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BECAUSE THE TRUTH INVOLVES US ALL

Free for all voters

Ahead of general elections, EC must issue guidelines banning parties from doling out freebies



ARVIND P DATAR

A RECENT TAMIL feature film, *Sarkar*, contained scenes that criticised the culture of freebies. This triggered such strong opposition from the ruling party that the producer was forced to cut those scenes and re-release the film. This episode highlights the pivotal position that freebies have come to play.

It all started with the late M G Ramachandran (MGR) distributing free dhonis and sarees and each election saw an increase in the value of freebies. Before that, many states had been driven to financial ruin by the promise of free power to farmers. The quantum leap in the freebies' culture was in 2006 when the Dravida Munnetra Kazhagam (DMK) promised a free colour TV to each and every household which did not possess it. There were no guidelines regarding income or eligibility. Not surprisingly, the DMK defeated Jayalalitha's AIADMK in the assembly elections.

The 2011 election was her turn to outdo the DMK and her manifesto promised freebies worth a staggering Rs 9,000 crore: 9 lakh laptops to all Plus Two students costing Rs 912 crore; 25 lakh free mixers, grinders and table-fans costing Rs 1,250 crore; 4 grams of gold plus Rs 50,000 cash to poor girls at the time of their wedding amounting to Rs 14 crore; 60,000 green houses to poor farmers at a cost of Rs 1.8 lakh per house amounting to Rs 1,080 crore; free rice to 1.83 crore families for Rs 4,500 crore; and free cows and goats to poor families in selected rural areas for Rs 56 crore.

No prizes for guessing who won. Thereafter, the attempt of each party to outdo the other has become a vicious form of competitive populism which, if unchecked, will lead to financial ruin.

The distribution of freebies was unsuccessfully challenged before the Madras High Court and before the Supreme Court in *Subramaniam Balaji v State of Tamil Nadu* (2013). It was argued that the distribution of freebies was not only unconstitutional but also violative of Section 123 of the Representation of People Act, 1951 which defined "bribery" to include any gift, offer or promise by a candidate or his election agent or by any other person that has the effect of

inducing a voter to vote for him.

Undoubtedly, such freebies are gifts that have no other purpose than to induce voters to vote for a particular party. The Supreme Court rejected this contention on the ground that Section 123 applied only to a candidate and not to a political party. Consequently, gifts made by a political party would not amount to a bribe and a corrupt practice. This reasoning is incorrect. If an independent candidate in a constituency promises a free colour TV or a laptop to voters in his constituency (a wealthy candidate may well be able to afford it), it would be a corrupt practice. But if the candidate of a political party in the same constituency promises the same gift, it would not be so because that promise was not made by him but the inducement had come from his party!

It was also argued that the distribution of freebies was unconstitutional because Article 282 mandates that the Centre and state government can expend money only for "public purposes". In the United States, the courts have ruled that public funds cannot be used to create private assets. If you have to promise free computers, it is open to a political party to promise computers or laptops to be given to public schools to be used by poor students. This would remain the asset of that school and would not be given to individual students. Thus, there is no bar on promises that create community assets as part of an election manifesto but no political party can use public funds and distribute them as private assets to individuals. The Supreme Court did not refer to any of these decisions on the ground that the distribution of freebies was a policy decision and these welfare measures were in compliance with the Directive Principles.

But can there be any justification for the policy decision to distribute mixers, grinders and fans? The Supreme Court rejected all arguments on the ground that these schemes were administered through district collectors and there were sufficient checks because government expenditure was subjected to audit by the Comptroller and Auditor General.

But even more surprising were the court's concluding remarks. After upholding the distribution of freebies and accepting the absurd

justifications made by the state, the Supreme Court observed that although freebies did not amount to a corrupt practice under Section 123, "the reality cannot be ruled out that distribution of freebies of any kind, undoubtedly, influences all people. It shakes the root of free and fair elections to a large degree". The Election Commission, through its counsel, also conveyed the same view in its affidavit and expressed the view that the promise of freebies disturbed the level playing field and vitiated the electoral process. It expressed its willingness to implement any directions of the Supreme Court in this regard. But the Supreme Court missed this golden opportunity and merely observed that the Election Commission "should consult all political parties and issue suitable directions in this behalf".

It was clear that the Election Commission was hesitant to take a decision and no political party would agree to discontinue the practice of promising freebies. It just required a nudge from the Supreme Court to ban them. When directions can be issued to ban diesel vehicles or direct the BCCI to be reconstituted, there was no justification not to issue directions on freebies.

In the recent assembly elections, not a single party had any strategy or concrete plan to create more employment or improve the ease of doing business. The entire focus was to simply grant loan waivers and distribute as many articles free of cost as each party could imagine. When most political parties are unable to provide good governance, the only way to assuage frustrated voters is to promise them more and more freebies in each succeeding election. Without question, these freebies and loan waivers will eventually bankrupt state after state but that's just a small price for the nation to pay to ensure "free and fair elections".

It is, therefore, imperative that the Election Commission promptly issues guidelines banning consumer durables and expensive gifts as freebies for the forthcoming 2019 elections and all assembly elections.

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PAVE WAY FOR POLLS

Home Minister has signalled welcome willingness to hold J&K polls. But for that, there is political work to be done

A MID THE DEBATE in Parliament over the dissolution of the Jammu and Kashmir Assembly and subsequent imposition of President's rule on Thursday, Home Minister Rajnath Singh's statement that the Union government was willing and ready to assist the Election Commission (EC) to conduct polls in the state alongside the Lok Sabha elections is a welcome signal of intent. The space for democratic politics has shrunk considerably in the Valley over the last few years. In this backdrop, and given the complicated security concerns, the conduct of polls would certainly require, and depend upon, a firm political commitment from the Centre. Having said that, however, the Union government, as well as other political actors in the state, must bear in mind that intent alone may not be sufficient to bridge the widening chasm between participatory elections and the people of Kashmir.

Ever since the killing of Hizbul commander Burhan Wani in 2016, a grim cycle made up of people's protests, militancy and the actions of security forces has dented the legitimacy of mainstream politics in the Valley. Anantnag, the erstwhile Lok Sabha constituency of former chief minister Mehbooba Mufti, is one of the longest delayed bypolls — it has been vacant since July 2016, when Mufti vacated it to become CM. The EC has been unable to hold that election due to security concerns. The Lok Sabha bypoll in Srinagar held in 2017 recorded less than 7 per cent turnout and in the municipal elections in the city in October 2018, only 2.3 per cent of the electorate cast their ballot. With the collapse of the BJP-PDP alliance, the hope of a political middle ground opening up as a result of the union of ideological opposites has faded. The decision by Governor Satya Pal Malik to ignore the claim to form a government by the PDP, National Conference and Congress, may have helped underline the perception that state politics is subservient to Delhi's agenda and whim.

Now, with the Lok Sabha polls beckoning, the central government needs to reassure Kashmir and the rest of India that the expression of the people's voice will be enabled and that it is indeed paramount. From a security perspective, this is a challenge, as the situation in Anantnag bears testimony. But a related and even greater task is to ensure that elections are also representative. This will require concerted political action, and a conversation that draws in the people and goes beyond the security discourse. It will require not merely the intent to hold elections but a reaching out with actions and gestures. This could mean involving those stakeholders in the Valley, for instance, the Hurriyat Conference, that are not currently part of the electoral process. And, a positive engagement with Pakistan's overtures. There needs to be an election in Kashmir, of course, but also a political breakthrough.

CITIZENS AND THEM

Amendments to citizenship act threaten to open new faultlines and deepen old ones in Assam

THE VERY IDEA of citizenship in India may be at stake as a joint parliamentary committee set up to examine the NDA government's Citizenship (Amendment) Bill has cleared proposed changes to it. The amendments seek to introduce a religious criterion in the process of acquiring Indian citizenship, which is against the letter and spirit of the Constitution. These changes may have far-reaching repercussions, especially in Assam, where citizenship has always been a contested issue.

The amended Act would make it easier for minority communities from Afghanistan, Bangladesh and Pakistan — Hindus, Sikhs, Buddhists, Jains, Parsis and Christians — to get Indian citizenship: They would be deemed eligible for citizenship after residing in India for six years, instead of 12, even if they lack the necessary papers. The implied discrimination against Muslims while granting citizenship stems from the misguided and dangerous notion that India is primarily a country for the Hindus. It follows the logic of the advocates of the two-nation theory — which was rightly rejected by the founders of the republic. The Indian Constitution proposes an inclusive idea of citizenship and does not allow any discrimination on the basis of the applicant's religious identity. The immediate context of the move to amend the citizenship act is the contingency in Assam, where nearly 30 lakh people face exclusion from the National Register of Citizenship (NRC) — the proposed amendment will make it easy for the Hindus among them to acquire citizenship. Expectedly, this has revived an old linguistic faultline in Assam, with the Brahmaputra Valley opposing the amendment and the Barak Valley welcoming it.

The Centre has sought to address the concerns in Assam by reviving the debate on Clause 6 of the 1985 Assam Accord. Clause 6 talks about "constitutional, legislative and administrative safeguards" to "protect, preserve and promote the cultural, social, linguistic identity and heritage of the Assamese people". Organisations like the AASU have consistently spoken about implementing Clause 6 and seek reservation of electoral seats, land and other resources for indigenous Assamese people. In essence, these arguments perceive indigeneity and identity as strict and non-negotiable categories. In reality, the Assamese identity needs to be understood as a fluid category shaped by migrations and the vagaries of state-building. Undue emphasis on ethnicity, linguistic or racist purity can only produce an unseemly and perilous politics of exclusion.

WHAT'S IN A LIBRARY

The jab may be at India but the joke is, yet again, on America's president

A FEW DAYS ago, *The New York Times* ran a special year-end spread, listing the 551 people, places and things Donald Trump has insulted on Twitter. No one can accuse the President of the United States of choosing his words more carefully offline. Why, he has just gone and sniggered at a library that India has built in Afghanistan, as a part of its aid efforts. Trump was addressing the first cabinet meeting of the new administration in Washington, DC. He said:

The Indian diplomatic corps is fuming at the condescending jibe at PM Narendra Modi. But, really, who's the joke really on? While we may or may not know about the number of people in the war-ravaged country who find libraries of use, one look at the spelling booby on that Twitter timeline will tell you which book doesn't find a place in the White House resident's library: A dictionary. Contrast that with Barack Obama, whose year-end reading lists make literary editors hyperventilate with FOMO. That's not all.

Insiders in the White House, who have the exciting task of briefing the man who treats the presidency as a shiny boy-toy, have wrung their hands in despair in anonymous opeds at having to deal with his train-wreck tenure. A day in the life of Trump is about multiple rants, meetings that "jump off the rails", and reckless decisions. And so, complex ideas that spill beyond 280 characters — such as the premise that securing a war-torn country involves not just swamping it with troops, but also infrastructure that helps rebuild lives and imagination — is a difficult one for the US president to absorb, that, too, right in the woolly first few days of a new year. India could always help its case — and world comprehension — by diverting some funds from Afghanistan for a personal library for the POTUS. He might well learn the meaning of diplomacy, but imagine the loss of entertainment for the world!



KHALED AHMED

PAKISTAN CAME INTO being on August 14 1947 and broke up on December 16, 1971. Pakistan is still wondering what happened and gets riled over what is called the Fall of Dhaka, the day Pakistan army surrendered to the Indian Army. The Fall of Dhaka is put at the doorstep of India "that never accepted Partition" and always conspired against it from "day one".

But Pakistan's political-social elite has been guessing at other causes too. The ideological majority thinks East Pakistan never followed the "pure" nationalism of Pakistan. The late Supreme Court of Pakistan judge, Nasim Hassan Shah, once said that he regretted that Arabic was not made Pakistan's national language in 1947. He referred to the language riots of 1948 in East Pakistan and said that had Arabic been suggested to "our Bengali brothers" they would have accepted it as the national language.

The Arabic "option" is a measure of the Pakistani mindset after 1947. Aga Khan had suggested that Pakistan adopt Arabic as its national language. An early governor of East Pakistan, Malik Feroz Khan Noon, not the brightest of the sons of Punjab, thought of the "next best" thing: He started the grotesque scheme of writing Bengali in the Arabic script. In 1952, there were 21 centres doing this in East Pakistan with Central Education Ministry funding. The Bengali East Pakistan chief minister didn't know that this was happening outside the primary school stream, a provincial subject.

HOW DHAKA FELL IN 1971

Bangladesh's birth owes to Pakistani policy flaws, not India's intervention

Unlike West Pakistan, where it was religion-based, in East Pakistan, nationalism was language-based, on Bengali. After Independence, Dhaka took a poem of the Bengali poet Rabindranath Tagore as its national anthem. In Pakistan, the anthem is in Persian except for one preposition "ka" which renders it Urdu.

Senior civil servant, the late Hassan Zaheer, in his book *The Separation of East Pakistan* (OUP 1994), first revealed the ham-handedness of the policy of imposing Urdu on East Pakistan. According to him, the All-India Muslim League ran into trouble in 1937 when it proposed Urdu as the League's national language. It was opposed by the Bengali Muslim Leaguers who got Jinnah to water down the resolution to read that Urdu should be encouraged in areas where it was spoken. In the 1951 census of East Pakistan, 8.8 million persons were recorded as literate, of whom 6.4 million were Muslims, and out of them only 10 per cent could read the Holy Quran. The final battle was over Urdu, not Arabic, and the Muslim League made the mistake of appearing to impose Urdu on East Pakistan.

Writes Zaheer: "Such was the insensitivity of the ruling party to popular issues that the East Pakistan Muslim League Council also recommended Arabic as the state language. This was not acceptable even to the West Pakistan intelligentsia." What happened to the Muslim League in East Pakistan in the years that followed is part of history but even in its heyday it was a fragmented entity. The

demise of the Muslim League took place when it tried to impose separate electorates on an East Pakistan overwhelmingly devoted to language and not religion.

But the rift that split Pakistan developed over the disparity of governance. Punjab and the Punjabi-dominated army ruled Pakistan soon after the birth of Pakistan. The services were also dominated by Punjabis through quotas but East Pakistan dominated in literacy and high education. Top seats in the civil services exams always went to East Pakistan. Pakistan couldn't tackle the strange phenomenon of being divided by a thousand miles of India. Most of the foreign exchange was earned by exports from East Pakistan which was poorly defended when the big war of 1965 with India was fought. That sowed the seeds of December 16, 1971.

Bangladesh's current population is 166 million, Pakistan's is 220 million, while after 1947, East Pakistan was more numerous. Bangladesh's growth rate is nearly 7 per cent, whereas Pakistan's growth rate is below 5 per cent. Extreme poverty, or those living below the poverty line, in Bangladesh is under 9 per cent while those in Pakistan are 29.5 per cent. Bangladesh's literacy rate is 72 per cent, that of Pakistan is 58 per cent and loaded more with ideology than useful knowledge. Bangladesh flourishes today. And Pakistan has one-less to worry about from its disaffected components.

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JANUARY 5, 1979, FORTY YEARS AGO

PONDY-TN MERGER

STEPS HAVE BEEN taken at the highest level for the eventual merger of Pondicherry with Tamil Nadu. Evidently, the Union Cabinet has not yet been taken into confidence about the future of the former French enclave, but the process has obviously been set into motion because the French government has been sounded about the government's intentions. In the past, the Centre has considered merging Pondicherry and Karaikal with Tamil Nadu, Mahe with Kerala and Yanam with Andhra Pradesh. But one of the obstacles in the way of merger has been certain clauses in the treaty signed with France at the time of transfer of power. A clause in the

treaty lays down that Pondicherry's separate identity will be preserved and any change in its status will not be effected without prior consultation with the French government.

IRAN'S ARMY CHIEF

ON THE EVE of Iran's transition to civilian rule, one of the country's most senior army commanders has resigned. He is General Gholam Ali Oveissi, military governor of Teheran and a man widely regarded as a political hardliner opposed to the new government of Shahpour Bakhtiar, according to BBC. General Oveissi is said to have left on leave on medical reasons. There are reports

that two more of the Shah's top generals have resigned. Sources said the Shah has appointed a politically moderate soldier, General Najimi-Naini, to replace as the chief of staff.

US PLEDGES SUPPORT

THE US ADMINISTRATION offered to "co-operate fully" with the government being formed in Iran by Shapur Bakhtiar. The State Department spokesman, Hodding Carter, said the administration also "hopes and expects" Bakhtiar will succeed in his efforts to form a government and put an end to the strife which has torn apart the country over the past few months.

