In the conventional democratic tussle between the highest court and the executive, Gogoi may feel that the PMO is seeking to dismantle the checks and balances set into place by the Indian Constitution. This may be the reason he feels that the accusations against him should also be seen as an “attack on the [independence](#) of the judiciary” as a whole.

But the accusations could also reflect the moral shortcomings of a man drunk with power. Arguing for his innocence, Gogoi pointed towards factors that had decidedly nothing to do with the merits of the sexual harassment accusations. His statement was brimming with personal attacks against the accuser: “this lady has a [criminal background](#)”; against her husband: “there are [two criminal cases](#) pending against her husband”; bizarre moral virtue signalling: “after more than twenty years [of selfless service](#), my bank balance is only six lacs eighty thousand rupees (USD 9700)”; constituting an enquiry committee staffed with ‘bros’: “[My brothers](#) [senior supreme court justices] will consider this issue. Not me.”

Comparative constitutionalists once cheered when they saw national supreme courts borrowing from each other’s jurisprudence; in their responses to sexual harassment accusations, supreme court justices are now also jubilantly adopting defence patterns from each other. Their script frequently runs along the lines of being framed by conniving political forces. As a response they seek to defame the women who bring forth accusations, who, in their the justices world-view are foot-soldiers in the greater conspiracy against the judiciary.

It would be unbecoming to speculate over whether the two accounts of sexual harassment really did occur and if Gogoi tried to cover up his transgressions by having the woman dismissed and flexing his judicial muscles further, also had Delhi’s police fire her husband and brother-in-law. What we can say, however, is that Gogoi has reacted in the worst form possible. He has encouraged the media to report the incident [with caution](#), as if his moral failings could magically be balanced out by journalistic restraint.

A former version of this article misspelled the name of former CIJ Dipak Mishra. The error has been corrected.

