



China's block

Its decision on Masood Azhar is shocking — but India must keep up persuasive diplomacy

China's decision to block the listing of Jaish-e-Mohammad chief Masood Azhar as a global terrorist at the UN Security Council is both a setback to India's post-Pulwama diplomatic strategy and a reality check on ties with China at present. After the February 14 attack, claimed by the JeM, the government had made the listing of Azhar a focus in its diplomatic efforts. It reached out to several governments, and shared a dossier on Azhar with each member of the Security Council, who are all members of the 1267 ISIL and al-Qaeda sanctions committee. A special effort was made with Beijing, which has blocked the Azhar listing in the past, including just after the 2008 Mumbai attacks. From 2016 to 2018, India's proposals to list Azhar, with evidence of JeM involvement in the Pathankot airbase attack, were also foiled by China, which placed holds on the listing, and then vetoed it. The vetoes came despite the fact that the JeM is banned, and in the UNSC listing it is noted that Azhar, as its leader and founder, accepted funds from Osama bin Laden. China, as the one country that has refused to allow Azhar's name on the list, is well aware of the evidence against him, but is not ready to withdraw its objections. It is clear that despite India-China relations improving after the Wuhan summit in April 2018, China is unwilling to align itself with India on its concerns on cross-border terrorism emanating from Pakistan.

China's stand is regrettable and condemnable, and it has been consistent on this issue. New Delhi must now consider whether it wishes to accept this as a *fait accompli*, or confront Beijing to try to persuade it to change its stand by means of incentives or coercion. This is a challenge, as any kind of concerted international pressure from the Western countries in this regard has in the past only served to be counterproductive. It is also unlikely that the suggestions being offered by some political groups, of cutting imports from China and other punitive actions, will yield much. The government may be more successful if it identifies the incentives it can offer China in the next few months to review its position. While some of those incentives would be bilateral, the Chinese spokesperson's hint that dialogue between New Delhi and Islamabad, and even possible "triangular" talks including Beijing, is indicative of China's thinking. The government must also not lose sight of the bigger picture: that the UNSC cannot enforce its own listings, and other leaders who have been sanctioned in the past remain free and unencumbered. While listing Azhar at the UNSC is an unfinished task, the larger issue remains: to ensure that Pakistan takes substantive action against Azhar, the JeM and other terror groups that are threatening India. China, with its economic and strategic leverage with Pakistan, may be better-placed to help in this matter.

Horror in Pollachi

Cases of sexual assault and blackmail must be pursued swiftly and the guilty brought to book

The Tamil Nadu government's decision to transfer the 'Pollachi sexual abuse case' to the Central Bureau of Investigation (CBI) gives the case rightful priority, and the agency must swiftly unravel the sexual assault and blackmail racket that has victimised a number of young women. The case had its origins in a complaint of sexual harassment, assault and robbery in a town in Coimbatore district. While the arrest of the accused was made in end-February, the case created a storm early this week when a leaked video found its way into the public sphere. Sourced from the phones of those who were arrested, it had a woman piteously pleading with her abusers to leave her alone. In fact, what has been uncovered so far might be the mere tip of the iceberg, as initial investigation has indicated that the scale of the operations of the four young men in Pollachi might be much larger than is obvious now. Among the accused was a member of the All India Anna Dravida Munnetra Kazhagam (who has since been removed from the party's membership), and Opposition parties allege that the case involves those much higher in the State's ruling party leadership.

The public outrage that ensued had the government first ordering that the case be transferred to the Crime Branch-CID, and then in just a day, to the CBI. Given the timing, with the Lok Sabha polls and critical Assembly by-elections around the corner, the political glow on the case is likely to be accentuated. But it is important that even as the investigation proceeds to nail the guilty and establish the scale of the abuse and blackmail crimes, the women's identity and their privacy be strictly protected. The State Women's Commission has promised that it will conduct an investigation into the matter, providing telephone numbers that victims can call to lodge complaints with complete confidentiality. The National Commission for Women has expressed serious concern over the safety of women in Tamil Nadu. In a letter to the State DGP, its Chairperson has asked that appropriate action be taken, and sought an action taken report. For its part, the government cannot wash its hands of the matter with the transfer of the case to the CBI. It must allow and assist in a free and fair probe into the incidents to bring justice to the victims, and to ensure their dignity and anonymity are maintained. In this election season, the ruling and Opposition parties must summon their political morality by articulating the gravity of the crime and refraining from trying to make political capital out of this heinous crime. Sexual assault and blackmail are dark crimes — the guilty must be brought to book. And the women and their families must be assured of justice and confidentiality.

An abhorrent and unjust device

Retention of the death penalty utterly undermines India's moral foundations



SUHRITH PARTHASARATHY

On March 5, a three-judge bench of the Supreme Court delivered verdicts in three different death penalty cases. In two of those the court entirely exonerated the suspects, while in the third it not only found the accused guilty of murder, but also deserving of capital punishment. Individually deep, the judgments typify the deep penological confusion that pervades India's criminal justice system. Collectively, the cases demonstrate how arbitrary the death penalty is, how its application is mired by a belief in conflicting values, and how the fundamental requirement of precision in criminal law has been replaced by a rhetorical cry for avenging crime by invoking the "collective conscience" of society.

Conjecture and farce

In the first of the cases, *Digamber Vaishnav v. State of Chhattisgarh*, two persons were convicted of murdering five women and were sentenced to death in 2014. A year later, the Chhattisgarh High Court affirmed these sentences. But the chief testimony, which formed the backbone of the prosecution's case, was that of a nine-year-old child, who was, shockingly, not even an eye-witness to the crime. This, the court therefore ruled, was effectively a conviction premised on surmise and conjecture.

Ankush Maruti Shinde v. State of Maharashtra, the second of the cases, saw a gut-wrenching series of events being reduced to macabre farce. In 2006, a trial court found six persons guilty of rape

and murder and sentenced each of them to death. A year later, the Bombay High Court confirmed the finding of guilt, but commuted the sentences imposed on three of the individuals to life imprisonment. However, in 2009, the Supreme Court not only dismissed the appeals filed by those sentenced to death, but also, astonishingly, enhanced the penalties of the three persons whose sentences had been commuted by ordering that they too be punished with death. In doing so, the court relied on a 1996 verdict, in *Ravji v. State of Rajasthan*, where it had ruled that in determining whether to award the death penalty "it is the nature and gravity of the crime" alone that demand consideration. Although in May 2009, the Supreme Court had declared its earlier ruling in *Ravji* incorrect, by holding that even in those cases where the crime is brutal and heinous the criminal's antecedents, including his economic and social background, must have a bearing on the award of the sentence, it took until October last year for the court to recall its order sentencing the six persons to death.

During this time, the court records, "The accused remained under constant stress and in the perpetual fear of death." What is more, one of them, who was later found to be a juvenile at the time when the alleged crime was committed, was kept in solitary confinement. He was not allowed to meet any of the other prisoners and was only allowed an occasional meeting with his mother. For their troubles — for having spent more than a decade on death row despite having committed no crime — the bench ordered that the state pay each of them a sum of ₹5 lakh. But while the court was quick to apportion blame on the prosecution, it didn't so much as mention its own errors and its own



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proclivity to mirror the mentality of a mob.

A 'rarest of rare' case

Yet, we might have been forgiven for thinking that the court's experience in hearing *Digamber Vaishnav* and, especially, *Ankush Maruti Shinde* may have made it more circumspect in upholding death sentences. After all, if these decisions had shown us anything, it was that the judicial process is far from inerrant. But the collective conscience of society, represented through the court's capital punishment jurisprudence, it appears, is still alive and kicking. For in the third of the cases, in *Khushwinder Singh v. State of Punjab*, it not only affirmed the conviction of the accused, on charges of murdering six members of a family, but also gave its imprimatur to the award of the death penalty. The murders, the judgment holds, were "diabolical and dastardly" and the case fell into the "rarest of rare" categories where "there is no alternative punishment suitable, except the death sentence".

The rarest of rare doctrine has its origins in *Bachan Singh v. State of Punjab* (1980). There, the court declared Section 302 of the Indian Penal Code, which prescribes the death penalty for murder, as constitutionally valid, but bounded its limits by holding that the punishment can only be prescribed in the rarest of rare cases. Since then, the court has repeatedly cautioned that capital punishment ought to

only be decreed when the state can clearly establish that a convict is incapable of being reformed and rehabilitated. But, in *Khushwinder Singh*, the court does not place on record any such piece of evidence that the state was called on to produce. Indeed, the court does not so much as attempt to answer whether the accused was, in fact, capable of reformation or not. Instead, it merely endorses the death sentence by holding that there simply were no mitigating circumstances warranting an alternative penalty.

Victims of the system

That capital punishment serves no legitimate penological purpose is by now abundantly clear. There's almost no empirical evidence available showing that the death penalty actually deters crime. If anything, independent studies have repeatedly shown the converse to be true. In the U.S., for instance, States that employ capital punishment have had drastically higher rates of homicide in comparison with those States where the death penalty is no longer engaged. In India, evidence also points to a disproportionate application of the sentence, with the most economically and socially marginalised amongst us suffering the most. The Death Penalty India Report (DPIR), released on May 6, 2016, by Project 39A of the National Law University, Delhi, for example, shows that 74% of prisoners on death row, at the time of the study, were economically vulnerable, and 63% were either the primary or sole earners in their families. More than 60% of those sentenced to death had not completed their secondary school education, and 23% had never attended school, a factor which, as the report states, "points to the alienation that they would experience from the legal process, in terms of

the extent to which they are able to understand the case against them and engage with the criminal justice system." Just as distressingly, 76% of those sentenced to death belonged to backward classes and religious minorities, including all 12 female prisoners.

In the face of this invidiously prejudiced application, the retention of capital punishment utterly undermines the country's moral foundations. Over the course of the last decade, the Supreme Court may well have expanded the rights of death row prisoners: delays by the President in disposing of mercy petitions now constitute a valid ground for commutation; review petitions filed by death row convicts now have to be mandatorily heard in open court. But as the judgments delivered on March 5 reveal, the very preservation of the death penalty creates iniquitous results. Cases such as *Ankush Maruti Shinde*, where the accused, as the judgment records, were very poor labourers, "nomadic tribes coming from the lower strata of the society," ought to make it evident that the death penalty is an abhorrent and unjust device.

Not only are wholly irrational criteria applied to arrive at dangerously irreversible decisions, the law's application is made all the more sinister by invariably imposing these standards on the most vulnerable members of society. The Constitution promises to every person equality before the law. But capital punishment renders this pledge hollow. It legalises a form of violence, and it closes down, as Judith Butler wrote, expounding Jacques Derrida, "the distinction between justice and vengeance," where "justice becomes the moralised form that vengeance assumes."

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From revolutions to roses

Women's Day should be an occasion to ponder over how much more is to be done for gender justice



RADHIKA SANTHANAM

On Women's Day this year, messages clogged my inbox. They offered tempting discounts in salons, on shoes, clothes and cosmetics, and even complimentary cocktails. Despite women organising seminars on finance, sexual harassment and health problems across the country, tokenistic marketing threatened to reduce the day to hashtags and discounts.

The irony and history

On the International Women's Day 2019 website, the partners included McDonald's, Amazon and Oracle. McDonald's is facing flak in the U.S. for failing to pay its largely female workforce the minimum wage. Amazon is reported to have a huge gender diversity problem, and Oracle is facing a civil rights suit that alleges female employees were paid on average \$13,000 less per year than men doing similar work. All three were apparently in support of the 2019 campaign theme, 'Better the balance, better the world'.

The irony of all this is particu-

larly rich given that International Women's Day has its origins in socialism. German socialist and feminist Clara Zetkin, who organised the first International Women's Day, was a socialist first and a feminist next. In the magazine *Die Gleichheit* (Equality), Zetkin wrote in 1894: "Bourgeois feminism and the movement of proletarian women are two fundamentally different social movements." Zetkin held that "bourgeois feminists" were not concerned with the conditions of working class women who were fighting not only against men who sought to suppress them, but also with men against a common oppressor, capitalism. She believed that as white, upper class feminists would only fight to better their own conditions, socialism was the only way to serve the needs of working class women.

Zetkin suggested in the Second International Conference of Socialist Women at Copenhagen in 1910 that Women's Day be celebrated each year, the foremost purpose of which would be "to aid the attainment of women's suffrage". The timing of the proposal was ideal — a year earlier, the Socialist Party in the U.S. had also suggested that a National Women's Day be observed, in honour of a strike that took place in 1908. More than 15,000 women garment workers fought for higher wages



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and shorter working hours in that strike.

Following Zetkin's proposal, International Women's Day was observed in a few European countries on March 19, commemorating the 1848 Revolution in Prussia when a people's uprising had forced the king to promise women the right to vote, which he later failed to keep.

But the day became truly revolutionary only later. In Russia, protests erupted on March 8, 1917, against World War I and brought down the Tsarist Empire. The new government gave the women the right to vote. International Women's Day was thus a day of resistance and demand. The reason the UN observed the day only decades later, from 1975 onwards, was because the Americans were aware of — and wary of — its origins in socialism.

Over the decades, women's de-

mands have varied across cultures. In India, for instance, following the anti-colonial and social reform movement, the Constitution guaranteed justice, dignity and equality for women. However, these values came in conflict with old patriarchal values, thus limiting women's progress. The women's movement became fragmented, only to see a resurgence in the 1970s after the Emergency when there was a rallying cry for civil rights. This led to the birth of several women's organisations, which successfully pushed for legal reforms. The women's movement slowly regained strength, fighting against dowry deaths, domestic violence, and sexual abuse. However, it never really appreciated the struggles of Dalit and Bahujan women.

Issues in India

On this March 8, in some parts of the world (mostly Latin America and Europe), women continued to do what women in the early '90s did — protest. In India, however, several companies with gender diversity and pay gap problems celebrated the day, despite the alarming trend of more and more women withdrawing from the workforce (female participation in the workforce fell from 42.7% in 2004-05 to 23.3% in 2017-18). WhatsApp forwards continued to celebrate women as mothers,

daughters and sisters who are able to multi-task effortlessly, underlining the widespread belief that it is acceptable for women to work as long as they also carry out their traditional duties at home. Given the huge inequality in the treatment and payment of women workers, and with labour conditions being unfriendly to women, it is important to ask what really women want on this day: roses or reforms?

Instead of celebrating women, companies would do well to reflect on how they treat their women: is their pay on a par with men? Are sexual harassment cells in place and do they function? Are there crèches at workplaces? And what about the informal sector, the working class women, who are not represented by "bourgeois feminists"? How do we consolidate various women's movements across classes and castes?

In an increasingly unequal world, March 8 gives us the opportunity to ask ourselves how much more is to be done and how it is to be accomplished. Instead of allowing a day rooted in protest to be taken over by consumerism, women could mobilise around specific issues — better sanitation facilities and better wages — and make sustained demands for effective change in their conditions.

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LETTERS TO THE EDITOR

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China's veto

It is appalling that for the fourth time, China has blatantly abused the power it enjoys as a permanent member of the United Nations Security Council to block the proposal to proscribe Masood Azhar, the founder-leader of the Pakistan-based terror group, the Jaish-e-Mohammad (Page 1, "China places hold on listing Azhar as designated terrorist", March 14). China's success in having its will prevail at the UNSC and adopting a defiant stand despite the overwhelming support that India had on the issue at the UNSC is a clear indication of its ruthless, unabashed ambition to supersede the U.S. as the next superpower. It also casts a dark shadow on its attempts at emerging as a responsible global power. China's move of supporting its ally, Pakistan, can be

traced to its apparent attempts at mollicoddling terror groups who pose a security threat to its economic corridor. Little does it realise that it is losing sight of long-term perspectives for short-term gains. China's current animosity towards India could also stem from the fact that its 'string of pearls' policy has taken a beating recently. India can take solace from the fact that the move to ban Azhar was co-sponsored by other members of the UNSC. Therefore, China's stand also humiliates them.

NALINI VIJAYARAGHAVAN,
Thiruvananthapuram

■ China is at it again. It is clear that China has its own interests in mind, afraid that terror groups can affect its economic ambitions. China's statement is an insult to all other UNSC member

countries. They should still try to make it see reason.

K.V. SEETHARAMAIAH,
Hassan, Karnataka

■ China has, once again, let India badly down. Instead of having an ostrich in the sand approach to the matter and giving shallow explanations like it needs 'more time to investigate' evidence against the terrorist, it is time Beijing realised that on account of its continued and unjustifiably inflexible stand, the united, strong and committed fight of many nations against global terrorism will only get weakened.

A. MOHAN,
Chennai

■ India's continued conciliatory approach toward China exposes the fact that New Delhi lacks any leverage with it on Azhar and that Beijing interprets India's pussyfooting as a sign of weakness. Unless India sees

Pakistan and China as one hyphenated strategic entity and takes an integrated policy approach, piecemeal efforts will remain ineffective and even counter-productive.

R. SIVAKUMAR,
Chennai

On the IS

The article, "Down, but definitely not out" (Editorial page, March 14), talks about how the U.K. Home Secretary has been criticised for his alleged disregard of the human rights of a young British mother in distress, who fled the country to join the Islamic State. The writer has not mentioned a key point published by many credible U.K.-based media houses: on accounts of the girl having had no regrets in joining the IS. Yet she intends to return to the U.K. on humanitarian grounds. I do not intend to challenge or undermine the overall

narrative or the content but feel that opinion pieces must capture all the ethical dilemmas so as to enrich readers.

VISHWARATH REDDY,
New Delhi

■ What we must note is that it is the absence of stable and democratic governments that is actually paving the way for the rise of deadly terrorist groups. It is with the backing of the U.S. that the Syrian Democratic Forces is succeeding in getting back lost territories. We must not forget that the Islamic State is a hydra-headed terrorist group which can't be eliminated quickly. It can bounce back if there is a political vacuum.

JELVIN JOSE,
Thrissur, Kerala

ODI win

There is no need to read too much into the unexpected series loss at the hands of

Australia except that it could make India come out of its complacency ('Sport' page, "Australia burst India's invincibility, script memorable series win", March 14). Experimentation has paid dividends in the past. It is an ongoing process and helps to gauge the bench strength which can be employed in case a need arises. But for experimentation, Kuldeep Yadav and Yuzvendra Chahal who replaced R. Ashwin and Ravindra Jadeja, would have never represented India. In the fifth ODI, except Vijay Shankar, all the other players were top notch one-day players. We must appreciate Australia's resilience. However, resting M.S. Dhoni defies logic as he plays only limited version games and might call it a day soon.

V. SUBRAMANIAN,
Chennai

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Will a court-mandated mediation on Ayodhya solve the issue?

PARLEY

The Supreme Court's attempt at mediation has its share of supporters and critics

The Supreme Court has opted for a time-bound mediation process in a bid to resolve the Ayodhya dispute. Sukumar Muralidharan and Sanjay Hegde debate whether mediation is necessary at this stage, and if the process is viable, in a discussion moderated by K. Venkataraman. Excerpts:

Is mediation viable at this stage of the litigation, when the Supreme Court is set to begin the final hearing in the Ayodhya dispute? Is it advisable and desirable?

Sukumar Muralidharan: I think the Supreme Court has stepped in as a problem-solver at numerous stages of this dispute over the years. And sometimes it has declined to play that role – instances being as far back as in 1989, when it was asked to put a stop to the Shila Pujans that were going on all over the country and causing a lot of communal violence, and it declined to do so; and then again in 1992, when it was asked to ensure the safety of the structure when the Vishva Hindu Parishad was planning its kar seva on December 6, 1992. Of course, it did issue a writ and asked for guarantees to the safety of the structure. The rest is history. Then, the reference was made to determine whether there was a Hindu religious structure under the mosque prior to the mosque being built. The Supreme Court declined to hear it but held that the acquisition of the land was good in law. And that a mosque was not part of essential religious practice for the Islamic faith and, hence, there was no violation of religious freedom in the acquisition of that land. It then reverted the case to the Lucknow Bench for a determination of the title suit. So, that's what we had coming out in 2010. This mediation decision comes out of an appeal against the Lucknow Bench's decision. So, I think this fits in with the normal course of adjudication in the matter. The mediation decision is the court, in a manner of speaking, abdicating its responsibility.

Sanjay Hegde: Any court always

has the option of asking parties to mediate before it proceeds to adjudicate. That is laid down in the Civil Procedure Code. This is a kind of case where even if there is adjudication, the court is not particularly sure as to whether its verdict would be honoured if it is unpopular on one side or the other. However, the court decided to be proactive, not in the sense of abdicating its jurisdiction, but is aware now that mediation itself is a specialised process. It is not exactly in the sense of a negotiating or bargaining kind of situation. Mediation is something much deeper and the court wants to see whether that process with the trained mediator plus two others who are of repute within the community, both legally as well as in terms of a broader religious appeal... they've tried to get some kind of representational team together. And see where the process goes.

There is a small window of eight weeks for mediation. Would it have been better if the mediation process was given more time, or if it was opened so that there could be a more viable process?

S.H.: If you give too much time, nothing really happens. So, having a deadline also concentrates parties' minds wonderfully, inasmuch as there is time pressure to arrive at a solution.

S.M.: My worry is that the court has opted for a deadline that just puts it over the threshold of the electoral cycle, so that it does not get affected by the heat and dust of the election campaign. Now, it may be prudent to have done this, but I don't see that the court should really be allowing this political scenario to impinge upon its decision. Now, once the mediation begins, who will the mediators involve in the process? There are a number of litigants involved. The original litigants are the Nirmohi Akhara, the Wakf Board, and there is Ram Lalla, the deity. But the VHP is creating trouble on the streets, and they have become, by virtue of their coercive politics,



litigants in the problem. So, who are going to be part of the mediation? It's going to be a tricky process because whoever is left out of the mediation process can move out to the streets with their grievance, and whip up public fury.

The suits are representative in nature with the two communities on either side of the dispute. It is said it will be difficult to enforce a decree of the court, if one party expresses misgivings and the other party is happy about it. Does this not apply to the mediation process also?

S.H.: A negotiated settlement will also ultimately end up in a decree of the court. What will happen on the enforcement of the decree is another question. Right now, we are wondering whether the decree can be arrived at by consensus among the parties to the litigation, or whether the decree has to be arrived at only through the adjudicatory route.

Do you agree with the basic formulation – that this is a matter concerning faith and not merely the civil rights of the respective parties?

S.M.: There's so much of politics riding on this. They [the Muslim parties] say they are willing to cede the land if it is proven that it was taken by fraud or by force from the other side. And the other side is arguing, 'No, it is a matter of faith, and we cannot negotiate, or have a judicial determination on a matter of faith.' I don't see any reason why they will retreat from that really hard-line position now, without risk

We've allowed a number of political campaigns to ride on this issue, which should have been settled right at the moment it was born.

of loss of face, since it has become such a high-stakes issue politically. The judiciary could have just proceeded to take the bull by the horn, rather than bring in the question of faith and the emotion.

Do you get the sense that the legal issues are secondary?

S.H.: Politically, it has always been framed like that. How does the judiciary handle it? The judiciary could have well said, 'Look there are no manageable standards,' and declined to get into the dispute altogether. Or, it could have said, 'We have no space for faith and belief out here. Let us go simply by the law as laid down.' The mosque has stood there for nearly 500 years, and we all saw this go down in 1992. How does, in the face of all that evidence, one side prove it?

There are two basic emotions out here. One emotion on the Hindu side is, 'We have suffered religious hurt and we have lived with it through 500 years. This may not be a Hindu state, but it is a Hindu majority country. The wishes of the majority on this thing must prevail.' On the Muslim side, it is this emotion that, 'Look, we are not intruders. These are things that have happened so many years ago.' These underlying emotions, if the multi-faith mediation team could address somewhere, and get people to un-

derstand that irrespective of faith, irrespective of the past... this country needs to move on ahead.

It is argued that for Hindus it is a matter of faith as far as the spot is concerned, whereas the right of worship of Muslims can be exercised anywhere. The idea behind the mediation seems to be to get the Muslim side to give up their claim over the site, and instead have a mosque elsewhere. Against this backdrop, it is interesting that the Sunni Wakf Board and the All India Muslim Personal Law Board were open to the idea of mediation, whereas the three Hindu parties were not in favour of it.

S.H.: You are right that the Muslim side in a way perceives itself to be the weaker side, and it had always said whatever the court orders, it will abide by it. The thing on the Hindu side is that after all this is god's property. There is almost a sense of crusade out there and we cannot give up anything, having started the fight in god's name. At the end of the day, Hindus and Muslims are all part of India.

S.M.: We should avoid any impression that the institutions of our governance process are skewing the whole balance in favour of favour of majoritarian coercive politics. Because, I think the people of the minority faith have a sense of grievance that they have not been given a fair deal in this process. In fact, even the ruling that the acquisition of land was legitimate because the place of worship is not an essential part of the religious faith of Muslims – that also has caused some disquiet... but now they're even being restrained from even offering prayers in public places.

Would you like to comment on the choice of the mediators?

S.H.: Well, about two choices nobody has any doubts: Sriram Panchu and Justice Kalifulla. The question is about Sri Sri Ravi Shankar. The point is that you needed somebody on the Hindu side who could possibly sell a settlement to the larger Hindu community. Therefore it did make sense to bring in a holy man.

But why this particular godman? That is a choice left to individual judges who can constitute the Bench.

S.M.: Well, he's on record saying Muslims should give up their claim to the title of the land and also threatening dire consequences if that does not happen. So, that gives him not exactly the best claim to being a fair mediator to this process. So before the task of achieving a mediated outcome between the different litigants to this process, I think the mediators have to achieve consensus amongst themselves about how they're going to approach this. And given the composition of this team, I think that is not a trivial challenge.

What do you think will be the larger implications for constitutional values like the rule of law and secularism, when this litigation reaches either an adjudicated or negotiated settlement?

S.H.: Quite frankly, I think we, as a democracy, gave up our belief in the rule of law on December 6, 1992. What we are trying to do is to snatch back whatever remains; to rebuild it, because ultimately, let me put it this way and this is my question to even those who propound a Hindu Rashtra: Even a Hindu Rashtra can't work without the rule of law. And if you do something which is out of the law, and then you try to retrospectively make it right, it just doesn't work.

S.M.: That is the key question going forward. Because once you have destroyed the faith that people of different religious convictions might have in the neutrality of the governance process, it is very difficult to retrieve that. Over the last 30 years, the balance has shifted too far in favour of majoritarian assertion and we've allowed a number of political campaigns to ride on this issue, which should have been settled right at the moment it was born. That default over 30 years has allowed this issue to become a political matter on which very emotive campaigns were mounted by both sides. The damage has been very deep and it'll be very lasting unless we sort things out very quickly.



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SINGLE FILE

Can sharing be private?

Facebook's 'pivot to privacy' plan signals a shift in its centre of gravity

G. SAMPATH

For years now, Facebook has been facing flak for privacy violations. The most notorious of these was the Cambridge Analytica scandal. Under relentless pressure from regulators to tighten its privacy safeguards, Facebook CEO Mark Zuckerberg, in a post last week, appears to have made a 180-degree shift in what Facebook has stood for all along: from sharing and openness, to privacy and encryption.

In a 3,200-word post on Facebook, Mr. Zuckerberg unveiled what he calls "a privacy-focused vision for social networking". Facebook is a company whose very business model is built on encouraging, coaxing, and manipulating people to share more and more of their private lives. So understandably, its founder's latest posture on privacy has struck many as little more than posturing.

In his post, Mr. Zuckerberg outlined a four-fold strategy to position privacy at the heart of Facebook's business. First, all social media activity would be end-to-end encrypted, as WhatsApp currently is, across Facebook, WhatsApp, Messenger and Instagram. Second, users could post 'ephemeral' messages that would all get automatically get deleted unless they specified otherwise. Third, interoperability, which would enable users to seamlessly send and receive messages across WhatsApp, Facebook, Instagram or SMS, would be possible owing to a unification of the technological back-end of all these platforms. Many fear that this might open the gateway for massive data mining and be a way to duck anti-trust legislation. Finally, Facebook will not store data in countries that have a questionable record in protecting human rights such as privacy and free speech. This is to protect users' privacy by ensuring that data is not "improperly accessed."

Of these four, the most radical promise is encryption across platforms. If implemented, which many still doubt, it would mean that even Facebook cannot 'see' what its billions of users are sharing. As per Mr. Zuckerberg's analogy, it also signals a shift in Facebook Inc's centre of gravity – from the social network imagined as a town square (Facebook), where you are sharing something with all or most of your friends, to the social network imagined as your living room (such as a small WhatsApp or Messenger group), where a more intimate – and more private – sharing can take place. What happens to Facebook's ad-based business model in such a scenario?

Mr. Zuckerberg's answer suggests that the 'pivot to privacy' would itself be based on a pivot towards "payments, commerce, and ultimately a platform for many other kinds of private services." He hasn't offered a time frame for effecting this transition.

Not surprisingly, given Facebook's long history of sacrificing privacy at the altar of Mammon, many remain sceptical. A brilliant *New Yorker* cartoon captured the general sentiment that greeted Mr. Zuckerberg's proclamation. In the cartoon, Mr. Zuckerberg, speaking from a podium, announces to the world, "Facebook is changing. From now on, sharing is private. War is peace, freedom is slavery, and ignorance is strength."

The writer is the Social Affairs Editor of The Hindu



NOTEBOOK

Field notes from the election battleground

Biryani, liquor and money are non-negotiable

B. KOLAPPAN

The distribution of money to voters during election time is one of the challenges democracy in India faces. Though it has been an established practice, inflation applies here too, and the amounts seem to have increased.

Even the local office-bearers and cadres of political parties will not carry out election work unless the candidate and the high command meet their regular expenses: biryani and liquor. When it comes to the time of elections, biryani becomes a national food.

When I was a student and worked for political parties, a group of local leaders would often visit the areas we were in – in an Ambassador car – to distribute money and posters. Kariyalayams, or small sheds that were put up temporarily, would function as a party office. Cadres would use the money to buy gum, which was made by boiling tapioca powder in water, to stick

the party publicity posters, help in the wall writing and get the snacks. The amount came to a little over ₹100 per day.

In the evening we would visit the local hotel and have a sumptuous meal of dosa and rava vada, washed down with a cup of tea or coffee or sukku coffee. More often than not, Opposition party cadres would also be there seated on the benches facing us. They would never eat what we ate. Only the Communists would spend out of their own pockets.

When the money was spent on the gum, paint and lime for the white wash of the walls, the cadres would make upma and sukku coffee in the kariyalayams. At times they would boil tapioca and have it with freshly ground chilli and garlic paste as a side dish. As there was no time frame for the election campaign, our arguments and discussions would go on endlessly. There were times when a senior leader or even the candidate

would drop by to greet the cadres. On the day of election, buttermilk or panagam (lemon juice with jagery) would be distributed to voters. We sat before a transistor radio on the day of counting and listened to the bulletin of All India Radio, a process that would often take two to three days to complete.

In many constituencies, the cadres would be able to predict the candidates based not only their wealth but also their commitment and ability to do party work. So the candidate list always had a mix of wealthy and a committed party workers who depended on the high command for election expenses.

The trend was the same even in the late 1980s. While covering an election, I was engaged in a conversation with a senior Dravida Munnetra Kazhagam candidate, who was once the Mayor of Chennai. He told me that the high command had given him ₹4 lakh for the election expen-

diture and that he could save ₹1.75 lakh after meeting the expenses.

He said, "If the party offers me a seat today, I may not be in a position to enter the fray as contesting an election has become a rich man's business. If I win the elections, it is well and good. If I lose, I will be in debt permanently."

He was absolutely right. Once an aspirant for the Panamarathupatti constituency showed me a demand draft made out for ₹50 lakh when he came for the interview for candidates. He said, "I had to show it to the party leaders to prove how much I am worth."

His views were echoed by another former Minister. He said, "Today, contesting in an Assembly constituency will cost you at least ₹3 crore. Partymen who run businesses, educational institutions and existing MPs and MLAs alone can afford it." A Lok Sabha constituency covers six Assembly constituencies. So you can calculate the amount.

FROM THE HINDU ARCHIVES

FIFTY YEARS AGO MARCH 15, 1969

Mujibur Rahman warns of movement

The National Awami League leader Sheikh Mujibur Rahman, sore over the failure of the round table talks in Rawalpindi to secure acceptance of the demand for autonomy for East Pakistan, yesterday [March 13] called on Air Marshal Asghar Khan and, according to Radio Pakistan, discussed with him the political situation. This was the first notable development following the conclusion of the Round Table Conference yesterday [March 13] between President Ayub Khan and Opposition leaders. The Sheikh to-day [March 14] said at Lahore that he would present his own draft constitutional reforms soon. *The Times* (London) correspondent from Rawalpindi reported to-day [March 14] that Mr. Rahman hinted that the "revolt" in East Pakistan might turn into a serious separatist movement unless Mr. Ayub Khan granted the 70 million Bengalis full autonomy almost immediately. The correspondent said that after the third session of the Rawalpindi talks, the Sheikh said it would be natural if people began thinking in terms of "complete independence" if the present talks failed. "I do not know how much longer their patience will last, President Ayub can concede our demands, but much depends on the attitude of the rest of the administration."

A HUNDRED YEARS AGO MARCH 15, 1919.

Kerosine Oil.

Since sometime past great difficulty is experienced from the general shortage of kerosine oil, and no vigorous steps have yet been taken to allay the distress of the public. Between the hours of 4 and 6 in the evening every day a kerosine oil bazaar is swarmed by people anxiously waiting for their day's supply of oil. A local depot keeper when asked by one of our representatives told him that since the stoppage of the American oil and the irregular and insufficient supply by the importing companies the situation had become more aggravated. Further enquiry showed him that in addition to this partial truth, the depot keepers do not put in market the entire quantity that they obtain from the agents. A great part of their supply is sold to retailers and who in turn raise the price as it suits them best. If these unscrupulous profiteers are pointed out their illegality and dishonest business the situation becomes worse and one has to go back disappointed. Another vagary of the bazaarman is that they do not sell before 4 o'clock or after seven o'clock in the evenings.

POLL CALL

Absentee ballot

This refers to a vote cast by someone who is unable to go to the polling station. The system is designed to increase voter turnout. In some countries, the voter is required to give a reason for not going to the polling station, before participating in an absentee ballot. In India, a postal ballot is available to only some citizens. The Representation of the People Act, 1950 allows heads of states and those serving in the armed forces to vote through postal means. The Lok Sabha recently passed a Bill to allow proxy voting for NRIs. However, domestic migrants and absentee voters in India cannot cast postal votes.

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<http://bit.ly/SnifferDog>