

14 THE EDITORIAL PAGE

WORDLY WISE

RELIGION IS THE SIGH OF THE OPPRESSED CREATURE, THE HEART OF A HEARTLESS WORLD, AND THE SOUL OF SOULLESS CONDITIONS. — KARL MARX

The Indian EXPRESS

FOUNDED BY
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

Dark recesses

Meghalaya tragedy reveals absence of regulation, state complicity in rat-hole mining



PATRICIA MUKHIM

TROUBLE OVER TEMPLE

Women at Sabarimala sparks violence. Dialogue is the way forward to address concerns about tradition, gender equality

THE ENTRY OF two women to the Sabarimala shrine under police protection in the wee hours of Wednesday, a first since the Supreme Court ruled against a law that disallowed women from a certain age group from worshipping at the Ayyappa temple, has sparked violence in Kerala. Protests by BJP-backed Hindu outfits on Wednesday and Thursday have resulted in widespread destruction of public property and a BJP activist died during the agitation.

Since the Supreme Court delivered its order in September last year, Kerala has been on the edge. Chief Minister Pinarayi Vijayan has repeatedly said the state government will offer protection if any women sought to visit the shrine. Hindu groups have objected to the order on the ground that it violated a temple tradition — many of them have filed review petitions in the Supreme Court. Both parties have been mobilising people, which has caused polarisation on political and lately, caste lines. Hindu groups, backed by the BJP and RSS, had thwarted attempts by women activists and pilgrims to visit the shrine. The state government did not try to force the issue and even signalled that it was not in favour of activists undertaking the Sabarimala pilgrimage. On Tuesday, a massive women's wall was organised along the length of Kerala, under the aegis of various communitarian organisations but actively backed by the CPM and aided by the state administration, ostensibly for gender equality and the protection of the state's enlightenment legacy. While this "wall" sought to highlight the gender dimension in the Sabarimala debate, the government signalled its intent to enforce the SC order by escorting two women to the shrine. The temple establishment hit back by organising a purification ceremony after the women left.

The government may have choreographed a temple entry moment on Wednesday but given how deep the faultlines are, it needs to now tread with caution rather than to prove a political point. Surely, those claiming to back tradition have skirted the question of gender equality despite the SC order and sought to suppress any debate. The government, too, has refused to engage the faithful in a conversation. If the government has to provide security each time women wish to undertake the Sabarimala pilgrimage, it would mean only a pyrrhic victory. Now that it has enforced the state's writ, the government should engage with all the stakeholders at Sabarimala, including the conservative sections among the believers. Political parties should wait for a closure in the Court — the review petitions are slated for hearing on January 22. The state government must realise that in implementing the order, it represents all sections of society, not just its electorate. That will give social reform the moral weight it needs.

A BAD START

Madhya Pradesh government's decision to stall pensions for those jailed during Emergency signals a poor choice of priorities

ANY NEWLY-ELECTED state government, especially one which has come to office months before a general election, will have two broad areas of concern: First, it must address issues of administration and governance, of getting down to the nitty-gritty of actually fulfilling its poll-time promises, or at least be seen as attempting to do so, in as short a time-frame as possible. Second, it must set the political narrative in the state and signal the kind of political milieu it will seek to create. On both counts, the decision of the Congress government in Madhya Pradesh and Chief Minister Kamal Nath to put on hold the monthly pension given to those who were detained during the Emergency under the draconian Maintenance of Internal Security Act and Defence of India Rules is problematic.

In 2008, the then BJP government launched the Lokanayak Jaiprakash Narayan Samman Nidhi Niyam in MP, under which about 2,000 persons jailed during the Emergency receive a monthly honorarium of Rs 25,000 a month. The Congress government, just weeks after coming to office, issued a circular insinuating that the cost to the exchequer for the scheme — a measly Rs 600 crore annually — has exceeded its allocation and thus, the honorarium needs to be changed "to make it accurate and transparent". The MP government is mistaken if it believes that its fiscal priorities and concerns are best addressed by the politically fraught move. The cost of its farm loan waiver, for example, will be an estimated Rs 35,000-Rs 38,000 crore — about 25 per cent of the state's GDP. Not only is the economic rationale behind the move to stall pensions questionable — the Opposition and activists have contended that the scheme is well within its allocation in the state's budget — the move is likely to occupy attention and result in political manoeuvring that will far outstrip any likely benefit.

But, perhaps most importantly, the optics of the Kamal Nath government's decision signal a disturbing thought process. Mere weeks after winning the election by a slender majority in the state assembly, the government appears to be focussed on what the BJP in the state has termed "political vendetta". Given that the chief minister first came into limelight during the Emergency, this is a narrative that can easily distract the government in the crucial first few months of its tenure. CM Kamal Nath must focus on issues that urgently require his attention. Creating red-tape around pensions is certainly not amongst them.

TO SIR, WITH LOVE

Ramakant Achrekar was representative of a time when coaches instilled in their wards a love for cricket

RAMAKANT ACHREKAR BELONGED to a dying breed of coaches, who instilled in their wards a love for the game, not a greed for the green. His legacy goes beyond building Sachin Tendulkar's character or Vinod Kambl's enterprise. The coach was a throwback to the times when even professional sport was shepherded by coaches who revelled in helping wards learn the intricacies of the game rather than pore over clauses of endorsement contracts.

Tales abound of Achrekar's selflessness. His coaching was not accompanied by the usual laments of lack of funds or space. He turned Mumbai's choc-o-bloc maidan nets into a lesson in batting straight and correct. He could exempt his boys from the Rs 7 monthly fee if he found an inkling of a financial struggle. He could make wicketkeepers ramp up their game and impress him enough that he would buy them a new pair of gloves. And most of all, he gave his charges time and attention that was needed to make them fall in love with the game and learn to respect it in equal measure. His devotion in ensuring that the boys turned out the best versions of themselves, added to the love and respect he earned in return.

In an era of hyper-professionalism, when coaches call their teachings a masterclass, and charge by the hour, Achrekar refused to monetise his fame. Instead, he barrelled through their success, setting the same tough tasks for subsequent generations as those before the celebrated duo, and ensured that Sharadashram — English and Marathi medium — stayed competitive for two decades, a dynasty of champions who were the gold standard for their relentless pursuit of a win. Achrekar never craved financial compensation though he had a large family to take care of. His home was forever open for a Sunday lunch, a seat at the table ensuring the guest of the day, got a candid dossier of mistakes to go with the meal. The lesson was cricket for cricket's sake, from Day One to Day Last.

THE MINING TRAGEDY at Ksan, in Lumthari, East Jaintia Hills, Meghalaya would have gone unreported had there not been a lone survivor — Sayeb Ali of Panbari, Assam. This is not the first time that a tragedy has struck the state's rat-hole mines. If this inhuman form of coal mining is not halted completely, we can be sure that many more labourers will be buried because mine caving accompanied with flooding is not an unknown phenomenon.

In 1992, nearly 30 mine labourers in South Garo Hills were caught in a similar flood — about half of them escaped death somehow. The rest were never found. In 2012, 15 miners were buried in a mine in Garo Hills. Their bodies too were not recovered. Most of the mine workers are migrant labourers, forced by stark poverty to undertake this hazardous work.

Nearly three weeks after the disaster in Ksan, pumps were sourced from the Odisha Fire Service. These can suck out 1,600 litres per minute. However, the water in the mine remained at the same level. Similar pumps were deployed to pump out water from the surrounding abandoned mines as well but the water level went down by a mere six inches. The pump manufacturing company, Kirloskar Brothers, had earlier talked of sending 100 HP pumps but these have not yet arrived at the accident site, and water continues to leak into the ill-fated mine. Mining expert Jaswant Singh Gill, who is known for having rescued 65 miners in 1989 from the Mahabir mines in Raniganj, West Bengal, has rightly asked: Do the agencies present at the site, the NDRF, the Indian Navy divers and mining engineers from Coal India Ltd, have knowledge of the area's topography? And can they get a handle on where exactly the water is flowing into the mine in order to drain out its source or seal it completely?

On December 29, when I visited the

mine, the NDRF told me that the water is 176-feet deep. The navy divers cannot plunge straight into a perpendicular hole, which branches out into horizontal rat holes. They are trained to dive into the sea and in open waters, not into a hole that is barely 10 square feet. The mine in the Jaintia Hills is not likely to have enough oxygen, even though it is said to have some air pockets. Moreover, the water inside is very cold, perhaps even freezing — we experienced this while crossing the knee-deep Lytein river at three places to reach the mine site. One ardently hopes that the miners can survive the cold inside, considering this is winter.

On visiting the mine site, one gets the impression that the rescue personnel, while giving their best, don't actually know what's in store for them. The East Khasi Hills District Administration has been found wanting from day one. Much time was lost before the rescue operation was launched. I put this down to the absence of a Standard Operation Procedure for such a mining disaster. The mines are privately owned and do not follow any regulatory protocol. When an accident happens, the administration is caught in a bind and does not know what to do first or how to go about it.

There was delay in requisitioning the high-powered pumps and the NDRF is right in saying that the district administration should have been equipped with these pumps in the first place, given the history of mining disasters in the region. The state government was caught napping. Meghalaya Chief Minister Conrad Sangma is yet to visit the site. Two of his ministers, including the minister for disaster management who actually represents the area in the state legislature, visited the site two weeks after the accident. Perhaps the government is embarrassed at being caught unawares.

Just two weeks before the disaster, Sangma and a few other Meghalaya minist-

ters, denied that coal mining was continuing illegally in the state after the National Green Tribunal banned it in 2014. But their statements were essentially meant to convince the Supreme Court that all the coal lying near the collieries was mined before the NGT ban. The pleas had the desired effect: Last month, the Court allowed transportation of coal till January 31. But the mine disaster has exposed the state government's lie.

The Meghalaya disaster did not get the kind of media attention that an accident in Thailand in June last year did — a school football team strayed into a cave even when there were clear instructions not to enter it. The cave was flooded and the boys could not find their way out. India sent Kirloskar pumps to drain out the water from the cave. British navy divers finally rescued the 13 boys. But Meghalaya is in the back of beyond and when the state government is slow in seeking help, because it has to defend its own back, things are bound to go awry. What comes out clearly from this incident is that the lives of the poor and the voiceless don't really matter, not to the mine owner, not to the state government certainly not the Centre, and not even to large sections of the media. We live in our own bubbles.

Coal mining in Meghalaya enjoys political patronage because elections are funded by coal barons. Several elected MLAs are coal-mine owners. In fact, it would be interesting to find out which politician, which bureaucrat and which police official does not own a coal mine. The MP from Shillong constituency, Vincent Pala, and his family, own mines. Recently Pala raised a zero hour motion on the mine tragedy but instead of calling for strict action against illegal mining, he pleaded for the legalisation of rat hole mining. This is a blatant display of self-interest.

Mukhim is the editor of Shillong Times



VIJAY CHAUTHAIWALE

AT THE 102ND Indian Science Congress held in Mumbai in 2014, Prime Minister Narendra Modi said, "To me, the arms of science, technology and innovation must reach the poorest, the remotest and the most vulnerable person." It was an address that clearly articulated Modi's vision of charting a path for the pragmatic use of science and technology to aid growth and development in India. The address was a clarion call to the scientific community and provided a new whiff of inspiration to the millions of Indians interested in science.

This vision of the prime minister has improving "Ease of Living" for ordinary citizens at its core. It was an attempt at motivating scientists and researchers to direct their focus towards resolving the issues that disrupt the life of the common man.

The transformation in the last four-and-half years has been remarkable. From engaging with Nobel laureates to brainstorming with India's scientific community, from interacting with young minds engaged in Hackathons to posing questions for innovators and startup founders, the PM has made science the fulcrum of New India.

This, of course, was no simple task, especially in a country where institutions work in silos, where there are no connecting links between scientists and common citizens, and where research institutes are not qualitatively geared to deal with the requirements of 125 crore Indians. The issues faced by common citizens are complex and the solutions to them require an inter-disciplinary approach. In the last four years, the government has tried to enhance collaboration between

SCIENCE FOR SOCIETY

PM Modi's vision is to promote 'ease of living' through 'ease of doing science'

various scientific streams to enhance the productivity of our research and development.

Government procedures and approvals for scientists and researchers have been placed online and made transparent, thereby assuring "Ease of Doing Science". Our young scientists now spend more time dealing with the mysteries of science, than on government procedures. Various schemes have been introduced to improve the quality of research institutes, for the promotion of technology business incubators (Atal Incubation Centres) and research parks that promote innovative ideas until they become commercial ventures. This has opened up new opportunities for tech start-ups, propelling India to become the world's third-largest technology startup hub with the incorporation of 1,000 new companies in 2017.

The popularisation of science has been given a strong impetus. Platforms like "Innovate India" promote and recognise innovations happening across the nation by enabling citizens to share their innovation. Atal Tinkering Labs ensure that dedicated workspaces are created for students to innovate and develop ideas that will go on to transform India.

Scholarship schemes have been revamped and new schemes introduced to inspire young researchers and students to become active members of India's growth story. The Nobel Prize Series is now being hosted in India. This event is seen as a celebration of science and education. It consists of an exhibition from the Nobel Museum and Nobel dialogues in which Nobel laureates in-

teract with school children and teachers.

Prime Minister Modi also intelligently used his international visits to explore collaborations in various fields like clean energy, agriculture, fintech, biotechnology, medicine, healthcare and futuristic technologies, such as AI and Blockchain. India's partnership with the International Rice Research Institute (IRRI), Philippines was strengthened further with IRRI opening a regional centre in Varanasi. India's collaboration with the Laser Interferometer Gravitational Wave Observatory (LIGO) in the US improved with our scientists participating in LIGO experiments. Similarly, India's quest for clean energy was cemented with our instrumental role in forging the International Solar Alliance. The quantum leap of 21 places in the Global Innovation Index in two years, has also been noticed by the international community.

Science is a continuous journey. The Fourth Industrial Revolution, comprising of artificial intelligence, machine learning and smart robotics will create multiple opportunities for Indian scientists to create new tools that are relevant to India and are environmentally sustainable. Ease of Doing Science will indeed be the cornerstone of Ease of Living. As more bright youngsters take to science, they shall endeavour to find solutions in areas such as nutrition, agriculture, clean energy and the environment. The results shall certainly augur well for India.

The writer is a molecular biologist and currently in-charge, foreign affairs department, BJP



JANUARY 4, 1979, FORTY YEARS AGO

IRAN'S NEW PM

THE TWO HOUSES of the Iranian parliament voted to nominate Shahpour Bakhtiar, a 62-year-old international lawyer, as the prime minister of a new civilian government for Iran. The parliament's decision was being relayed to the Shah for his approval, after which Bakhtiar was expected to officially become PM. At a news conference shortly after the nomination, Bakhtiar promised to gradually dismantle martial law and hinted that the embattled Shah will leave the country for "rest and a vacation". Bakhtiar said that is "the desire the Shah has expressed himself". He refused to elaborate on the issue, however, stressing instead his own plans for

restoring the nation to civilian rule.

ENERGY SANS PATENTS
PRIME MINISTER MORARJI Desai appealed to all nations to cooperate on the basic problems of energy and share their research achievements. Inaugurating an international seminar on energy under the auspices of the Administrative Staff College of India, Desai said it would be unpardonable to subject technological efficiency to a selfish patent right. The PM stressed the urgent need for developing possible alternative forms of energy. He added that solar and wind energy were decentralised, non-polluting, renewable forms of energy, of particular relevance to de-

veloping countries.

RIPE FOR REVOLUTION
THE COMMUNIST PARTY of India leader M N Govindan Nair said that "conditions are ripe in India for launching movement similar to those launched in Vietnam, Cuba and now in Iran". Addressing a press conference in Hyderabad, Nair said: "These movements have demonstrated that no power could suppress the people's voice." Calling for an end to what he called the "growing cult of personality" in the country, Nair said "no single individual, whether Morarji Desai, Indira Gandhi, or Charan Singh can address the problems facing the country".



15 THE IDEAS PAGE

The country's counsel

The Attorney-General for India is an independent law officer who is mandated to uphold the Constitution and is obliged to speak truth to power



C RAJ KUMAR AND KHAGESH GAUTAM

THE ATTORNEY GENERAL for India (AG) recently made some statements about the Sabarimala litigation pending before the Supreme Court. Some say that the AG should not have made those statements. Without going into what the AG should or should not have said on the issue, a larger question arises regarding the constitutional institution of the AG, its independence and its relationship with the political executive. Is the AG just another lawyer defending the government before the judiciary or is the institution more than that? Who is, after all, the AG's client?

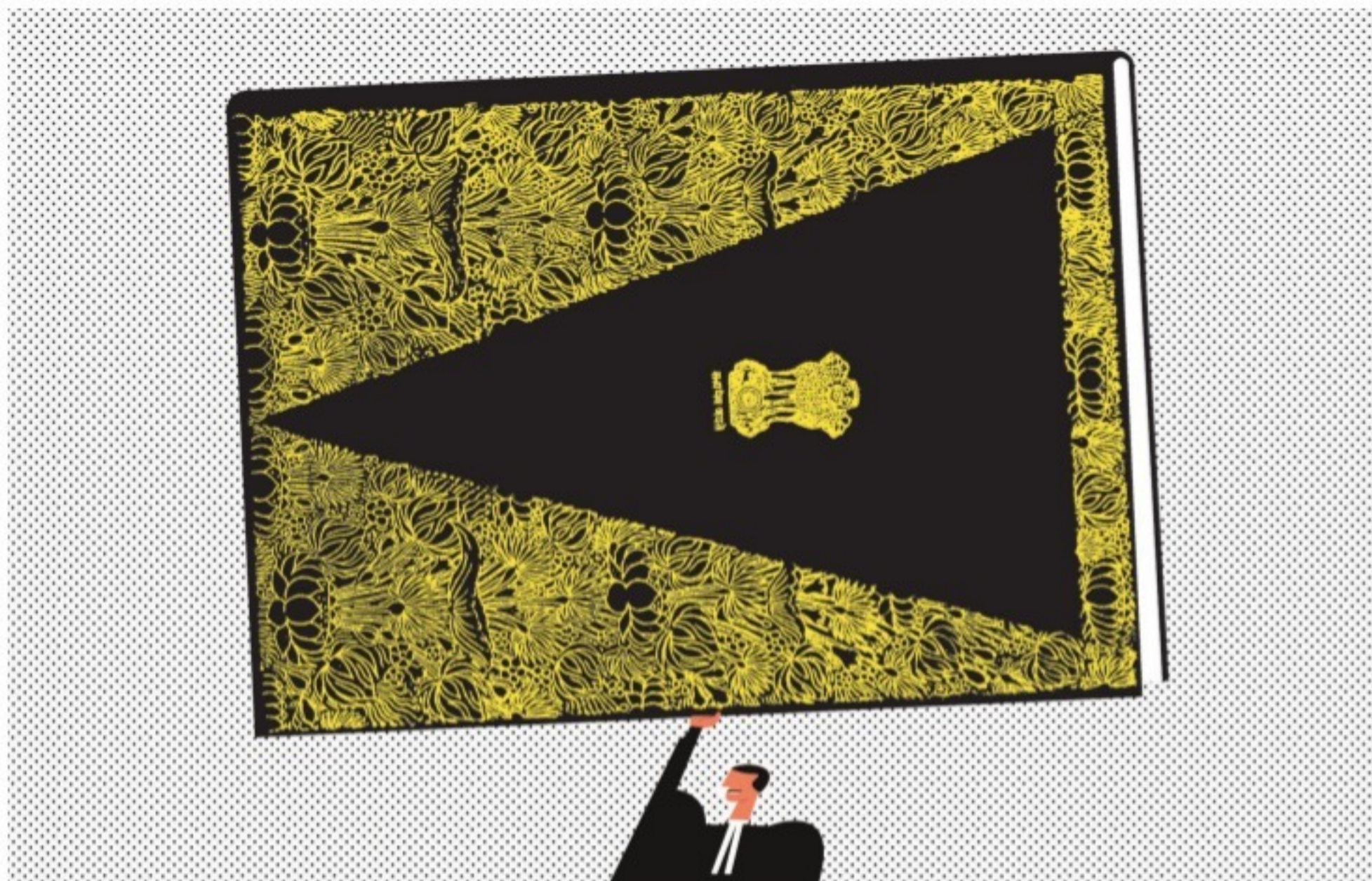
Article 76 of the Constitution deals with the AG's office. It says that the President can appoint a person who is qualified to be a Supreme Court judge as the Attorney-General for India. The AG advises the government on such legal matters as referred or assigned by the President, has the right of audience in all courts in the country, holds office at the pleasure of the President and receives such remuneration as the President determines. The President is generally bound by the "aid and advice" of the Council of Ministers.

Effectively, therefore, the Union Cabinet decides who should be appointed the AG, what matters be referred or assigned to him for legal advice, his remuneration and lastly, whether he should continue to hold office. But can we, on this basis, conclude that the client of the AG is the government? It would have been an easy conclusion to arrive at except for the word "for". The Constitution does not provide for Attorney General of India. It provides for Attorney General *for* India. This would seem to indicate that the AG's client is not the government but rather the people of India.

The government as a legal entity is a complex thing to understand. In theory, we elect our legislators every five years, the political party that wins the most seats in the legislature gets to form the government and continues to hold office as long as it enjoys the confidence of the legislature or until its term ends. But the public offices held by our elected representatives are also offices established by our Constitution. The Union Cabinet is answerable not only to the Parliament but also to the judiciary, and in the ultimate analysis, to the people.

Actions taken by successive Union Cabinets, regardless of their political complexion, have been found unconstitutional and struck down by the courts. To say that every Union Cabinet and Parliament will on its own abide by the Constitution is to ignore James Madison's advice in Federalist No 51: "If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself."

Who tells the Union Cabinet that their proposed actions are possibly unconstitutional or



C R Sasikumar

at least of suspect constitutionality? Certainly not the Cabinet itself. The Cabinet might agree to do something because of its political desirability or compulsions. The President can refuse to follow the advice of the Cabinet but only once. (Though one of us has written elsewhere that the President is not necessarily bound to follow an unconstitutional advice given by the Cabinet.) So, are we to let the Cabinet and the Parliament do whatever they want and leave the legal aspects to be examined at a later date by the courts? There is no reason to arrive at this dangerous conclusion. Because we have the AG.

In our system, the AG is supposed to discharge the high constitutional office independent of the political executive that appoints him. Many eminent lawyers have discharged this office with great distinction. During the Constituent Assembly debates, K T Shah had moved an amendment to draft Article 63 (that became Article 76) proposing that the salary of the AG be determined by law. Salaries of all ministers as well as MPs are determined by law. Shah wanted the AG's salary to be protected by legislation because he wanted to ensure that his salary is not altered to his detriment during the time he holds office. The amendment did not carry, but it gives us food for thought. Perhaps Shah's amendment was motivated by the experience of the first US Attorney General, Edmund Randolph. Randolph had to sustain a private practice even after being appointed as the AG. He had no clerk, no files, no furniture, and no office space, and was especially unhappy about the low pay. This continued for decades. In fact, Madison's AG William Pinkney chose his lucrative practice in Baltimore over the AG's office. In 1859, Edwin Stanton (President James Buchanan's AG) had a handsome annual practice of \$40,000 but as AG his annual salary was \$8,000.

Alexander Hamilton in Federalist No. 79 said, "In the general course of human nature, a power over a man's subsistence amounts to a power over his will." The framers of our Constitution were sensitive to this. They ensured that the salaries of high court and

The AG is "Attorney General for India", not attorney general for the government of India. In that, the AG is special for he acts "for India" and not the government. There is a constitutional expectation on the AG and other legal officers to exercise independent judgement and provide wise counsel to the government, notwithstanding who appointed them or what advice is being expected from them. This makes the task of the AG very difficult and indeed delicate.

Supreme Court judges can't be reduced during the term of their offices. Shah wanted a similar protection for the AG. This was at a point of time when it was clearly understood that we will not be following the British system where the AG is a cabinet member. The hidden Hamiltonian logic behind Shah's amendment indicates that the AG was being envisaged as an independent office.

The AG is "Attorney General for India", not attorney general for the government of India. In that, the AG is special for he acts "for India" and not the government. There is a constitutional expectation on the AG and other legal officers to exercise independent judgement and provide wise counsel to the government, notwithstanding who appointed them or what advice is being expected from them. This makes the task of the AG very difficult and indeed delicate. The fact that constitutionally the AG has to be as good as a Supreme Court judge clearly demonstrates the framers' intent. The AG ought to be a pivotal institution that helps the government act in accordance with the rule of law. In our system, the AG is obliged to speak truth to power and help the government to adhere to the Constitution.

Let us not forget the sage advice of B R Ambedkar: "However good a Constitution may be, if those who are implementing it are not good, it will prove to be bad. However bad a Constitution may be, if those implementing it are good, it will prove to be good." Our Constitution is one of the finest in the world but we need upright people in high constitutional offices to uphold its promise. The AG is such an office since the Attorney General for India represents the people of India. Professionally speaking, the AG has to be good enough to be appointed a Supreme Court judge and must discharge his office in that spirit.

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WHAT THE OTHERS SAY

"The Indian strategy of trying to 'solve' the Kashmir issue through violent means is not having the desired effect."
—DAWN

A judgment, a foundation

The Sajjan Kumar verdict promises to form the basis for an evolving Indian law of accountability in cases of mass violence



BALAKRISHNAN RAJAGOPAL

THE VERDICT OF the Delhi High Court in the Sajjan Kumar case has been welcomed by most commentators. What has not been sufficiently appreciated is that one of the main lessons we must take from the verdict is that the need is stronger than ever for a root-and-branch police reform.

Indeed, some parts of the "administration of justice" are so rotten now, or are caught up in impossible imbrolios like the CBI, that strong political leadership is needed for a bold and visionary approach to reform. Although the problem is well known, no leading political party or mass movement has managed to focus attention on police reform. As the Delhi High Court points out, there were multiple failures in the administration of justice after the 1984 violence, starting with the repeated failure to file FIRs, abatement of the crimes committed by the mobs and failure to prosecute or gather material evidence.

As highlighted by the Court, there is also the key issue of the lack of a credible witness protection programme in India, which hampers the willingness of witnesses to come forward or to maintain consistency. Many cases arising from the Gujarat violence of 2002 have had serious trouble maintaining a credible and consistent witness line up due to fear, intimidation, and retaliation, most notoriously in the Best Bakery case where 37 of the 73 key witnesses including Zaira Sheikh, her mother and her brothers retracted their statements before the judges.

One of the most important innovations of the Sajjan Kumar verdict is the reliance on the crime of criminal conspiracy under Section 120B of the IPC to convict Sajjan Kumar, and also expand the conviction of the other accused. To my knowledge, this the first time that an appellate court in India has relied on the charge of criminal conspiracy to convict individuals for mass crimes.

While the Naroda Patiya judgment of the Special Court in 2009, which convicted Maya Kodnani among others, also relied on criminal conspiracy, the Delhi High Court has firmly entrenched the use of criminal conspiracy as an independent crime against those who are accused of mass crimes. The significance of the Delhi High Court ruling on this matter goes beyond this single case and sows the seeds of an Indian law on mass crimes, which is more

aligned with an Anglo-Saxon approach.

Under international criminal law, the question of whether criminal conspiracy can be treated separately as a crime — as distinct from genocide, crimes against humanity or war crimes — has led to some divisions, especially between civil law and common law countries. These divisions led in the end to the removal of a separate conspiracy provision in the Rome Charter of the International Criminal Court, for example. However, the Delhi High Court's use of criminal conspiracy is certainly an innovative approach on a solid legal footing, sharing much in common with other common law countries.

The Delhi High Court's verdict is also notable for its open call for a new law on "Crime against humanity", and does much to point out the recent developments under international law including ongoing work at the International Law Commission. While this call is a highly welcome one, it must be noted that nothing prevents Indian courts and prosecutors from levelling charges against those who commit mass crimes under ordinary criminal law including the IPC, using charges of criminal conspiracy and abetment, as the court does in the Sajjan Kumar verdict. India has been a party since 1968 to the convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, while India extends universal jurisdiction (over crimes committed by anyone anywhere globally) over war crimes under the Geneva Conventions Act of 1960.

Taking the cue from the Delhi High Court ruling and these legal commitments, India's Law Commission, legal advocates, social movements and lawmakers should make appropriate changes to the IPC, incorporating the criminalisation of mass crimes including genocide, crime against humanity and the legal principle of non-applicability of statutory limitations under the 1968 Convention.

It is rare that a single case can accomplish so much: The Sajjan Kumar verdict promises to be a locus classicus in an evolving Indian law of accountability. But even this victory cannot blind us to the fact that most of the guilty, including the ones at the top, remain free. If we take the Gujarat riots in 2002, while six out of the nine cases relating to that violence have resulted in convictions, it is hard to escape the conclusion that the most guilty have escaped punishment thus far. But the Sajjan Kumar verdict gives us hope that, as Martin Luther King said, while the arc of the moral universe is long, it bends towards justice.

Rajagopal is associate professor of Law and Development, head, International Development Group, Department of Urban Studies & Planning and Founding Director, Programme on Human Rights and Justice at the Massachusetts Institute of Technology

LETTERS TO THE EDITOR

MERE HOMILIES

THIS REFERS TO the editorial, 'Quote unquote' (IE, January 3). A common man who is grappling to make ends meet is least interested in the Mandir-Masjid issue and the oft-repeated references to the "surgical strikes". During the course of an interview, the Prime Minister said that middle class is enjoying the benefits of low inflation and how does it matters if they are saddled with ever increasing taxes. The PM's frequent homilies on radio and television do not fill the stomachs of people living below the poverty line. No amount of interviews and talks can camouflage the government's misadventures.
Deepak Singhal, Noida

STILL PRIVILEGED

THIS REFERS TO the article "A mansion for the CM" (IE, January 3). It appears that by allotting accommodation to his political opponent Shivraj Singh Chouhan, Madhya Pradesh Chief Minister Kamal Nath has tried to show his impartiality and large heartedness. But he has disregarded the Supreme Court's verdicts in such cases. The Congress President Rahul Gandhi should ask the MP CM to change his decision if he wants to assert that his party respects the court's verdict.
Tarsem Singh, Mahilpur

DEMOCRACY'S DAY

THIS REFERS TO the editorial 'Right, Wrong' (IE, January 2). Making educational qualifications mandatory for contesting elections in a democracy does not make sense. It is not necessary for the representatives of people to have high educational qualifications. The

LETTER OF THE WEEK AWARD

To encourage quality reader intervention, The Indian Express offers the Letter of the Week award. The letter adjudged the best for the week is published every Saturday. Letters may be e-mailed to editpage@expressindia.com or sent to The Indian Express, B-1/B, Sector 10, Noida-UP 201301. Letter writers should mention their postal address and phone number.

THE WINNER RECEIVES SELECT EXPRESS PUBLICATIONS

beauty of a democracy is such that every citizen has a fair chance to represent his fellow country people in different tiers of legislature.
Sambhav Mishra, Delhi

VERDICT HONOURED

THIS REFERS TO the report, 'Inside Sabarimala: Kanakadurga 42, and Bindu, 40' (IE, January 3). The Kerala state government has finally fulfilled its constitutional obligation by implementing the Supreme Court's verdict. The government must tackle the unprecedented violence perpetrated by Hindu right-wing groups with an iron hand.
SS Paul, Noida



RAJSHREE CHANDRA

In service of politics

Hindutva seeks to surmount the diversity of Hinduism

I BEGAN teaching the Indian Political Thought course last summer with the usual introductory class on Brahmanic tradition. It began with a brief about how Vedism predates what later came to be called Hinduism, how it is the font of Hinduism and how the latter absorbed and synthesised religious ideas, puranic stories, non-theistic and Shramanik traditions.

I followed up with a question: What would be some of the defining features of Hinduism, or a Hindu way of life, as the students experienced and practised it? What emerged was both interesting and predictable. For every belief and practice that was cited, there seemed to be a validity of its exact opposite. You could be a Hindu and believe in one omnipotent being or worship many gods; you could be a part of a sect or you could be a devout Hindu and shun the deification of mortal humans; you could be a vegetarian or non-vegetarian; you could believe in animal sacrifice or be its fiercest critic; you could be a practitioner of ahimsa or not be its strict advocate; you could believe in the caste system or call for its annihilation.

What emerges from these apparently conflicting propositions is an idea of openness. As Jyotirmaya Sharma says: "Every Hindu decides what is Hinduism. That space ought to remain inviolable." At times a particular space would be in sync with other ways of being Hindu but it could also be con-

fictual. But this plurality of gods and practices, norms and habits, cultures and castes, this multiplicity of belief-systems also poses an enormous challenge for projects of nationalism that seek a united, coherent imagination of one nation, one people.

From this challenge was born the ideology of Hindutva, first in the writings of V D Savarkar in 1923. It was taken forward by ideologues of the RSS, and its affiliates. Hindutva, as Savarkar wrote, is "not to be confused with the other conjugate term Hinduism. Hinduism is only a derivate, a fraction, a part of Hindutva." Hinduism, therefore, is a belief system, a matter of faith, Hindutva, is a political ideology that uses Hinduism to fashion Hindu nationalism. It is, as Ashis Nandy says, "political Hinduism". Hinduism and Hindutva are thus different, not to be conflated or confused with each other. There are at least three features of Hindutva that distinguish it from Hinduism.

First, Hindutva is a homogenising project that seeks to surmount the diversity of Hindu gods, scriptures, practices, rituals. It seeks to re-imagine India in terms of an essentialised similitude of one people, unified by a shared sense of being parts of a singular entity. M S Golwalkar wrote in his *Bunch of Thoughts* that the view upholding the so-called diversity in Hinduism was simply superficial and partial: "All the various castes, the various ways of worshipping god, the various languages are all expressions of one great homoge-

neous solid Hindu people — the children of this motherland."

Second, the quest for homogeneity seeks prescription, of practices that can form the basis of this uniformity. Brahmanical conservatism, which today rules our social psyche like never before, is adopted as the adjudicator of what this homogenous culture should comprise of. Its influence is behind what is prescribed as sacred, pure, natural and *sanskari* or proscribed as profane, impure, unnatural and alien. For instance, consuming beef is an act of untold travesty, a sin that deserves severest of punishments. Durga is deemed sacred, while Mahishasur (the demon god of the Adivasis and Dalits) is regarded profane, gay sex is considered unnatural and allowing women of menstruating age entry into Sabarimala is offensive to the idea of purity and godly celibacy. Social relationships are disciplined, increasingly through the conservative lens of Brahmanical social values.

Third, Hindutva conflates the idea of religion with citizenship. It directly or indirectly subscribes to Savarkar's theory in this respect. For Savarkar, India belonged to the Hindus because for Hindus alone India was both their *pitrubhu* (fatherland) and *punyabhumi* (holyland). He goes on to say that "some of our Mohammedan or Christian... cannot be recognised as [this land] is not to them a Holyland. Consequently their names and their outlook smack of a foreign origin.

Their love is divided". Golwalkar too says: "In this land of ours, Bharat, the national life is of the Hindu People. In short, this is the Hindu nation."

The RSS chief, Mohan Bhagwat may have said that Golwalkar's thoughts and prescriptions are not valid for all times to come and that Hindutva is an evolving and inclusive project. But the truth is that it is easier to expunge Golwalkar from rhetoric than it is to erase him from the social psyche and the practice of Hindutva. It is no accident that the rhetoric of inclusion is linked to the underlying unity of being a Hindu — "everyone living in India is a 'Hindu', asserted Bhagwat last year.

To say that the terms Hindu and Hindutva include Muslims and Christians is a peculiar invitation to citizenship. It demands a double consciousness based on a sense of always looking at one's self through the eyes of the Hindu, always measuring one's faith by the type of a world that looks on, at times in contempt and at times with pity but seldom as equals. Such conditional accommodation of other religions and cultures makes for a diversity that is hierarchical rather than plural. It is opposed to the idea of a composite nationhood, which may actually be possible if the majority were left alone to simply being practising Hindus.

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