

## WHO

## Anand Teltumbde, rights activist

Academic and columnist Anand Teltumbde is not only one of India's foremost public intellectuals, he is also someone known for speaking truth to power. In his column 'Margin Speak' in the *Economic and Political Weekly*, he has been scathing in his criticism of the Narendra Modi government, especially over issues of social welfare, communal harmony, and the persecution of social activists.

## Why was he arrested?

On August 29 last year, Mr. Teltumbde himself became the target of state action when law enforcement officials raided his home in Goa, where he is a faculty member of the Goa Institute of Management. The raid was reportedly in connection with his alleged links to the Bhima Koregaon violence of January 1, 2018. The Maharashtra police also claimed that he was involved in a Maoist plot to assassinate Prime Minister Narendra Modi. It booked him under the Unlawful Activities (Prevention) Act, a

law that makes it extremely difficult for the accused to obtain bail. Mr. Teltumbde has rubbished these allegations. He approached the Supreme Court to have the First Information Report (FIR) against him quashed. On January 14 this year, the Supreme Court refused to quash the FIR, but gave him four weeks to apply for anticipatory bail. On February 1, a Pune court rejected his application for anticipatory bail, with the additional sessions judge K.D. Vadane observing that "there is sufficient material collected by the investigating officer to show the involvement of the present accused in the commission of the offence."

Mr. Teltumbde then appealed to the Bombay High Court, and it was while he was travelling to Mumbai to meet his lawyer that the Pune police arrested him at the airport at 3.30 a.m. on February 3. The arrest sparked immediate outrage on social media as the Supreme Court's pro-

tection against arrest was in force till February 11. When he was produced in court later that day, the same judge who had rejected his bail application ordered his immediate release, noting that the Supreme Court's order "is an

umbrella protection for four weeks and [Mr.] Teltumbde can avail himself of all options available to him within this period."

## Where does he hail from?

Mr. Teltumbde was born in a small village called Rajur in Maharashtra's Yavatmal district. After a degree in Mechanical Engineering and a Ph.D. in cybernetic modelling, he enjoyed a successful career as a management professional. But alongside that, Mr. Teltumbde was a civil rights activist. In his writings, he combines an Ambedkarite perspective with a Marxist understanding of political economy. His books, most notably *Khairlanji: A Strange and Bitter Crop and Republic of Caste*, are a searing indictment of the Indian republic's failure to seriously confront the challenges of caste violence and injustice.

## Where does he stand?

On January 1, 2018, when

lacks of Dalits gathered at the Bhima Koregaon war memorial to celebrate the 200th anniversary of the 1818 Battle of Koregaon, violence broke out, and one person was killed. The police said the violence was incited by participants of the Elgaar Parishad, held by 260 non-profit groups on December 31, 2017 in Pune's Shaniwar wada. Ten activists and intellectuals were arrested on the charges of having Maoist links, instigating the Bhima Koregaon violence and plotting to assassinate the Prime Minister. The police want to add Mr. Teltumbde to the list of arrested suspects.

## What lies in store?

On February 11, the Bombay High Court extended Mr. Teltumbde's interim protection against arrest till February 22. Mr. Teltumbde has maintained that the charges are fabricated, and represent nothing but an attempt to clamp down on dissent.

G. SAMPATH

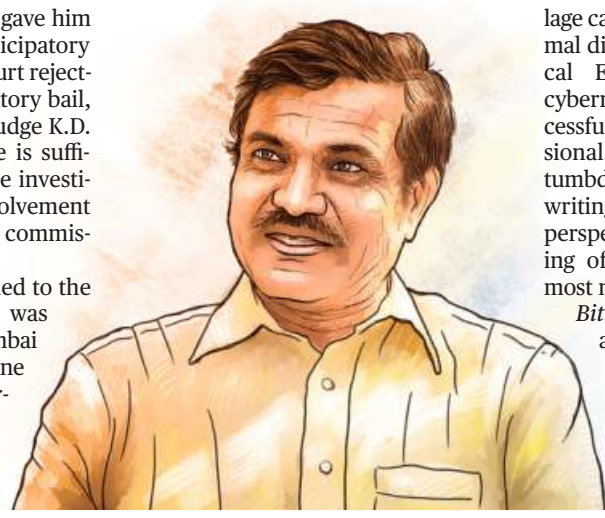


ILLUSTRATION: J.A. PREMKUMAR

## WHAT

## The lowdown on National Security Act



**WHAT IS IT?** On February 8, the Congress-led government in Madhya Pradesh invoked the National Security Act (NSA) against three men accused of killing a cow near Kharkhali village. This and a spate of recent cases, in which different State governments have invoked the stringent provisions of the NSA to detain citizens for questionable offences, have brought the focus back

on the potential abuse of the controversial law. Put simply, the NSA empowers the Centre or a State government to detain a person to prevent him from acting in any manner prejudicial to national security. The government can also detain a person to prevent him from disrupting public order or for maintenance of supplies and services essential to the community. The maximum period for which one may be detained is 12 months. But the term can be extended if the government finds fresh evidence.

## HOW DID IT COME ABOUT?

Preventive detention laws in India date back to early days of the colonial era when the Bengal Regulation III of 1818 was enacted to empower the government to arrest anyone for defence or maintenance of public order without giving the person recourse to judicial proceedings. A century later, the British government enacted the Rowlatt Acts of 1919 that allowed con-

finement of a suspect without trial. Post-independence India got its first preventive detention rule when the government of Prime Minister Jawaharlal Nehru enacted the Preventive Detention Act of 1950. The NSA is a close iteration of the 1950 Act. After the Preventive Detention Act expired on December 31, 1969, the then Prime Minister, Indira Gandhi, brought in the controversial Maintenance of Internal Security Act (MISA) in 1971 giving similar powers to the government. Though the MISA was repealed in 1977 after the Janata Party came to power, the successive government, led by Mrs. Gandhi, brought in the NSA.

## WHY DOES IT MATTER?

In the normal course, if a person is arrested, he or she is guaranteed certain basic rights. These include the right to be informed of the reason for the arrest. Section 50 of the Criminal Procedure Code (Cr.PC) man-

dates that the person arrested has to be informed of the grounds of arrest, and the right to bail. Sections 56 and 76 of the Cr. PC also provides that a person has to be produced before a court within 24 hours of arrest. Additionally, Article 22(i) of the Constitution says an arrested person cannot be denied the right to consult, and to be defended by, a legal practitioner of his choice. But none of these rights are available to a person detained under the NSA. A person could be kept in the dark about the reasons for his arrest for up to five days, and in exceptional circumstances not later than 10 days. Even when providing the grounds for arrest, the government can withhold information which it considers to be against public interest to disclose. The arrested person is also not entitled to the aid of any legal practitioner in any matter connected with the proceedings before an advisory board, which is constituted by the government for dealing with NSA cases.

## WHAT LIES AHEAD?

The National Crime Records Bureau (NCRB), which collects and analyses crime data in the country, does not include cases under the NSA in its data as no FIRs are registered. Hence, no figures are available for the exact number of detentions under the NSA. In January, the BJP government in Uttar Pradesh arrested three persons under the NSA in connection with an alleged cow-slaughter incident in Bulandshahr. In December last year, a Manipur journalist, who had posted an alleged offensive Facebook post on the Chief Minister, was detained for 12 months under the NSA. Experts say these cases point to the fact that governments sometimes use it as an extra-judicial power. It is time to reconsider the law, they argue, because in four decades of its existence, the NSA has been in the news for all the wrong reasons.

SOIBAM ROCKY SINGH

## WHY

## farm sop will be hard to implement?

## What does the scheme offer?

The Pradhan Mantri Kisan Samman Nidhi scheme, announced in the Budget earlier this month, aims to give ₹6,000 a year to 12 crore farmer families who own up to two hectares of cultivable land.

## What are the challenges?

The number of beneficiaries comes from the number of land holdings of two hectares or less, according to the last agricultural land census. However, the guidelines say a single family may hold multiple land parcels, which will be pooled to determine their eligibility for the benefit. Similarly, even landholdings bigger than two hectares, if owned by multiple families, will make them eligible for the scheme. For example, if five brothers jointly own a single 10 hectare holding, each of them will be eligible for the scheme. However, if the members of a single family unit each own three one-hectare holdings, they will not be eligible. "This is a mess," says

Vikas Rawal, a professor at JNU's Centre for Economic Studies and Planning, who specialises in agriculture economics. He says it will be difficult to use existing land records to determine beneficiaries. "Land records are held individually. How do you know which family holds how much land?" For the purposes of this scheme, family units are being defined as a husband, wife and minor children. Local administrations are more familiar with the unit of the household – which is used by most other government surveys and schemes – defined as a group living together and eating meals from a common kitchen.

## What is the status of land records?

States have been implementing the Digital India Land Records Modernisation Programme for more than a decade. While several States claim to have completed computerisation of their land records, others have not even begun the process. However, digitisation does not mean the data have been up-



dated. Experts say many land records are updated only when the land is sold and only if the transaction is legally registered. Inherited land may still be registered in a parent or grandparent's name. Multiple government departments hold the documents required to establish land ownership – the Registration Department maintains sale deeds, but maps are kept by the Survey Department, while the Revenue Department keeps property tax receipts. Verifying ownership claims is thus a daunting task. States have been asked to overhaul their land databases immediately in

preparation for the scheme, which aims to pay out its first instalment of ₹2,000 by March 31, before the Lok Sabha election.

## What happened in Telangana?

However, the example of Telangana shows this may be an unrealistic time line. Despite an advanced state of progress in digitisation, the State took over three months to update its databases before implementing its own farmer income support scheme before its Assembly election last year. Since its payout was given per acre owned, rather than per family unit, it was a simpler process to identify beneficiaries on the basis of land records. Yet, researchers say almost 10 lakh beneficiaries – of a total 54 lakh – were left out of the initial instalment, as the State scrambled to update records.

## What about community farmers?

The scheme notes that land ownership rights are community-based in ma-

ny northeastern States and promises that an alternative method of beneficiary identification will be developed. However, many Adivasi communities in other States also cultivate land without individual rights, and may be left out of the scheme, although they are among the most vulnerable. Tenant farmers are also not included in the scheme, as they do not own the land they cultivate. With tenancy being as high as 60% in some areas, this could lead to resentment if absentee landlords receive benefits under the scheme.

## Is payment infrastructure in place?

The government intends to pay beneficiaries through a direct transfer to their bank accounts. From the second instalment, Aadhaar numbers will be compulsory to access benefits. Previous welfare schemes requiring Aadhaar verification have faced significant hurdles in some rural areas.

PRISCILLA JEBARAJ

## WHEN

## 14 February 2019

**Terror strikes:** At least 40 Central Reserve Police Force (CRPF) personnel were killed on Thursday when a convoy in which they were travelling was attacked near Awantipora on the Srinagar-Jammu Highway. A suicide bomber of the Jaish-e-Mohammed (JeM) rammed an explosives-laden vehicle into one of the convoy's buses. It was the deadliest attack in terms of casualties in three decades of militancy in Jammu and Kashmir. About 2,500 personnel of the 92, 17 and 54 battalions of the CRPF were travelling to the Valley at the time of the ambush. Home Minister Rajnath Singh blamed the "Pakistan-based, Pakistan-backed" elements for the "dastardly" attack. On Friday, the Indian government withdrew the Most Favoured Nation status given to Pakistan in 1996. Agencies said this move would hurt Pakistan's exports to India which stood at \$488.5 million in 2017-18. Pictures show the damaged CRPF bus at the site of the attack in Pulwama district, and the injured being carried to hospital. \*NISSAR AHMAD



## WHERE

## In Maharashtra, protecting a sanctuary



An environment clearance to the Mumbai-Ahmedabad high-speed train corridor has put the spotlight on the Thane Creek Flamingo Sanctuary (TCFS) in Mumbai.

## What happened?

A committee, chaired by Union Environment Minister Harsh Vardhan, has accorded wildlife clearance to the project which will encroach upon the TCFS and the Sanjay Gandhi National Park, home to leopards, in Mumbai. The pro-

posal involves diverting 3.2 hectares of forestland from the TCFS and 97.5 hectares of land close to the boundary of the forest's protected area. The high-speed train corridor or 'bullet train project' was inaugurated by Prime Minister Narendra Modi and his Japanese counterpart Shinzo Abe in Ahmedabad in September, 2017. It is expected to be ready by 2022. Ever since the project was conceived, there have been concerns about the impact of the construction, which will create enormous debris, on the sanctuary and the national park. The drilling of underground tunnels will lead to sound pollution which will disturb the tranquillity of the sanctuary. The project will entail cutting down several mangrove trees, a natural flood barrier. In the aftermath of the 2005 floods, environmentalists spoke out against the declining mangrove cover for land reclamation projects.

## How big is the sanctuary?

The TCFS consists of 896 hectares of



mangrove forests and 794 hectares of waterbodies. It is on the western bank of the creek, between the Airoli and the Vashi bridges connecting Mumbai and Navi Mumbai. It came into being in August 2015 and is Maharashtra's second marine sanctuary, after Malvan.

The TCFS has been attracting flamingos in large numbers since 1994. By November every year, over 30,000 flamingos, along with their chicks, occupy the mudflats and the bordering mangroves. They stay till May, after which most of them migrate to Bhuj in Gujarat for breeding, leaving a small resident population. Besides supporting a large con-

gregation of flamingos, the area is a refuge for many resident and migratory birds. In all, 200 species have been reported, even globally threatened species such as the greater spotted eagle and others such as osprey. Other birds found here are the Pied avocet, western reef heron, black-headed ibis, common redshank, marsh sandpiper, common greenshank, curlew sandpiper, brown-headed gull, whiskered, gull-billed, Caspian and little terns. The white-bellied sea eagle and Eurasian marsh harrier have been spotted too.

## Are there any remedial measures?

While according permission, the National Board for Wildlife has laid several conditions. The project developers should provide an alternate site and funds for penal plantation of at least five times the number of mangrove plants anticipated to be lost. Because the project also encroaches upon the Sanjay Gandhi National Park in Borivili, developers have to construct under-passes

to enable smooth movement of wild animals. An existing quarry would have to be closed and a natural stormwater drainage stream, passing through the culvert system, would have to be restored and kept free of any obstruction.

## Are these steps adequate?

In general, any foray into wildlife sanctuaries is pernicious. The project plan of the corridor involves drilling a 7-km-long undersea tunnel to avoid damaging the forest and several of the mitigating measures could go a long way to encourage flamingos and other birds to continue visiting the sanctuary. However environmentalists say they aren't confident that mitigation work will be taken seriously. The ongoing Mumbai Metro Project has adversely impacted the Aarey Forest and destroyed mangroves and wetlands in Uran and the Sion-Panvel Highway, according to ecologists.

JACOB KOSHY

# The need to go beyond anglophone models

The main point of a democracy is to enable the maximum number of citizens to be and feel represented



## THE CONTROVERSIAL INDIAN

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The controversy rages in intellectual and society circles of India: do we need to replace the model of democracy that we have with the presidential model? It is a sad controversy, because it underlines the fact that the Indian thinking classes can seldom think beyond the U.K. and U.S. models. The fact remains that neither the U.K.-inspired prime ministerial model nor the U.S.-inspired presidential model pass muster. They both fail for the same reason: they do not allow the majority to have a voice. This, by definition, is a fault that any democracy cannot overlook.

### Lack of representation

In India, some people opposed to the

BJP have started promoting the idea of a U.S.-based presidential system. One of the reasons is that the U.K.-inspired winner-takes-all model basically ensures that the majority of votes is lost. These reformers are motivated by the fact that even though the BJP won only 31% of the votes in the 2014 general election, it obtained a clear majority in the Lok Sabha. The NDA won 38.5% of the votes. This indicates that 61.5% of the votes that were cast were for parties that were not part of the NDA. The 38.5% figure appears even lower when one realises that the overall turnout in the election was 66.38%.

But this was nothing unusual. In 2009, the Congress-led UPA came to power with the Congress winning only 28.55% of the votes against the BJP's 18.80%. If we consider the alliances, then too the majority of voters had voted for other parties than the UPA that came to power.

What this means is that the majority of votes cast in the last two general elections in India have been cast against the coalition or the party that came to power. This is worrying. And it has to do



with the British model of 'winner takes all'. While this model might or might not work in Britain, it is particularly problematic in India, which is a much larger nation with far more variety and differences. The fact that more than 60% of the votes cast in India in recent years are habitually disregarded is a very serious problem. It adds to feelings of resentment and lack of representation in many regions and sections of society. To this extent, critique of the prime ministerial system is justified. But is the

U.S.-inspired presidential system the solution? Let us look at the last presidential election in the U.S. It is widely known that Hillary Clinton won 48.2% of the votes cast, while Donald Trump won only 46.1%. But Mr. Trump is today the U.S. President. If you factor in the election of senators, once again you have a scenario where the majority of voters do not find appropriate representation.

Obviously, the problem of a majority of votes being lost is bigger under the

U.K.-style winner-takes-all prime ministerial system, but the U.S.-style presidential system does not resolve the issue. Once again, the majority is not represented – and democracy is all about representation of the majority.

I think this problem of the majority of votes being wasted is more of an issue in a country like India, which has far more economic, cultural and ethnic diversity than either the U.K. or the U.S. To feel largely unrepresented in India is a greater problem than to feel largely unrepresented in those countries where economic, regional and even cultural gaps are smaller. But in any case, it is a major problem in any democracy.

### Proportional representation

Which means we return to my original complaint: that the Indian thinking classes cannot think beyond the U.K. and U.S. models. Surely, there are other options? For example, many developed European nations work with very different models, most of which ensure proportional representation. Here you do not have a winner-takes-all U.K. model or a slanted U.S. electoral college mo-

del. Instead, political parties, with a given cut-off limit, are represented in Parliament largely on the basis of the percentage of votes that they win. (Or, as in France's more problematic presidential model, there is at least a narrowing down of the choice over successive rounds of voting.)

It is not that difficult to allot a number of seats to a percentage of votes. For instance, 3% of the votes won can mean 5 or 10 or 12 seats. And this multiplies with every 3%. The only thing it requires is a graded list of politicians published by a political party in advance, so that when a party wins, say, five seats, the first five candidates listed by the party enter Parliament.

One advantage of this system is a reduction of the 'celebrity' factor, though countries like Denmark also allow for the personal popularity of individual politicians to be rewarded. I don't see why a reworking of such options would not be far better than either the U.K.- or U.S.-inspired 'anglophone' models. After all, the main point of a democracy is to enable the maximum number of citizens to be and feel represented.

# Let them eat JAM

Who said food, jobs, and money matter? This is the age of Digital India



## ALLEGEDLY

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I know a lot of people are disturbed by a report alleging that India's unemployment rate is at a 45-year high. My message to them: Relax! It's nonsense.

The only thing anyone can logically infer from this SSO-called survey is that the government doesn't have the data to show that India's unemployment rate has been declining steadily since May 2014, before plunging in December 2018 to its lowest ever since the time of Chandragupta Maurya. In other words, this is a data problem, not an employment problem.

### The Indian ocean of employment

Just because we don't have data to show 0% unemployment doesn't mean that India's unemployment is not 0%. It only means that the government has been creating so many jobs so quickly that data generation hasn't kept pace with employment generation. Only an idiot will complain if his government is more focussed on job creation than in recording data about the trillions of jobs that it is creating on a daily basis.

Also, the first sign of high unemployment is social unrest. When was the last time you saw someone protesting, or even waving a black flag at the Prime Minister? On the contrary, people are so happy with the government that they are voluntarily handing over their black underwear, black hankies, and black socks to the police every time they come in proximity to a ministerial convoy.

Look around. Do you see anyone sitting idle? I don't. Everywhere I look, people are busy on Facebook, Twitter, WhatsApp, PayTM, Snapchat, Snap-



deal, or Snapdragon, toiling 24x7 to make India the world's largest producer of data.

Add to this the billions of Indians working as Transportation Managers for Ola and Uber, and the billion more working as Senior Delivery Executives for Swiggy, Zomato, Amazon, and Flipkart. You are practically looking at negative unemployment: meaning, not only does every Indian have a job, they actually have two or three jobs each. So, if the NSSO survey was any good, it would have shown India's unemployment rate to be around minus 200%.

Take someone like me. I already have a day job. But even I do a second shift at night for Netflix, manufacturing trillions of bytes of user-generated data without even taking a salary. Why do I do that? Because I am a hard-working Indian who knows that data is oil and every bit of data that I produce will reduce global oil prices by increasing the supply so that aggregate demand is reduced, thereby enabling our government to help the poor by hiking fuel prices only once a day.

But I am a modest drop in the Indian ocean of employment, though not a drop to be ignored. I am sorry to go public with this but I am really astonished that no one from the NSSO contacted me to ask me if I was employed or not, which goes to show how flawed its methodology is. In my entire working life, I have never been included in any NSSO survey, ever. Isn't that odd? Not just me, no one in my entire extended family has ever been a part

of an NSSO survey. In fact, I know nobody – not one person – who has been asked to fill out a questionnaire by an NSSO team. Now, I am not suggesting that NSSO, like the Abominable Snowman, doesn't really exist. But clearly, there are enough reasons to view its numbers with suspicion, before dismissing them outright.

Had the NSSO been a truly neutral institution, its unemployment survey would have reached out to the employed as well, to get their side of the story. But it did not. No wonder its report was not approved by the approved approvers.

### What truly matters

Also, a major point that's gotten lost in all the controversy is that job creation is a very minor matter. Any Tom, Dick or Rahul can do that. What's much more important, and also the biggest achievement of this government, is ensuring that every single Indian has a unique identity, and not just a unique identity, but also a Jan Dhan bank account and mobile number linked to that identity. This innovative focus on the holy trinity of Jan Dhan-Aadhaar-Mobile (JAM) has been praised by Marketing Vishwaguru Sri Kotler-ji as the 'Not Jobs but JAM' approach to development.

Contrary to what common sense might tell you, it doesn't matter whether people have food, jobs, or money. These obsessions are so analog they are practically 19th century. We are in Digital India now. What people need in Digital India are the bare digital necessities for survival in the digital economy: a digital ID, a bank account to digitally convert government cash transfers into insurance premiums and channel them into equity markets, and an Internet connection accessible via mobile phone. This is the JAM that India's starving millions need today. How can anyone not be grateful to a government that has done more than any of its predecessors to deliver JAM to India's 99%?

# In the Chishti shrine in Ajmer

Khwaja Moinuddin Chishti attracted kings and peasants alike to his discourses



## WHERE STONES SPEAK

**RANA SAFVI**  
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The name Ajmer immediately conjures up a vision of Khwaja Garib Nawaz and his dargah. It reminds me of the saint Moinuddin Hasan Chishti, who was generous like the sea and hospitable like the earth. Today, his dargah, with its saintly white dome and golden crown, hosts millions of devotees who soak in the generosity of his blessings. It was this affection and love for all of humanity that earned Moinuddin Hasan Chishti the name Khwaja Garib Nawaz, or cherisher of the poor.

### Devotees from far and wide

Moinuddin Hasan Chishti was born in Sijistan (modern-day Sistan) in Iran in 1141-42 CE. After receiving Khilafat at the age of 52 from Sheikh Usman Harawani, he went on Hajj to Mecca and Medina. While he was praying in the Prophet's mosque in Medina, the Khwaja is said to have heard the Prophet telling him to go to Hindustan and to the city of Ajmer.

At that time, he had no idea where Ajmer was. However, he proceeded via Baghdad and Herat to Lahore and thence to Delhi and Ajmer. Muizzuddin Muhammad bin Sam of Ghor had already defeated Prithviraj Chauhan and established his rule in Delhi. Khwaja Moinuddin Chishti started living and preaching in Ajmer. His instructive discourses, full of spiritual insights, soon drew the local populace as well as kings and nobles and peasants and the poor from far and wide.

The shrine has been visited by Muhammad bin Tughlaq, Sher Shah Suri, Akbar, Jahangir, Shah Jahan, Dara Shu-



koh, Jahanara Begum and Aurangzeb, among many others. Even today, film-stars and heads of states, both the rich and the poor make a pilgrimage to the shrine.

### Construction and additions

The original dargah was made of wood, write Carl W. Ernst and Bruce B. Lawrence in *Sufi Martyrs of Love*. A stone canopy was built over it later. When Mahmud Khilji, the Sultan of Malwa, conquered Ajmer in 1455, no concrete structure had been built over the grave of Khwaja Moinuddin Chishti.

The first concrete evidence we get of construction in the dargah complex is the cupola of the shrine that was embellished in 1532, as indicated in an inscription written in golden letters in the northern wall of the tomb. This is the beautiful dome we see today. In keeping with Indo-Islamic architecture, a lotus adorns the dome and a golden crown offered by Nawab Haidar Ali Khan of Rampur sits on top of it. Most of the additions made to the shrine were done during the reign of Akbar, by the emperor himself. Akbar first visited the shrine in 1562 after he heard wandering minstrels singing the praise of Khwaja Moinuddin Chishti as he was returning from a hunt. He decided to proceed to Ajmer immediately. Thus began his annual pilgrimage.

In 1568, Akbar offered a degh, or brass cauldron, for cooking of langar. This was ensconced at the entrance.

Another cauldron was offered by Jahangir in 1614. It is placed opposite the first cauldron. Both cauldrons are in use today. Devotees offer sacks of rice and wheat for the gruel that is cooked here. Only vegetarian food is cooked in this dargah.

Akbar gave instructions to build mosques and khanqahs in Ajmer in 1569. The Akbari mosque of red sandstone is probably a result of those orders. An elegant mosque was also built by Shah Jahan in 1637 and is to the west of the shrine, along with the Shah Jahan Darwaza.

### A sense of peace

I walked into the dargah through the dargah bazaar and through the well-decorated Nizami Gate, which is yellow with floral designs. This was built in 1911 by British engineers at the behest of the Nizam of Hyderabad. The Naqqar Khana, or drum house, is next to it. It is from here that ensembles would have once played music to greet visitors to the Khwaja's threshold. A huge silver chandelier hangs here. This was presented by the Golden Temple committee to the dargah.

From here I walked through the courtyards into the Ihaata Noorani, or Quarter of Light, where the main shrine is located. The smell of incense and flowers greeted me.

A railing around the main shrine was offered by Jahanara Begum, the Sufi princess and daughter of Shah Jahan. Jahanara Begum also built a small platform in front of the other door that is known as Begumi Chabutra after her title of Padshah Begum.

There are two doors that go into the main sanctum. Devotees enter it with baskets of flowers, chadors to be offered to the Khwaja. As we wait our turn to enter the dargah, a sense of peace prevails. This is one dargah where women are allowed. A silver and mother of pearl canopy offered by Jahangir can be seen on four silver posts above the cenotaph. The rest of it is covered in flowers and chadors.

# Should the state leave religion alone?

There is no simple yes or no answer to this question. Much depends on what we mean by the term religion



## THE PUBLIC EYE

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The Sabarimala judgment and its aftermath have brought the issue of state intervention in religion back to the table: should governments leave religion alone, instead of interfering in it? Much depends on what one means by religion.

In one sense, religion refers to that aspect of human life where we relate to the transcendent, through personal belief or collective practice. This transcendent entity can be seen either as existing within human persons or outside them, in the highest possible realm. Religion then largely consists of spiritual exercises by which one digs deeper or goes higher. A mind-boggling variety of ways to carry out these exercises exist – god-dependent, gods and goddesses-dependent, or entirely independent of god. Let us just call this religion faith. To the question, should governments leave faith alone, the answer simply has to be

a resounding yes. Not that the government's interference is always unwarranted. For example, if collective rituals involve human sacrifice, then states should intervene. The point is that there must be a general presumption that governments must not interfere in faith.

### Intervening in organised religion

However, it is commonplace that as faith communities become large, they feel the need to be rule-bound; in order to become stable and self-sustaining, they institutionalise themselves. But institutionalisation often involves the introduction of hierarchical relations of power and status. Some people in this relation have more power and status, are 'more equal' than others. They systematise beliefs surrounding spiritual exercises into explicit doctrines. They insist on doctrinal purity and lay down strict but spurious rules that split followers into the normal and the deviant. They fix violent and exclusionary penalties for the 'deviants' and thereby manufacture gated communities with robust notions of who is inside and who is outside. Concepts of heresy and infidelity are generated and a whole society infested with persecution comes into being. In this second sense, religion refers to institutionalised faith communities, such as the those headed by a church,



math or sangha. Now, spiritual exercises cannot be undertaken without belonging to such strongly institutionalised religion. Should the state allow discrimination, exclusion, marginalisation, humiliation, oppression, or persecution by elite-controlled religious institutions, or instead ensure that those within the faith community lead a free, dignified life? My view on this is crystal clear. A government must, albeit with great care and sensitivity, intervene in organised religion to prevent any practices of domination within it. It should also inhibit any attempt on its part to dominate members of other religious

communities.

There is, however, a third sense in which the term religion is used, one that refers neither only to faith, nor to powerful institutions that order and control it, but instead to historically transmitted traditions, indeed to an entire way of life. Thus, people frequently say that Hinduism is not a religion in the conventional sense but is rather a way of life. But if religion is a whole way of life and if this entails the breakdown of the very distinction between religion and society or religion and culture, then all relations of hierarchy and domination that are found in society are also

subsumed under 'religion'. In this conception of Hinduism as a way of life, caste or gender hierarchies are as religious as they are social. Caste domination or gender violence then become integral to Hinduism. How can a state that has accepted freedom and equality as one of its founding principles turn a blind eye to these oppressive practices within the Hindu way of life? In short, if religion is conceived as a way of life, then the state is duty-bound to intervene in religion. Here, the answer to the question, should the government leave religion alone, must be an even more categorical no.

### Keeping a principled distance

It is because religion is a complex and morally ambivalent phenomenon that there cannot be a single, emphatic yes or no answer to the question raised above. In my own work over decades, I have consistently maintained that a strict separation between state and religion is not desirable. The state can neither take the view that it will control all aspects of religion, nor that it will have nothing to do with it; that no matter what happens, it will always keep religion at an arm's length. The state must keep, what I have called, a principled distance from all religions.

What does it entail for law and public

policy in relation to religion? On the principled distance view, there is absolutely no need for a state to have any law or public policy pertaining to matters of faith untainted by control, hierarchy or exclusion. A state must not interfere in what faith we have and how it is practised. Faith in god, gods and goddesses or in god-independent human qualities such as reason must remain free from interference. But equally, a just, egalitarian, and freedom-sensitive state cannot abandon its obligation to remove the residue of intra- or inter-religious domination from its society. This is why laws that prohibit triple talaq or lift restrictions on women to enter temples such as Sabarimala must be enacted. Customs that demean or humiliate women must go.

I have consistently argued that this is precisely how secularism is conceived in India: not as a political perspective that permits authoritarian control of religion by the state; nor one that encourages a libertarian hands-off approach towards it; but as one that promotes a nuanced and flexible policy of value-based political or legal decision on whether or not to intervene in religion. This principled distance variety of secularism is the unique ethical stance of the Indian Constitution, a gift from India to the rest of the world.