

# Dilemma of the superb CEO

If a CEO insists that executives walk away from the company upon retirement, then that CEO should also practice what he or she preaches



## THE WISE LEADER

R GOPALAKRISHNAN

A superb CEO retires from executive position and becomes a non-executive chairman (NEC) of the same company. Is it a good idea or a bad one? Opinions are probably loaded on both sides of the argument, and there is no yes or no answer. It depends on the circumstances and the precautionary pro-

cesses; while there are examples of success, examples of failure are vastly more. When a superb CEO is appointed as the NEC of the same company, behaviours change.

Why should the superb CEO at all be associated with the company after completing executive tenure? There may be two reasons: First, providing mentoring to the incoming CEO, and second, to exercise ownership control. These are different contexts and are examined here separately.

### Mentoring

The wonderful film, *About Schmidt*, brings out poignantly the universal human desire to hang around, ostensibly to mentor. It is highly undesirable for the superb CEO of a professional company to continue as NEC. Why?

The successor can always seek advice, but it should be his or her call; why does mentoring require a statutory position? Why should mentoring

care be made available through a position only on the CEO's successor, why not to the successor of the retiring national sales manager or factory manager? In that case, the company will abound with retirees as mentors to their successor, clearly undesirable. If a CEO insists that executives walk away from the company upon retirement, then that CEO should practice what he or she insists others should do as practiced in HUL, Glaxo, Castrol and other MNCs.

If the new person has not been groomed by the superb CEO till his retirement, then it is the CEO's gross failure, and indeed of the whole board. They should collectively be rapped on the knuckles for failing. India's private sector banks have been culpable in this regard because successful CEOs behave as though their party will never end. It is good to remember that the prospect of a non-executive chairmanship alters the

behaviour of the current CEO, who is anyway prone to accept the egregious view of flatterers, that he or she is difficult to replace.

Many a superb CEO argue that the potential successor requires "another two years to be ready" as though the company is trying to bake a cake! Heaven knows where this two-year magical number comes from, but I have noticed that it is the same in many companies. Independent directors should call the bluff by insisting that, if essential for the superb CEO to continue as an NEC, the NEC role should be for no more than two years. See what hell breaks out!

As I have written through past cases in my book, *CRASH: lessons from the rise and exit of CEOs*, some successors may well have benefitted if their predecessors had not been around — John Walter at AT&T, Michael Ovitz at Disney, Richard Thoman at Xerox, and Ramesh Sarin at Voltas.

### Ownership control

This is a different context from the first case. An MNC may wish to exercise its ownership control by appointing an outgoing CEO as chairman, while a new appointee settles down and earns his or her laurels. In a family business, the major shareholder may well wish to leave the hustle-bustle of company management to an executive, but retain control of the board. Both are understandable, but require some discipline in execution.

There should be a formal board-level exercise on who does what to determine the line of control (LoC) between the incoming CEO and the former CEO, now the NEC. Further, the independent directors should hold the NEC and the CEO accountable if the LoC is breached. I am aware of one listed company that has creditably drawn the LoC: Harsh Mariwala as non-executive chairman of Marico Limited. There may be more, but I hope there will be many more in the future.

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## CHINESE WHISPERS

### Puzzle of farm waiver



In Madhya Pradesh, the issue of farm loan waiver is taking a new turn every day. On Wednesday, Congress President Rahul Gandhi (pictured) at a public rally announced the names of some of the beneficiaries of the state government's farm loan waiver scheme. Two names were highlighted. One was that of former chief minister Shivraj Singh Chouhan's brother and the other his uncle's son. Gandhi said Chouhan's brother Rohit Singh and his uncle's son Niranjan Singh had also availed of the loan waiver scheme. However, on Thursday Chouhan hit back at the Congress, saying that no member of his family had filled up the form requesting a loan waiver.

### Too filmy for politics

Film actors and actresses have added a lot of glamour to election campaigning even when they are not the candidates themselves. But sometimes things can go a little too far. Suresh Gopi, once a super star in Malayalam films and a Bharatiya Janata Party candidate from Thrissur, found himself being trolled mercilessly on social media for his "filmy" mannerisms during his election campaigns. In one of his speeches in Thrissur, imitating a style that solidified his position as a bankable star in the Malayalam film industry, he said, "I want this Thrissur. You should give me this Thrissur. I am taking this Thrissur". Apart from online criticism, he has also been harangued on the phone, with some callers asking him to leave some land free to bury the dead.

### Tagore song in Gujarati



A Trinamool lawmaker found a novel way to strike a chord with Kolkata's Gujarati voters. While campaigning for his party's candidate in Bhawanipore, which falls under the Kolkata South Lok Sabha seat, Ashim Kumar Basu broke into a Tagore song, in Gujarati, before the crowd. He chose the right day, May 9, when Rabindra Jayanti is celebrated to commemorate the birth anniversary of Rabindranath Tagore. The Kolkata South seat is a Trinamool stronghold; it voted for Mamata Banerjee's (pictured) party in every election since 1998.

# Today's tech IPOs differ from dot-com boom

Many of these companies, including Uber, are going public to provide their founders, early investors and employees an opportunity to cash in at rich valuations

KARL RUSSELL & STEPHEN GROGER

When Uber begins trading on Friday, it will cap one of the largest ever tech IPOs and join a crowd of big-name start-ups making their stock market debuts this year.

Not since the dot-com boom have so many richly valued tech companies gone public in such short succession: Lyft and Pinterest are now trading shares, and soon Slack, WeWork and Palantir are expected to follow.

But this crop of tech companies is markedly different from those that came up during the late 1990s.

Many rode the rise of mobile connectivity and cloud computing in the last decade to multibillion-dollar valuations. They are more mature, having spent years as private companies building their businesses. But a number remain deeply unprofitable, and the time they spent in the private markets, increasing in size and value, has ultimately raised questions about where they go from here.

When Netscape, Yahoo and TheGlobe.com, a now-defunct online network of "virtual communities," went public in the late 1990s, none had been around for more than three years. When Lyft began trading on the Nasdaq in late March, it had been in business for about seven, and it was young compared with others. Uber, PagerDuty and Pinterest have all been operating for at least a decade.

There are a number of explanations why companies are staying private for longer. Some point to increased regulation of public companies. Others note how record-low interest rates after the financial crisis pushed investors into private markets, increasing the amount of money available for funding rounds.

But by relying on venture capitalists and similar investors to finance their operations, start-ups have had more runway to figure out sustainable business models while avoiding the public eye.

Not surprisingly, the start-ups in this IPO wave are more valuable.

The average stock market valuation of the companies going public this year is \$9.6 billion, according to CB Insights, a company that tracks start-ups. Their combined value could exceed \$150 billion by year's end.

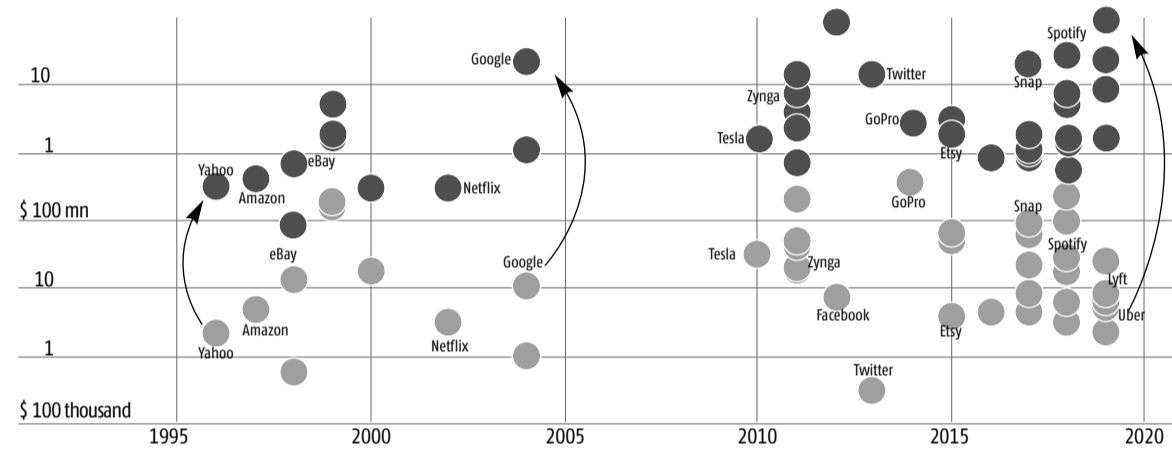
Lyft, which raised about \$5 billion, went public with a valuation above \$20 billion. Investors handed Uber even more — about \$15 billion in all — and the company expects to be valued around \$86 billion when it prices its public offering on Thursday.

Amazon and Yahoo, by contrast, were worth less than \$500 million at the time of their IPOs.

Investors have long made bets on companies that promise to revolutionise how people shop, travel and consume media. Two decades ago, many ignored the relative youth and financial outlook of the start-ups they were back-

## START-UPS GOING PUBLIC HAVE BUILT BIG BUSINESSES AS PRIVATE COMPANIES

Valuation: ● Earliest valuation (seed/Series A) ● At time of IPO



Note: Vertical scale is adjusted to orders of magnitude, making percentage differences comparable. Sources: Dealogic; EquityZen

ing. For some, the bets paid off: Amazon, eBay and Google trace their roots to the dot-com boom. But the period also produced a number of high-profile flops like Webvan and Pets.com.

Unlike those busts, highly valued tech companies today are more established, and many of them are drawing billions in revenue. Still, not all seem like sure bets.

Sales growth for several of the start-ups appears to be slowing. Last year, for example, Uber's revenue rose 42 per cent from the year before; in 2017, revenue more than doubled from 2016.

By comparison, Netscape, Amazon, eBay and Yahoo combined generated less than \$100 million in revenue when they went public. But they were on the upswing, and in the three years after

their IPOs, their revenues surged by more than 10 times.

Slowing revenue growth doesn't necessarily mean investors who buy in at the IPO price will miss out on big gains. Some investors worried about Facebook's slowing revenue growth when it went public in May 2012. But three years after the debut, its revenue had tripled and its share price had more than doubled.

But the slowing growth of this new generation has raised questions about whether some of them will become profitable soon.

Being unprofitable is hardly a new phenomenon. Start-ups have often lost money as they go public, but the losses by some in the current group are particularly steep. Lyft lost nearly \$1 billion

last year, among the largest by a company in the year before it went public. And Lyft's loss is not the largest of those planning IPOs. WeWork lost \$1.9 billion last year, and Uber lost \$1.1 billion in the first quarter alone.

Today, regardless of their profitability and with less need to raise cash, many of these companies are going public largely to provide their founders, early investors and employees an opportunity to cash in at what are already very rich valuations.

Those shareholders who got in early stand to reap a windfall. Whether further big gains will continue to materialize for those buying shares in the public markets remains a question.

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## INSIGHT

# Kra and caution



NITIN PAI

Five years ago, Wang Jing, a tycoon with close links to the Chinese government and Daniel Ortega, Nicaragua's president announced a \$50 billion plan to cut a 278-km long canal in the Central American isthmus (see "The New Cuba" Business Standard, November 2014). Despite the scale of environmental damage it would cause, Ortega's government quickly cleared the decks for the project, and counted on China's reputation for rapid execution of big infrastructure projects to have the canal ready by 2020.

Well, not much sand has been dug out of the ground. On the other hand, Wang's infrastructure company quietly moved out of its glamorous office in Hong Kong's tallest skyscraper last year, without even leaving a forwarding address. The Nicaraguan government ran out of money in 2017 after a political crisis in Venezuela, its long time aid provider, closed the tap. Ortega cut social security payments, triggering nationwide protests. A brutal crackdown put down the "Tropical Spring", but Nicaragua now finds itself in the doghouse after the United States imposed sanctions on the Ortega regime. Ironically, the only respite came from Taiwan — in the form of a \$100 million loan and port call by a Taiwanese warship — because Nicaragua is among the few countries that still recognise it as the real China.

The Nicaraguan canal project, howev-

er, is dead. In the meantime, China and Panama are getting along famously after the latter ditched Taiwan for Beijing in 2017. An unspecified amount of "non-reimbursable aid" was announced during Xi Jinping's visit in December 2018, and Chinese firms are now building a port, a bridge and a convention centre in Panama. Like many other Caribbean and Central American countries, Panama has found Chinese presence and assistance a useful hedge against US dominance.

Was the Nicaraguan canal project a stratagem to win Panama over? It is hard to be sure. Note that Wang's venture with Ortega was opaque. He is now in financial trouble, but certainly has connections to the Chinese government. In recent years, he has tried to buy a port in Crimea, a satellite company in Israel and a key manufacturer of aircraft engines in the Ukraine. Beijing, however, can plausibly claim that he is a private entrepreneur and his projects are his own. Still, the prospect of a China-supported competitor in Nicaragua would have weighed on the minds of the Panamanian authorities, contributing to their decision to switch to Beijing's side.

The question closer to home is whether a similar game is afoot in Thailand, where there is renewed interest in building a canal somewhere near the Isthmus of Kra, creating a direct passage between the Andaman Sea and the South China Sea. Like the Nicaraguan canal, the Thai canal is an alternative to an existing route that is congested, and which China does not control.

The economic case for the Thai canal is at best marginal — the route makes sense only for the largest ships on long haul voyages, when fuel prices are high, if transit fees are low and if the Straits of Malacca are congested. The Thai proponents like it because the canal project will be accompanied by special economic zones that will boost their economy. As in the case of the Nicaraguan project, the

Chinese investor is a 'private' firm. It will invest over \$28 billion over ten years and bring in 30,000 Chinese workers. The project is entirely dependent on China's willingness and ability to sink tens of billions of dollars into the project.

While such a canal would have dealt a severe blow to the Singapore economy five decades ago, it will, at worst, merely shave off some of its market share in ports and maritime sector today. Malaysia's ports might lose a bigger share, but the Thai canal is no longer an existential threat to the two economies. Indeed, if the sovereign wealth funds of the two countries acquire stakes in the Thai Canal, they will be able to offset some of the losses from the lost marine traffic. Yet, to the extent that Singapore and Malaysia would want to avoid the competition they, like Panama, will be ready to please China. Beijing can squeeze concessions from Singapore and Malaysia instead of building the canal.

What would a Thai Canal mean for India? From an economic perspective, having an alternate route — even one managed by Chinese operators — to the Pacific Ocean is a good thing.

The main concerns are geopolitical and strategic. Chinese firms will have a vantage point in the Bay of Bengal and the PLA Navy will have a faster, friendlier route into the Indian Ocean. However, India is suitably placed, literally, to address these concerns by making appropriate investments in the Andamans and in our naval force structure. Given the convergence of interests, Singapore and even Malaysia will be even more interested in engaging us. Similarly, the United States, Japan and Australia will have stronger reasons to co-operate with us in the Bay of Bengal region.

Ultimately, the canal project cannot move forward until Thai politics gains stability. That will take some time. Furthermore, after observing what happened to Ortega and Nicaragua, Thailand's political leaders are bound to be more careful than enthusiasts.

So should we be worried? Only to the extent that we fail to make use of the opportunities that have arisen.

## LETTERS

### Never too late



This refers to the edit "Justice denied" (May 9). The way the chief justice of India (CJI) Ranjan Gogoi (pictured) and the Supreme Court (SC) has decided on the complaint of sexual harassment against the CJI might lead to unintended consequences. The procedure followed was substantially against the principles of natural justice. It would affect the institutional reputation of the SC, as the last hope of the aggrieved, seeking fair play and equitable justice. Besides, the reputation of the CJI himself as a man of impeccable character in personal and professional dealings might not be salvaged by the decision to keep the report under wraps. It could lead to speculative conclusion in favour of the complainant, the perception being "a staffer would not have complained against the CJI using a frivolous cause and there must be some indication of misdemeanour in the report".

This was an unprecedented case requiring a precedent-setting approach to prove an institution's objectivity. The CJI could have asked for the constitution of a complaints committee in which one member could have been chosen with the consent of the complainant. It can be done even now.

Y G Chouksey Pune

### Accept and move on

This refers to "Justice denied" (May 9).

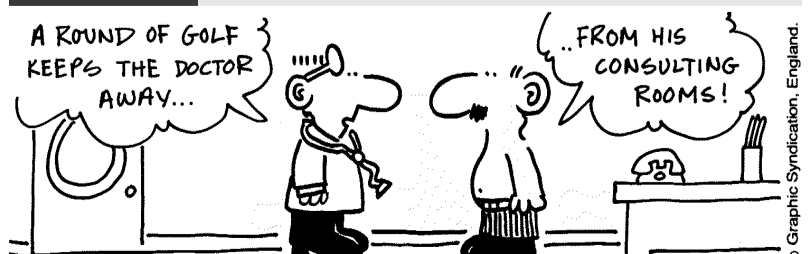
Allow me to differ with your reasoning. I strongly suspect that we are falling into the trap of always assuming that if the complainant in an alleged sexual harassment case is a woman, she must be right. Let's not forget that the committee that reviewed the complaint consisted of three eminent sitting judges of the country's highest court. A mere technicality that the panel did not pass the "transparency" test is a stretch and questions the integrity of the judges. They may have a "reporting relationship" with the CJI but that doesn't mean they won't apply their mind and arrive at a fair decision.

There's a clear possibility that the complaint is motivated; perhaps influenced by external factors. So why don't we accept the panel's decision gracefully and move on. That's the least we can do to maintain the sanctity of the apex court.

### Krishan Kalra Gurugram Needed: Consistent data

This refers to the editorial "More questions on GDP" (May 9). Data pertaining to various segments of the economy are key deciding factors in arriving at the performance of the economy. The data must be reliable but the authorities concerned are not ensuring that it is. It is not an uncommon practice to change crucial data according to the need and requirements of the government in power for ensuring political mileage. The inconsistent official data relating to the economy is negatively impacting

## HAMBONE



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## Unreal rate

EPFO financing of high payouts can't remain opaque

The Union finance ministry and the labour and employment ministry are at loggerheads yet again on matters related to the finances of the Employees' Provident Fund Organisation (EPFO). The EPFO is one of the world's largest social security organisations, having over 170 million accounts and over 60 million active members. In February this year, the EPFO's apex decision-making body — its Central Board of Trustees — decided that for 2018-19, the EPFO would raise the interest rate to 8.65 per cent — up from 8.55 per cent in 2017-18. This is higher than the returns of other pension products such as the Public Provident Fund. But the finance ministry has now questioned the EPFO about the true status of the surplus funds available in the kitty. To be sure, any decision on the interest rate has a direct bearing on the surplus. For instance, it has been reported that, at 8.65 per cent, the estimated surplus will be ₹152 crore, but if the EPFO leaves its interest rate unchanged at 8.55 per cent, the surplus will be considerably more — ₹771 crore.

The finance ministry is also worried about the true state of EPFO finances. Last week, it asked the labour ministry whether the EPFO had enough funds to pay the higher interest rate for 2018-19. The question that has been raised is why the "surplus" (after payout of the EPF interest rate for previous years) has been shown only in the EPFO's "estimates" and not in the "actuals". Complicating matters further is the EPFO's exposure to firms and investments that could turn bad. One instance of this is the exposure to the securities of Infrastructure Leasing & Financial Services (IL&FS). According to the 57th report of the Standing Committee on Labour, submitted to Parliament in February, the EPFO's investment in IL&FS was estimated at ₹575 crore. At that time, the Standing Committee had alerted the labour ministry that if these investments turned bad, the EPFO's beneficiaries (the formal sector workers) would lose out. The fact is that if the losses can't be covered by the EPFO's surplus, the finance ministry would have to step in and make up for the loss.

Thus, the finance ministry is justified in asking the labour ministry for clarifications, and the EPFO must respond. But the larger issue is whether the EPFO can keep paying a rate that is out of sync with the markets and is unsustainable. The way in which the EPFO financed its high payouts in the past has been opaque, bearing little relation to its earnings. This cannot continue. The second issue is whether the EPFO has the managerial acumen to manage such a large pool of money. While almost half the EPFO funds are invested in securities of the Central and state governments, which are relatively safe if held till maturity, the balance is deployed in debt issuances of banks, financial institutions and companies, with a small portion invested in equities through exchange-traded funds. This requires professional fund managers with the ability to invest a large pool of money across risk classes to minimise risk and maximise returns in a highly volatile market environment. The absence of that can hurt the EPFO badly.

## Not an easy prescription

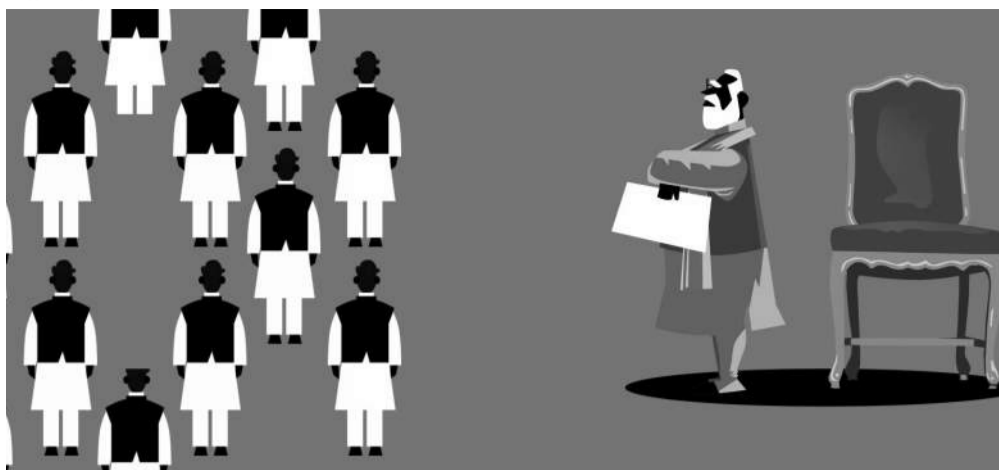
Sectoral caps in indices need careful examination

The Securities and Exchange Board of India (Sebi) has nudged the stock exchanges to bring out discussion papers on sectoral concentration in the Nifty50 and Sensex indices, which has rekindled an age-old debate — whether showcasing a successful sector aggressively in the benchmark index is right, or whether the index should have a more diverse base to reflect the economy. On its part, the market regulator seems worried about the rising concentration of the financial sector (banks and non-banking financial companies), at 37 per cent in the Nifty50 index and 40 per cent in the Sensex. While not strictly comparable, the financial sector's contribution to gross value added (GVA) at basic prices has been just 6-6.5 per cent in the past five years, which is significantly lower than the sector's weight in the two broad-based indices.

Globally, the trend on sector weight is mixed. The Dow Jones Industrial Average in the US and the UK's FTSE 100 have a weight of 25 per cent and 21 per cent, respectively, of technology, but in Japan's Nikkei 225, communications and technology account for nearly 60 per cent. Most global indices including the Nifty and Sensex are calculated based on the free-float methodology, which excludes promoters' holdings and shares held under lock-in to include stocks. The main argument against concentration is the risk to the market when things go awry. For example, when the dot-com bubble burst in 2000, technology had the highest weight, in excess of 30 per cent, in the S&P 500. Similarly, financial stocks' weight was bloated in US indices when the 2008 crisis erupted. And such instances give credence to some fund managers' view that an index representing the entire economy would be more diversified and stable, and insulate investors from any sectoral shock such as the recent NBFC liquidity crisis after the IL&FS default.

But having a better representation of the real economy in key indices is not easy to achieve. First, there aren't enough listed companies of sectors that are the biggest contributors to the economy. For instance, agriculture, forestry and fishing contribute 15 per cent to GVA, but there are hardly any listed stocks available. Besides, Indian companies, unlike in the West, have a large shareholding by promoters, which means their free float, and hence their weight, will be lower. Caps, on their part, will result in a sector not being appropriately represented. For instance, the overall weight of the financial sector is 32 per cent among all NSE-listed stocks, whereas the weight in Nifty50 is 37 per cent. If a sectoral cap of 25 per cent or 30 per cent were to be introduced, the exchange will have to devise a methodology to address the problem. Moreover, the NSE has said the index will be readjusted every quarter to reflect the reality, which could lead to an increase in impact cost, frequent churning and tracking error. This will increase costs for both domestic and global exchange-traded funds, which have seen traction in the past few years. Since these funds operate on wafer-thin margins, they are unlikely to appreciate any additional burden. And, of course, there will be more volatility. Diversifying the benchmark indices is a good idea, but it will need to be thought through well before implementing.

ILLUSTRATION: BINAY SINHA



## Breathing fresh air into the next govt

A coalition is India's best hope. It will be slow to move, but will lead to a consensual and collaborative form of governance

Opinion polls, the last of which came about a month ago, have predicted a majority for the National Democratic Alliance, with roughly a 220-seat return for the Bharatiya Janata Party (BJP). The data had been gathered a few weeks before that, and it was apparent that several of the polls were unsure of the direction of the momentum. That is to say, whether the trajectory of the BJP was from 220 towards 272 or away from it. It seems too tight an election in a couple of places, Uttar Pradesh in particular, for there to be conviction that it was a one-horse race as it was in 2014.

But assuming that the original polls are accurate and hold, we should anticipate a return of the National Democratic Alliance (NDA) and almost certainly a return also of Narendra Modi as prime minister. My view is that the BJP would benefit greatly from being in a coalition. Without beating about the bush, the reason is that its tendencies towards extremism will stand tempered. Moves that are touched by non-conformist freethinking (which is a polite word for some of the eccentric policies) will be more difficult to pull off with the restraining hand of allies on the wrist.

It may be that many of us want to put all Central authority in one individual. But some of us are uncomfortable with a government which believes that nuclear weapons are akin to firecrackers and exist because they are to be used. Others are astonished that we have thrown away any semblance of strategic thinking in our national security and have substituted it with throwing the random kick in the

direction of a neighbour. We need not go into details.

We need not pursue other examples, especially on the side of the economy, because they have been discussed here on these pages before. Suffice it to say that it will not be difficult to demonstrate that five years of messianic and strong and decisive leadership has brought its share of headaches. This sort of thing, the coalition, even if it is led by the same individual, will help curb because the interests of several parties and different regions will need to be accommodated in the larger picture.

A coalition will be slow to move, yes, and less decisive, but it will also lead to a consensual and collaborative form of government. What I mean is that ministerial input and resistance to things that are unusual and not necessarily productive are currently missing. If we survey the elite of this government — Jaitley, Goel, Sitharaman, Prabhu — they are creatures of the Rajya Sabha and unable to win elections. They cannot resist the command of strong leadership because they have no popular base and no real political legitimacy and therefore will do as they are told. A coalition will be slow to move, yes, and less decisive, but it will also lead to a consensual and collaborative form of government. What I mean is that ministerial input and resistance to things that are unusual and not necessarily productive are currently missing. If we survey the elite of this government — Jaitley, Goel, Sitharaman, Prabhu — they are creatures of the Rajya Sabha and unable to win elections. They cannot resist the command of strong leadership because they have no popular base and no real political legitimacy and therefore will do as they are told.

On the other hand, the thing that the BJP says it is competent at delivering — governance — is not



AAKAR PATEL

## Don't fear the Eurosceptics

As the European Parliament elections draw closer, most opinion polls predict a strong showing by parties that declare themselves Eurosceptic to varying degrees. But their likely success represents an unsurprising backlash against recent European integration, rather than opposition to the European Union itself.

After all, Eurosceptic or "Euro-hostile" parties are nothing new. They also had a large presence in the first directly elected European Parliament back in 1979, when the EU was known as the European Economic Community (EEC) — or the "Common Market" — and consisted of only nine member states.

In addition to being far smaller than today's 28-member EU, the EEC did much less. Even calling it a common market now seems an exaggeration, because member states had agreed only on a customs union with a common external tariff and external trade policy. Within the EEC, there were still customs checks on goods and passport controls, and many member states prohibited capital exports.

It is testimony to the strides that European integration has made since then that one of the options for a post-Brexit United Kingdom is to remain in the EU's customs union. Fifty years ago, this would have been equivalent to full membership.

Back in 1979, the strongest Eurosceptic parties were on the left. They opposed the Common Market because they disliked market forces in general. More specifically, they believed that further European integration would favour capitalists by lowering the trade barriers that had been erected to protect workers.

In hindsight, the left's opposition to the Common Market seems premature, given that member states' trade, although increasing, then accounted for a much

smaller proportion of national income. At the time, the ratio of exports to GDP was below 20 per cent for most of the larger EEC members, compared to nearly 50 per cent today. But the trend toward more economic integration was already clear, and West European communists and headline socialists were fundamentally opposed to it.

The current rise of Eurosceptic parties, meanwhile, comes at a time when the EU is more popular than ever, according to opinion polls. This is mainly because the flows of asylum seekers have been brought under control, and because Europe's economy is doing better than it has for a long time, with unemployment down to the lowest level this century. As a result, even the most Eurosceptic politicians have backpedaled on their opposition to "Brussels." And in Sweden, France, and Italy, the main Eurosceptic parties have abandoned their demands to leave the euro or the EU.

We should therefore not regard Eurosceptic parties' current strength as reflecting widespread dissatisfaction with what the EU is doing, or with the state of the European economy. Rather, it represents a backlash against the recent pace of European integration. Europe's various crises over the past decade have led to a huge expansion of the EU's powers, and it would have been surprising had national politicians not objected to such a large transfer of sovereignty.

Similarly, the United States is the result of a long process of integration, marked by a constant debate about the extent of states' rights and the remit of the federal government. The US Federal Reserve, for example, was established only after more than a century of frequent banking crises.

Political forces that question the current speed of



DANIEL GROS

particularly touched negatively by coalition politics. One can continue doing good governance (with whatever secret sauce is in the possession of the BJP or the prime minister) through interaction with the structure of the administration.

A third reason why a coalition is good for the party is that it will give moderates in the BJP, if they exist, and it is possible that at least a few do, the space to counter the extremists on the question of bludgeoning other Indians because of their faith. And they can do this on the basis of party doctrine. It may interest readers to know that the BJP's membership form requires the taking of a pledge that contains the line: "I subscribe to the concept of a Secular state and Nation not based on religion." No Hindu Rashtra is being promised or being sought here and the BJP claims it does not campaign for a constitutional shift or for a change in the secular contours of the state. In fact, it pledges rigid adherence to the Constitution of India. At the very beginning of its party constitution, the BJP promises it will "bear true faith and allegiance to the Constitution of India as by law established and to the principles of socialism, secularism and democracy..."

The party's membership form also requires the BJP and its members to be "committed to Nationalism, National Integration, Democracy, Gandhian approach to socio-economic issues leading to the establishment of an egalitarian society free from exploitation, positive secularism (*Sarva Dharma Samabhav*) and value-based politics."

This makes it easier for those inside to curb the wilder elements by pointing to the party's stated position. This has been under threat for some time because the cues have been taken from individuals and not the party doctrine (I am sure that the lines above on the BJP's pledge and charter will have surprised quite a few readers).

Indeed a coalition will give many in the BJP and its affiliates and associates the chance to breathe more freely and speak more freely. I was on a television panel the other day, with an RSS man next to me, no doubt to balance my zealotry. During the break, I asked him if he and others in his organisation were comfortable with such concentration of power in one individual as is the case in this government. He said, "I'll speak to you later about this." I informed him that the break was for five minutes and we had plenty of time. He leaned across and whispered, "Not while we are still miked."

This may be paranoia but it exists. Every leader and spook I speak to today wants to communicate only through secure applications. A division of power would bring sunlight into such spaces. At 282 seats, it is easy to be Narendra Modi. It will be interesting to see if at 210, he can be Manmohan Singh.

European integration are part of a healthy democratic process. In fact, one could even argue that the Eurosceptic parties are more honest than their mainstream counterparts. After all, despite their pro-European rhetoric, once mainstream parties come to power at the national level, they, too, are extremely reluctant to transfer any sovereignty to EU institutions.

The real test will come after this month's elections, when the Eurosceptic parties will have to articulate an alternative coherent vision of Europe and the EU's role in it. Such a vision is unlikely to emerge. The key steps in recent years toward further EU integration — including the establishment of the European Stability Mechanism to help financial distressed member states, the EU's banking union, and the European Border and Coast Guard Agency — were clearly necessary, because national efforts in these areas had not worked. Tellingly, even staunchly Eurosceptic parties are not calling for these institutions to be abolished.

Eurosceptics make vague claims that Europe is not working, and that only they can defend the interests of their national electorates. But in practice, it has been impossible to translate this "my country first" into coherent policy within the European Parliament — not least because most of what the EU does benefit member states. Moreover, Eurosceptic parties find it difficult to forge coalitions. Northern European populists, for example, would like to stop all assistance to the EU's periphery, whereas their Southern European counterparts think they are not getting enough support.

It seems that Europeans now love both the EU and populists. Instead of bemoaning this fact, much less viewing it as a threat, pro-Europeans should seize the opportunity to start a necessary debate about the continent's future.

The writer is Director of the Center for European Policy Studies. ©Project Syndicate, 2019

## The single-minded parivar



### BOOK REVIEW

C P BHAMBHRI

The author has presented a well-documented history of the Rashtriya Swayamsevak Sangh (RSS) built around the life story and ideological and organisational contributions of its four founders — K B Hedgewar, V P Savarkar, M S Golwalkar and Balasahab Deoras — and other foot soldiers from Deendayal Upadhyaya to Bal Thackeray. The 11 chapters of this book provide minute details about the evolution of this unique formation that was firmly devoted to the consolidation of Hindu identity.

All the four founding fathers were

focused on strengthening the Hindu community by providing Hindu youth with physical training in the *shakhas* (branches) so that they could physically defend themselves from attacks by their opponents. None of the successors diluted this foundational approach. On the contrary, they strengthened and propagated the organisational structure so that Hindutva ideology now reaches every corner of the country. Following in the founders' footsteps, the foot soldiers created "affiliates" of the RSS (and not just *shakhas*). There are 44 affiliates at present.

The central idea that emerges from this exhaustive study is that the ideology of Hindutva and the RSS's para-military organisational structure are intertwined. The ideology has to be carried forward by the RSS cadres, modelled on the Italian Blackshirts, Benito Mussolini's Fascist organisation. It was Hindu Mahasabha leader B S Moonje who guided Hedgewar to focus on this aspect of the Hindutva organisation after a visit to Mussolini's Italy,

Some salient aspects of ideology of Hindutva deserve mention because the RSS has never deviated from them. First, the founders inculcated the idea of "victimhood" among Hindus and urged them to defend their territory, which was projected as *Punyabhoomi* (holy land) and *Pitrbhoomi* (ancestral land).

Second, the RSS leadership and cadre, whether founders or foot soldiers up to Narendra Modi and Amit Shah, are committed to their anti-Muslim and anti-Christian outlook because these communities are considered "outsiders" rather than children of this holy land that is Bharat Mata. Writing on Upadhyaya's *Integral Humanism*, the author points out that this seminal article for RSS foot soldiers "may not appeal to the adherents of cultural and religious pluralism".

Third, the deification of the Supreme Leader, the Sarsanghchalak, was the norm in the RSS. Starting with Hedgewar, this leader could not be questioned. After Hedgewar, MS Golwalkar was nominated

Sarsanghchalak. He occupied this position for 33 years from 1940 to 1973 and his nominee, Balasahab Deoras, remained Sarsanghchalak for 21 years. The author quotes Deoras' observation that the RSS would build an "army of workers which would be the envy of gods"; it still rings in the ears in 2019. Deoras, the author says, "believed in the paradigm of centrality of the RSS..." for Hindu consolidation.

Fourth, the RSS has followed the policy of "catch them young". Deoras focused his attention on education by establishing the Saraswati Shishu Mandir and the RSS now runs thousands of Vidya Bharat Schools.

Fifth, beginning with Hedgewar, the Vedas were to be studied and Vedic Hinduism is the reference point for the RSS and the Bharatiya Janata Party (BJP). Since 2014, both institutions have launched a project to appropriate Gandhi and Sardar Patel to assert their nationalist credentials by propagating that their leaders and cadre participated in the freedom struggle. The author has, however, provided enough evidence to substantiate the fact that neither Gandhi nor Sardar Patel were in any way persuaded by the Sangh Parivar's core ideology.

The RSS has also always taken great

pains to distance itself from Nathuram Godse, Gandhi's assassin. However, the author does not give the RSS a clean testimonial on Godse's membership. He has also scrutinised the RSS' claims that it is apolitical organisation that promotes the idea of cultural nationalism. He quotes Golwalkar asking Hindus to "resolutely vote for men and parties dedicated to the Hindu people and Hindu cause" during the 1957 elections. This apart, Golwalkar took up a purely Hindu cause in 1966 when he organised a big demonstration demanding a complete ban on cow slaughter.

Further, beginning with Deoras' 21 years of RSS supreme leadership, the RSS actively participated in politics and penetrated every movement, whether it was the Nav Nirman Samiti struggle in Gujarat, or the Jai Prakash Narayan movement in Bihar or during the formation of the Morarji Desai-led Janata Party government in 1977. The author says during the Vajpayee-led government at the Centre or BJP governments in various states, the RSS expanded under the protective umbrella of benign governments and increased its *shakhas* and affiliates.

Savarkar's *Hindutva: Who is a Hindu?*

remains a guide for RSS/BJP till today. Savarkar had exhorted Hindus to "militarise and view Muslims as the dangerous enemy within". It was Savarkar, the author writes, who guided Hedgewar to establish an organisation to "supply the Hindu society with power and pillars". Every foot soldier in seven chapters of the book, whether A B Vajpayee or L K Advani or Ashok Singhal or Mohan Bhagwat (the current Sarsanghchalak), are copybook loyalists.

The author has provided well-documented details of RSS and its style of working, but he fails to evaluate the RSS on the basis of the facts mentioned in his own study. RSS-BJP are two sides of the same coin, so the BJP is not like any other political party in India, whether all-India or regional. The RSS also stands apart from all other party organisations. It has to be evaluated on what it preaches and practices because it is the opposite of all other formations in India. This is a clear message from the book.

**THE RSS: Icons of the Indian Right**  
Nilanjan Mukhopadhyay

Tranquebar, ₹799, 432 pages

# Opinion

FRIDAY, MAY 10, 2019



**TALKING TOUGH ON CHINA**

US president Donald Trump

We won't back down until China stops stealing our jobs. We don't have to do business with them. They broke the deal. They can't do that.

## DATA TRANSPARENCY

RATHER THAN STRIVE FOR SPEED IN DISSEMINATING DATA ON A MORE REAL-TIME BASIS, IT WOULD BE BETTER TO TARRY AND PROVIDE FINAL NUMBERS EVEN IF THERE ARE LAGS INVOLVED

# The puzzle of India's economic data

**E**CONOMIC DATA IS probably the most important piece of information as it is the basis for formulating policy. It is used for making global comparisons, and benchmarks are set based on the data supplied by the official sources. This is what makes it different from private estimates which appeal to the closed user group that is involved, but not to the outside world. Global institutions like IMF and World Bank also have their calculations, but their estimates are based on what is supplied by the local authority and there are fixed formats for the same. This is why credibility is very important when it comes to dissemination of data.

India has always taken pride in the data systems, notwithstanding a very complex economy. But, now, controversies have surrounded the datasets on GDP and employment because of a large degree of opacity in the approaches given the complex structure of the economy.

RBI data, by far, is the most robust dataset as it has tied up the sources in a systematic manner for several decades now. Therefore, data on bank credit or deposits never changes and there is no room for speculation. The presentation of accounts by banks has been homogenised to ensure that there is no ambiguity in definitions, and hence there are no revisions in the data. The monetary and banking data is probably the best in the country and respected everywhere. But, this is possible because the data flows from a regulated set of entities which have to comply with the structures and, also, in terms of number, are quite small compared to the size of the economy.

The same is not straightforward for real sector data. If one looks at the IIP or WPI or CPI series, there are revisions made regularly, and this creates problems—especially for, say, monetary policy that is based on these numbers. When the variation is significant, it could give the incorrect indication to users. The problem is mainly because of data sources not being readily available.



Agricultural prices are based on mandis or retail touch-points, where such data may not be final and there are changes after the data is released. Prices of manufactured goods come from associations where data may get revised periodically, thus giving a different picture. Also, at times, the prices for certain commodities are just not available which leads to sudden bumps in movements when it is provided by the relevant agency. While the methodology is stated upfront, the delivery has several lacunae which lead to provisional numbers undergoing substantial changes.

Trade data, too, is based on how the reporting is done, and while the RBI-BOP data is straightforward as it looks at entry and exit of forex from the system in a particular time period, the data from the Directorate General of Commercial Intelligence and Statistics is subject to changes and, at times, the conclusions drawn could be different.

GDP, however, has become the most controversial bit of information because it is the leading indicator of any economy. The change in methodology—shifting to the 2011-12 base year—that was in line with the global methodology of looking at market prices instead of 'at factor cost' has become a political game. GDP calculations require the use of several proxies since data is not available to the CSO. If one looks at agriculture, it is probably the most complex setup.

The marketable surplus that can be accounted for can vary from 60-80% of total output, and hence, it is hard to fathom the actual output as a lot of the produce is used for self-consumption or feed. Also, the marketable surplus never gets recorded fully in the mandi and the data on AGMARKNET on arrivals could be as low as 20-30% of the final number



that is presented in official data. Therefore, the output is probably a guess. When it comes to organised manufacturing or services that cover transport, trade and construction, amongst others, the reliance is on data with the MCA which covers 5 lakh companies. While this number is surely impressive, as it supersedes the earlier approach of looking at 2,500 companies' data, it is hard to accept these numbers. Most commercial corporate data bases cover technically around 20,000-30,000 companies but data is practically available on a continuous basis for not more than 3,000-5,000 companies. When it comes to quarterly results, the availability of information is much leaner.

This raises the question whether the database of MCA is really updated for all these companies as this can drastically change the value-added numbers used for Q4 that are presented on May 31. One must remember that both the output numbers and prices are susceptible to change over time, which will cause the GDP growth numbers to vary. The answer is that it is, at best, a far guess which could be right. Also, as the IIP is used as proxy for unorganised manufacturing and can change significantly after even three months, are we getting the true picture? When the GDP number changes, other targeted ratios like current account and fiscal deficit receive an impetus, especially if the for-

mer is in the upward direction. Employment data is tricky because the concept is amorphous. Also, there is no database on employment and most private source data as well as NSS data are based on surveys. Can a survey tell us the right story, considering no one can cover the entire country? The quality of sampling could be outdated and the responses given could be vague. Also, in unorganised sector, no one would like to give the right number as it can lead to other issues like getting enrolled for provident fund, etc. To bring more transparency in employment numbers, the focus should be on the organised sector to begin with where every entity (like the 5 lakhs covered by MCA) has to report the headcount based on a pre-defined concept. But, for the unorganised sector, including agriculture, it would always remain a grey area with duplicity involved—especially if unskilled labour gets jobs with multiple projects during a year. This can hold for construction sector in particular. Two conclusions can be drawn from the above discussion. The first is that, rather than strive for speed in disseminating data on a more real-time basis, it would be better to tarry and provide final numbers even if there are lags involved. This would avoid the embarrassment of changing the discourse or commentary when reacting to new numbers. This became apparent when the revised number for GDP growth in FY17 were higher but never had any such commentary when the first set of numbers were released when every analyst attributed the lower performance to demonetisation. Second, data should not be used as a tool for political debate as it raises doubts that are quite unnecessary. This could otherwise become an own-goal in the international arena where our data will not be taken too seriously.

**Data should not be used as a tool for political debate as it raises doubts that are quite unnecessary. This could otherwise become an own-goal in the international arena where our data will not be taken seriously anymore**

avoid the embarrassment of changing the discourse or commentary when reacting to new numbers. This became apparent when the revised number for GDP growth in FY17 were higher but never had any such commentary when the first set of numbers were released when every analyst attributed the lower performance to demonetisation. Second, data should not be used as a tool for political debate as it raises doubts that are quite unnecessary. This could otherwise become an own-goal in the international arena where our data will not be taken too seriously.

## LETTERS TO THE EDITOR

### India should continue importing from Iran

From May 2, following the unilateral decision of the US government to end sanction waivers on import of Iranian crude, India stopped importing crude oil from Iran. With its continuously increasing demand of oil and production dropping 4% in FY19, India had to import about 84% of its crude requirements—Iran meets about 11% of the total needs. Iran has been one of India's most preferred suppliers of crude oil at lucrative terms such as 60-day credit period unlike 30-days offered by others. The official pricing of Iranian crude oil is, of course, lower and insurance is also cheaper. Contrary to this, proposed crude imports from the US, an alternative exporter, comes at a hefty price. More worrying is the likely negative impact higher oil prices will have on India's current account deficit, fiscal deficit and inflation in the wider economy. Besides, the oil price cycle has been on an upward trajectory for quite some time now. It is possible that, owing to world imbroglia, the price of crude oil globally would hover shortly between \$90-100 a barrel. Since the US has unilaterally imposed these illegal sanctions, India must reject these sanctions. — SK Khosla, Chandigarh

### ECI and MCC

Apropos of the MCC and EC's enforcement of the same, not entertaining unimportant issues is different from exonerating a person against whom a complaint has been entertained for genuine reasons for examination. The practice of lodging complaints at the drop of hat must be discouraged. Elections must be fought purely on issues concerning the nation and people. — KV Seetharamaiah, Hassan

Write to us at feletters@expressindia.com

## Living in different worlds

After all the talks between Chin and the US, there is still a huge gap in perception. That says as much about countries' leaders as about the state of diplomacy

**DAVID FICKLING**

Bloomberg



**HAVE US AND** Chinese trade negotiators been meeting with each other in recent months, or with bands of convincing impostors?

You almost have to ask the question, because media reports about who "broke the deal" over the past week seem to have been filed from two different universes.

In a *Reuters* report published Wednesday and attributed principally to three US government sources, the Chinese had been on the brink of an unconditional surrender before trying to wriggle out of it at the last minute. A nearly 150-page, seven-chapter draft had included binding legal language to change its legislation on intellectual property theft, forced technology transfers, competition policy, currency manipulation and access to financial services, *Reuters* reported, alongside an enforcement regime similar to those imposed on troublesome countries like North Korea and Iran. Beijing tried to reverse all that in a series of last-minute edits, according to the report.

That backs up an earlier report by Jenny Leonard, Saleha Mohsin and Jennifer Jacobs of *Bloomberg News* citing people familiar with the matter saying that the Chinese went back on promises to include changes to its laws in the text of the deal.

An article in the *Wall Street Journal*, sourced to "people familiar with the thinking of the Chinese side," had a vastly different read. President Donald Trump's tweets about his friendship with President Xi Jinping; praise of China's economic stimulus; criticism of the US Federal Reserve; and positive statements about planned Chinese purchases of US soy beans—

all were taken as evidence that Washington's resolve was weakening along with its economy, according to the report. Beijing never had any intention of specifying which laws it was prepared to change to get a deal over the finish line, and didn't take seriously hints from the US that time was running out, it said.

Such starkly differing interpretations of the same event aren't all that unusual. There's even a term for the phenomenon: the "Rashomon effect," in reference to an Akira Kurosawa film in which witnesses give contrasting accounts of a murder. Still, the risks of such misinterpretation are a familiar hazard of diplomacy, especially in discussions between negotiators with different languages and cultural contexts, so it's somewhat astonishing to see such a gap still yawning between the two sides after all the talking that's been done over the past year. What would a more realistic accord look like? As we've argued from the start of this process, the two sides are much more evenly matched than Washington's negotiators appear to recognise—with the odds, if anything, likely to marginally favour China.

Factions in Beijing including Premier Li Keqiang and Xi himself—have long favoured reform around IP and inward investment that would meet many US demands. Indeed, in areas such as foreign investment and patent enforcement, legal changes are already quietly taking place away from the spotlight. But national pride, and a Communist Party ideology grounded in resisting unequal treaties in the name of free trade, mean that such shifts could never be seen to be

done under duress.

As for the more expansive demands from Washington's trade hawks around reducing the state's role in the Chinese economy, those have always seemed delusional. A limited agreement, with a few commitments on agricultural and energy purchases dressed up in fancy language, always looked like the most credible path to a pact.

Why has this plain reality been so opaque to the political leaders in Beijing and Washington, leading them to drastically miscalculate and overplay their hands?

One explanation is that the information flow among senior officials hasn't been structured to communicate difficult realities to the top. In a well-functioning political system, the whims and pride of political leaders should be kept in check by honest advice that keeps their ambitions tethered to reality. When those ties are loosened, decision-making risks becoming lost in a fog of self-aggrandizement.

It's hardly a surprise that this latter style is now prevalent in both Beijing and Washington. President Trump's unwillingness to tolerate dissent is well-documented, but even within China's more inherently dysfunctional authoritarian leadership the centralisation of power under President Xi has had a similar effect.

Still, it bodes ill for the prospects of the current round of talks starting Thursday. So far, we've only seen denial and anger from both sides; if we want to make it to a deal, we'll likely have to go through a good amount of bargaining—and depression—first.

## With the DeMo boost gone reality check for tax regime

With a likely shortfall of over ₹1 lakh cr in FY19 taxes, tax-GDP ratio will be 11.2 vs 10 in FY14 & 11.1 in FY17; FY20 targets are tough

**A**FTER ANALYSTS AT Kotak Institutional Equities put out a note on the minor contraction in the number of e-returns being filed for personal income taxes in FY19—after averaging a growth of more than 25% in each of the preceding three years—the income tax department put out a press release saying that, in reality, personal income tax e-returns had risen 19%. It arrived at this number by arguing that the tax returns that mattered were really those filed for the current year, and those had risen sharply. So, of the 6.74 e-returns in FY18, the taxman said, just 5.47 crore pertained to FY17 (these are, by law, filed in FY18) and 1.21 crore were for FY16. Of the 6.68 crore e-returns filed for income tax in FY19, 6.49 crore were for FY18; hence the 19% growth claim.

While the analysis is correct, with such a detailed break up of each year's e-returns not publicly available, it is not clear whether the previous high growth rates of earlier years—each one celebrated in an income tax department press release—were based on the correct comparison either. To get caught up in this, however, is missing the wood for the trees. What is more important is the level of tax collections and whether they are growing as fast as the growth in the number of e-filers, for instance. The picture here is mixed. Total tax collections were 8.9% of GDP in FY04, the year before the UPA first came to power, and while these rose to 11% of GDP in FY09—thanks to higher GDP growth—they fell to 10% in FY14, the year before the NDA came to power. This rose dramatically to 11.2% in FY17, the demonetisation year, clear proof of how the policy had boosted compliance. The problem, however, is that the tax-to-GDP ratio for FY19 is likely to be flat at 11.2%, suggesting that the demonetisation bump is over. Indeed, 11.2% of GDP represents a fairly significant shortfall in projections since the budget had projected FY19 collections at 11.9% of GDP; while the government itself admitted to a ₹1 lakh crore shortfall in FY19's central GST collections when the FY20 budget was presented in February, there has been, in addition, a further shortfall of about ₹1.1 lakh crore in personal income tax collections as well as GST.

In which case, if total tax collections for FY19 are ₹21.4 lakh crore, this means a tax-to-GDP of 6% in the case of direct taxes and 5.2% in the case of indirect taxes; the tax-to-GDP ratio for direct taxes was last at 6% in FY08, a year in which nominal GDP grew 15.1% as compared to 10.2% in FY19. The fact that tax-to-GDP levels are comparable despite lower GDP growth today suggests greater tax compliance and, to that extent, is welcome, but compliance levels are still quite low. Also, with FY20 tax collections targeted at ₹25.5 lakh crore, this means tax revenues will have to rise 19%, which is a tax buoyancy of 1.7, a growth last seen in FY08. With just 81,344 individuals declaring their FY17 incomes as more than ₹1 crore, for instance, it is clear there is huge evasion here since, according to PRICE's all-India survey, around 6.6 lakh individuals have such an income in the country. If India is to achieve the kind of tax growth required in FY20, this means the taxman will have to get more taxes from those who managed to dodge demonetisation by simply depositing their cash in the bank and pretending this was their income for FY17; the tax notices sent to them need to be converted into actual demand notices and, then, payment of taxes. Also, invoice matching needs to be implemented in GST to not only stop evasion here, but once this happens, even direct tax collections—both personal income and corporate income—will rise much faster. Also, with the tax department's Project Insight—a linking of various databases of taxes, credit card payments, jewellery purchases, etc.—now up and running, this should help catch chronic evaders.

## Volkswagen must pay

Pollution and emissions-cheating is a worry for India, too

**T**HE SUPREME COURT breather to Volkswagen India—in connection with the ₹500-crore penalty that the National Green Tribunal (NGT) imposed on it for the Dieselgate scandal—brings regulatory gaps and corporate misconduct into focus yet again. While the top court has ordered that "no coercive action" be taken against the automaker, NGT believes that there is just cause for punitive action. Ever since the scandal broke in the US in 2015, Volkswagen has been held liable in 17 countries for using cheat-software in diesel cars since 2009 to meet pollution standards in laboratory tests. The lab performance was instrumental in the cars getting approval in these jurisdictions while the on-road emission levels were much higher. Indeed, tests conducted by Automotive Research Association of India (ARAI) showed that NOx emissions by Volkswagen cars from the period was 5-9 times the lab test limits. The ministry of heavy industries directed the company to initiate recall of nearly 3.2 lakh vehicles.

The company contended before the NGT that it had carried out on-road tests in the presence of the ARAI and the emissions were found to be 1.1 to 2.6 times the BS IV norms—this was later debunked by an expert committee set up by the NGT—and, since the standards were very different, the action taken by other nations wasn't relevant. While the expert committee had observed that no testing protocol had been notified at the time of inspection of the emission fraud charges, Volkswagen had posited that since there were no norms prescribed for on-road testing, it couldn't be held non-compliant. It also submitted before the NGT that, since the Portable Emissions Measurement System (PEMS) that is used for measuring real driving emissions globally, was notified by India only on September 16, 2016, as a protocol for on-road testing, testing carried out by ARAI using PEMS in 2015 didn't hold. The NGT, however, has rightly refused to buy the argument saying that the mere fact that PEMS was introduced in September 2016 doesn't mean that it was prohibited earlier. Since it was used in exposing cheat devices the world over, it became a globally accepted protocol and, that "no specific protocol existed in India to detect cheat devices does not mean that globally accepted protocol could not be used".

The Supreme Court needs to keep in mind the real environmental cost of deliberate inaction on pollution by companies. As the NGT order notes, 22 of the 30 most polluted cities in the world are in India, and in Delhi, 15,000 die prematurely because of pollution. Also, given India is one of just four nations globally whose climate efforts put the Earth on a below-2°C warming path if all nations were acting in the same manner, it has a right to expect that MNCs seeking its market should play by the rules it sets to realise its ambitious climate vision. If the US, one of the largest current polluters and the largest historical polluter, can extract \$25 billion in fines, restitution and penalties for 5.8 lakh faulty cars, India is well within its right to impose the penalty it has.

## Birthing SLAVERY

A Thomson Reuters investigation finds that unnecessary hysterectomy is pushing families into debt bondage

**A**THOMSON REUTERS INVESTIGATION shows that a particularly shocking form of medical malpractice—unnecessary hysterectomies conducted on poor and barely literate young women from rural areas in many states to bilk state-provided health insurance cover—is leading to further impoverishment of victims' families and pushing them into debt. In many cases, unable to pay the debt, family members end up in debt bondage—where they work on the money-lender's farm without pay to clear off the debt. A 2018 government survey found that nearly 3% of Indian women have had hysterectomies. As per the government data, 50% of the women had never been to school and two-thirds had their surgery done at private hospitals where the likelihood of the scam being perpetrated was higher. The Indian Council of Medical Research is writing guidelines for the procedure and the health ministry plans to bring a pre-op standard operating procedure for gynaecologists.

While medical malpractice is one angle—Thomson Reuters reports how despite the procedure losing cover under state-funded insurance schemes, unnecessary hysterectomies continue to be advised—the other is of women voluntarily choosing the procedure. A small number of those who received unnecessary hysterectomy sought the procedure thinking it would help in resolving abnormal bleeding or painful periods that were interfering with them working. Visting hysterectomy-receivers in villages in Maharashtra, Rajasthan and Telangana, Thomson Reuters found that the families of many had been pushed into debt and bonded labour by the procedure. States like Telangana—which records the highest number of hysterectomies—and Chhattisgarh have cracked down on the hysterectomy scam, but the scam doggedly continues to thrive in the country.



ILLUSTRATION: ROHNIT PHORE

## AMITENDU PALIT

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## TRADE &amp; WTO

# When countries use 'security' to restrict trade

Although the WTO has expressed its right to adjudicate security exceptions invoked by members under Article XXI of GATT—as it did on a dispute between Russia and Ukraine—it remains to be seen whether WTO members, particularly major powers like the US, China and the EU, accept this point of view

movement from Ukraine to Kyrgyzstan and Kazakhstan, but also to Mongolia, Tajikistan, Turkmenistan and Uzbekistan. Russia countered the complaint by arguing it had done so on its essential security interests following the 'emergency in international relations' in 2014: primarily alluding to the outbreak of military hostilities with Ukraine in the year. More importantly, and in what has a direct relevance to the US trade actions on national security grounds, Russia invoked Article XXI of GATT (the General Agreement on Tariffs and Trade). The article, as Russia argued—as much as the US also had—allows security interests to determine trade restrictions even if they work against the WTO; and such actions are 'non-justiciable' by the WTO. In other words, the WTO is not empowered to review trade restrictions introduced by countries on national security grounds.

The WTO has delivered an interesting judgement on the dispute. It has upheld Russia's rights to impose the transit restrictions that it did in the light of the tense situation and hostile circumstances between the two countries. At the same time, it has indicated that the WTO is empowered to review and judge such measures. This indicates that countries can't get away by invoking trade restrictions on security interests, and by alluding to Article XXI of GATT. While accepting that WTO members can 'self-judge' the circumstances that underscore threats to security, the WTO—according to the judgement—retains the right to adjudicate whether those same circumstances satisfy the requirements of Article XXI; in other words, whether the members are justified in using security for blocking trade, or whether invoking security amounts to a misuse of Article XXI.

The judgement's implications are crucial for the relationship between international trade and security. Globally, geopolitics is becoming one of the most important determinants of trade. Countries are moving towards trade alliances on the basis of geopolitics. In some cases, mutual security interests are driving trade relations. The opposite is also equally true. Countries are taking to trade restrictions for 'safeguarding' essential security. However, such measures might also be efforts to 'manage' trade in specific fashions. The tariffs of the US on steel and aluminium imports

imposed in March 2018 are a major example. The US imposed these tariffs under Section 232 of the US Trade Expansion Act of 1962, describing higher imports as detrimental to national security. It is the same section under which it is pursuing investigations on imports of automobiles and auto parts, for assessing the possibility of retaliatory action.

Both Russia and the US have argued that invocation of national security by employing Article XXI is 'non-justiciable' by the WTO. But the WTO has overruled this contention. It now remains to be seen what it decides on the ongoing dispute between the US and India (along with several other countries) on American tariffs. If the current judgement is an indication, then the American rationalisation of the tariffs on national security—as decided by its own assessment of national security under Article XXI—might not hold. However, a new panel adjudicating the dispute might have a different view on the subject.

Both the US and Russia favour using national security exceptions for unilateral trade actions. This proclivity on part of large global powers, once established, might become a dangerous trend. It might lead to situations where other countries begin using security as a convenient tool for 'managing' trade. Furthermore, they might begin using Article XXI for protective economic policies—as the US already has, through its steel and aluminium tariffs. With trade increasingly getting digital and national security assuming complex proportions, the possibility of countries using national security as a ground for blocking cross-border data

flows can't be ruled out. Security, as it is, is central to most data localisation policies.

Although the WTO has expressed its right to adjudicate security exceptions invoked by members under Article XXI, it remains to be seen whether WTO members—particularly major powers like the US, Russia, China and the European Union—accept this point of view. After all, security is a sovereign concern and countries are best placed to judge threats to their security. While not undermining the sovereign rights of countries to act on core security interests, it is important to exercise utmost caution in using security as an excuse for restricting trade. Such a tendency is highly inimical to the orderly functioning of global trade.

It is important to exercise utmost security in using security as an excuse for restricting trade. Such a tendency is highly inimical to the orderly functioning of global trade

**A** RECENT JUDGEMENT BY the World Trade Organisation (WTO) on a dispute between Russia and Ukraine has great implications for the controversial relationship between international trade and national security. Separately, the ruling has implications for India, too, as India has joined several other WTO members in disputing the steel and aluminium tariffs imposed by

the US last year on national security grounds. The judgement would be utilised by various countries in the future to interpret the extent by which national security interests enable exceptions from obligations that WTO members need to extend to each other.

Ukraine took Russia to the WTO dispute settlement for the restrictions it imposed on transit of goods through Russia by road and rail meant mainly for

**T**HE SUPERCYCLONE FANI, with wind speeds of 220-250 km per hour, on May 3, 2019, had a devastating effect on the coastal districts of Odisha, one of the most cyclone- and flood-prone areas of India. The extent of the damage is much more than what was previously thought. The awareness and previous experiences of Odisha in dealing with natural disasters prompted the state government and people to move to safer areas, and this minimised loss of lives. However, the loss of infrastructure, basic public services, and loss to private property and livelihood are irreparable in the short-term.

Odisha, particularly its coastal districts, is prone to a huge number of cyclones and storms. Apart from small and moderate cyclones and storms, Odisha has suffered colossal damages during a supercyclone and flood in 1999, killing more than 10,000 people, Phailin in 2013, Titli in 2018, etc. In fact, every big natural disaster takes back the people and affected areas by few years in terms of the standard of living and the level of development, putting lot of stress on both the people and the state.

This time, Fani—said to be India's strongest cyclone in 43 years—caused huge destruction. Going by the reported figures, almost 1.4 crore people in 11 coastal districts—of the total 4.2 crore people (2011 census) in Odisha—are badly affected, around 40 people have lost their lives so far, and about 5 lakh people have

## Managing Fani's aftermath

The support and relief provided to Odisha so far has been largely inadequate

## PRAVAKAR SAHOO

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lost their houses. The infrastructure, livestock, properties, crops, coconut trees and horticulture have been destroyed completely, especially in Puri, Khordha and Bhubaneswar. The entire plantation developed over decades—source of livelihood—has been uprooted. As reported, around 4,600 buildings, 6,000 educational institutions such as primarily schools, 1,000 health facilities, and over 300 factories have been badly damaged. Further, 5,030 km of 33 kV lines, and 38,613 km of 11 kV lines, 11,077 distribution transformers, and 80,000 km of low tension distribution lines are also damaged. People have been deprived of clean water since May 3 due to damage to the water supply infrastructure

and lack of electricity. The lifeline of the people, i.e. water, electricity and telecommunication, were taken away by Fani.

Given the extent of the damage, the support and relief provided so far has been largely inadequate. Odisha needs billions of dollars (\$14 billion, as reported by the state government) to rebuild damaged houses and public infrastructure. Odisha sought help of ₹17,000 crore (₹10,000 crore for disaster-resilient power infrastructure, and ₹7,000 crore for converting 5 lakh damaged *kutcha* houses to *pucca*) from the Centre on May 6. The Centre has offered ₹1,000 crore interim funding, in addition to the ₹341 crore advance given before Fani. The Centre has announced an



amount of ₹2 lakh *ex gratia* to each family of those killed, and ₹50,000 to the injured. In addition, some states have given few crores as financial assistance and provided manpower support to restore power. However, the relief support in terms of resources and manpower is grossly inadequate, given the colossal loss in terms of livelihood and infrastructure. The support of international agencies is lukewarm, except a loud appreciation to the state government in minimising human losses.

It's sad to observe that the coverage in the national media about the extent of the damage appears under-reported. In fact, the air time on the Fani was much more before the landfall. International media

has given a one-liner thumbs up, stating that the Odisha government has done an excellent job. Unfortunately, it gives an impression of little damage whereas it needs to be categorised as a national disaster. The expected material support in terms of materials and resources from central and state governments, international agencies, the general public and the private sector is not forthcoming. Lakhs of families need housing with electricity and water connection. Since Fani, people are literally in the dark, without water and telecom services. What Odisha needs now is huge resources and manpower to bring about some semblance of normalcy by providing basic lifesaving services, not an

## Big data for big development

NEHA SAIGAL,  
SAUMYA SHRIVASTAVA  
& ASHITA MUNJRAL

Authors work with IPE Global on the Matrix of Change for Nutrition programme. Views are personal

Transparency of data can improve nutrition for India's poorest

**WILL NOT SHARE ANY DATA** on the coverage of beneficiaries till you are able to show me a letter from higher authorities" was the prompt response of a district social welfare officer to our request for data related to nutrition schemes. This reluctance to share data by a government official at the district level in India is not a new phenomenon, and it was not the first time we got such a response. But, as development practitioners working on implementation of nutrition programmes at the community level, the data we require to design our programmes should be no secret. This is reinforced by Section 4(1) of the Right to Information (RTI) Act, 2005.

This incident not only urged us to think about the importance of transparency of data related to government schemes and programmes, but more specifically on data related to nutrition and the Integrated Child Development Services (ICDS) scheme, which is aimed at improving nutrition intake of children till six years of age, and also pregnant and lactating mothers.

Once we moved beyond this incident, there was a challenge—not much has been written about the transparency of the ICDS data. A rare but thought-provoking mention has been made by Venkatesan Ramani, a retired officer of the Maharashtra cadre, in a policy document titled 'Fixing of Child Malnutrition in India: Views from a Public Policy Practitioner'. It mentions that the ICDS Monthly Progress Report that is collated in every state from every Anganwadi Centre (AWC) has relevant information on the coverage of beneficiaries as well as weight of children under five for each AWC. But, unfortunately, it is not easily available. Further, Ramani makes a valid point that lack of access to data for interested stakeholders results in the absence of public accountability and has huge implications on policy implementation.

Before we get to the issue of public accountability, there is a hurdle, i.e. there isn't enough information and data available in the public domain for us to understand the nutritional status and effectiveness of nutrition-related schemes of a particular district, block or village. The government, on its part, collects a range of information including the number of beneficiaries, their nutritional status and variances in coverage across villages and social groups like scheduled castes and scheduled tribes. But this local level data is not available in public domain. While one can argue that there are large nutrition surveys like the National Family Health Survey, but unfortunately their design does not capture locally-relevant information and it is not real-time.

Indeed, the ICDS data on target beneficiaries, people reached, services offered and funding for different services should be available at all levels of service delivery. Relevant break-up at each level including state, district, block and *gram panchayat* should give a holistic picture for decision-makers. Also, communities at village level should have access to the data relevant to their AWC, so they are aware of the beneficiaries, their entitlements as well as the nutritional status of women and children. This will help take forward the dialogue between service providers and the community, generate demand, and improve service delivery.

The ICDS scheme needs to emulate MGNREGA in this regard, in which the principles of transparency and accountability are ingrained through proactive disclosure of information at all levels of scheme delivery, social audits and grievance redressal. This is evident from their management information system—NREGASoft—that makes information readily available from the national to the beneficiary level, on every aspect of the scheme and is real-time. Information is also made available to public at community level through display boards and wall paintings under MGNREGA.

As a country that is aiming to end all forms of malnutrition by 2030 and has been on a successful path of reducing undernutrition, India is still faced with certain challenges holding us back from achieving our targets. Higher malnutrition prevalence in certain marginalised populations including the STs is one of the biggest challenges.

Transparency of data can be a huge support to governments to identify vulnerable geographies and populations, evaluate schemes, and come up with new innovations. But, most importantly, transparency of this data can support communities to engage with an issue like malnutrition and hold service providers accountable, which will improve service delivery. We also hope that, one day, instead of struggling to access ICDS data, our struggles will focus on analysing that data to find solutions.

appreciation certificate for minimising human loss. Being in a federation, people affected by the ruthless Fani have a right to get appropriate support from the central government as well as other states to restore life in affected areas.

Given the extent of the damage and livelihood loss, a one-time meagre compensation in terms of a few thousands of rupees for housing or a few kilos of rice is not of great use. All affected coastal districts need immediate special package from the Centre to restore housing, power, water supply and road network. There should be measures like farm-loan waiver and credit opportunities as crops have been destroyed and people have lost income-generating assets and avenues.

Apart from these short-term measures, the Centre and states have to seriously work on cyclone-resilient infrastructure like underground power supply, cyclone-resilient housing, enhancing disaster management personnel and infrastructure, restoring plantation, all-weather and well-established communication network, prepare a 24/7 contingency plan, and enough government shelters and basic services such as food, water and medicines to meet any such kind of calamity. These are all the more necessary steps for a state like Odisha that is the most vulnerable to supercyclones and floods. Fani is not going to be the last, and people of Odisha deserve better support immediately and for future preparedness.



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## TELLING NUMBERS

### What Indians are searching on Google, in which languages

THE RISE of online search volumes in non-metros is trumping that in non-metros, according to one of the emerging trends flagged in Google's annual 'Year in Search: Insights for Brands Report' released Thursday. For example, 61% of all searches across BFSI (banking, financial services and insurance) are coming from non-metros, as 55% of all auto-related searches from non-metros.

Among other trends are the emergence of video as the new search tool, and the rise of Indian-language Internet users. Online video audience in India is expected to grow to 500 million by 2020. Watch time for science videos as well as hobby-related videos in India have more than tripled in 2018. YouTube has also become the new beauty adviser, as watch time for

beauty tips videos in India has doubled year-on-year in 2018 and searches related to beauty have grown by 40% last year, the report said.

About languages, the report said 9 out of 10 new Internet users in India are likely to be Indian language users (Hindi, Gujarati, Bengali, Marathi, Kannada, Tamil, Telugu, Malayalam, Punjabi). Indian language users are expected to account for nearly 75% of India's Internet user base by 2021, and Google search trends show a significant move in this direction. Hindi searches have increased across various query types, the report found.

Among other trends highlighted in the report, dating searches are catching up with matrimony queries. There has been a 40% growth in dating-related searches.

#### METRO VS NON-METRO

	Searches from non-metros	Year-on-year growth
Health insurance	59%	78%
Personal loans	57%	109%
Life insurance	61%	43%
Mutual funds	59%	61%

#### VIDEO SEARCHES

- 500 MILLION**  
Expected online video audience in India by 2020 (Internet itself is adding 40 million users annually)
- 1/3**  
Of all searches for online video, a third are related to entertainment
- 1.5-3 TIMES**  
Other categories like lifestyle, education and business have shown growth in the last 2 years
- 80%**  
Of car buyers use online video to research before purchase

#### NON-ENGLISH USERS

- 9 OF 10**  
New Internet users in India are likely to be Indian language users; video, music, and news are the top queries of regional-language search
- 21%**  
Growth in Indic messaging app downloads
- 1.9 TIMES**  
Increase in average data consumption
- 75%**  
Of India's Internet user base likely to be Indian language users by 2021

#### DATING VS MATRIMONY

- 40%**  
Growth in dating-related searches, and a 37% increase in online dating brand queries (versus a 13% increase in interest for matrimony brands)

- 3 TIMES**  
Total volume of matrimony searches as compared to volume of dating searches. Although dating searches have grown, matrimony searches remain higher

Source: Year in Search: Insights for Brands Report



FOR THE RECORD: FROM THE EXPRESS ARCHIVES

## 30 yrs ago, Rajiv in Lakshadweep

EXPRESS NEWS SERVICE  
MUMBAI, MAY 9

AT A campaign rally on Wednesday, Prime Minister Narendra Modi said Rajiv Gandhi and his family, including his in-laws from Italy, had used the aircraft carrier *INS Viraat* as a "personal taxi" on a private "10-day vacation" on an island.

The *Indian Express* published several news reports, features, and pictures relating to Rajiv's visit to Lakshadweep around New Year's Day in 1988. Some excerpts from *The Express's* coverage:

#### DECEMBER 16, 1987 Barren islet to host Rajiv's holiday PRAMAN, NEW DELHI

"The Prime Minister, Mr Rajiv Gandhi, who had spent the last year-end in the Andamans with his Italian in-laws and friends, will have his holiday this year in a barren island of the Lakshadweep group.

Securitymen, contractors and Congress (I) leaders are being pressed into service to prepare for the comfort of the Prime Minister's exclusive entourage, who, according to the present programme, will spend the week after Christmas in the island.

Engineers and workers are building helipads and temporary "hutments" with modern facilities which have to be brought from the mainland, some 200 km to 400 km away.

...Almost everything — except coconut and fish — will have to be airlifted... This includes cooks, water and generators, in addition to the omnipresent securitymen and attendants."

#### DECEMBER 28, 1987 Islands 'booked' for PM EXPRESS NEWS SERVICE, COCHIN

"The movement of people to and from the mainland to Lakshadweep has virtually been sealed for the Prime Minister's holiday in one of the uninhabited islands of the archipelago.

...Anybody who wants to go to the Dweep now has to wait till after the Prime Minister's holiday. The issue of tickets has been closed



Rajiv Gandhi used the *INS Viraat* as a "personal taxi", PM Modi said. *Express Archive*

for all the ships till January 15. The reason given by officials was that all available seats were booked in advance by passengers and some seats were reserved for ministers and officials here in connection with the Prime Minister's visit.

Informed sources say preparations for the Prime Minister's holiday started about four months back..."

#### DECEMBER 29, 1987 To top it all... EXPRESS NEWS SERVICE, COCHIN

"The Lakshadweep administration has a pleasant surprise for the big contingent of Central ministers, officials and their family members, not to mention the Prime Minister, visiting the island.

Large quantities of *ambalapazha palpayasam*, one of the choicest puddings of Kerala, have been airlifted to Lakshadweep to treat the visiting dignitaries..."

#### DECEMBER 30, 1987 PM's choice not dry EXPRESS NEWS SERVICE, COCHIN

"Bangaram Island, chosen by the Prime Minister, Mr Rajiv Gandhi, to spend his year-

end holiday, enjoys a special status in the archipelago.

It is the only island where consumption of liquor is permitted.

In all these other Muslim-majority islands, prohibition is strictly in force. The only other place where a traveller to Lakshadweep is allowed to drink is aboard ship.

...It is understood that the prime minister is planning to host a new year's party aboard a ship.

According to sources, cartons of some of the choicest brands of liquor have already been sent to Bangaram to cater to the needs of VIPs.

Chicken, meat and fresh vegetables are being airlifted from Cochin after thorough checks by health inspectors."

#### JANUARY 24, 1988 The holiday that was N MADHAVAN KUTTY, BANGARAM (LAKSHADWEEP)

"At least eight foreigners joined the Prime Minister and his family during their New Year holiday here. In all, the group consisted of 24 men, women and children. Looking after their needs were 70 persons from various departments, cooks and valets and naval

personnel. Nearly 1,200 policemen drawn from Lakshadweep Police and Madhya Pradesh Armed Special Police, based at neighbouring Agatti island, were on patrol on the periphery of Bangaram.

Security was, naturally, tight, reinforced by a 24-hour watch by a naval fleet. According to reliable sources, among the Indian Navy vessels performing various duties in connection with the holiday were aircraft carrier *INS Viraat*, the frigates *INS Vindhyagiri* and *INS Taragiri*, and the landing craft carrier *INS Magar*.

The Lakshadweep Administration's oil tankers *MT Suheli* and *MT Bharat* were also there. Passenger liners like *MV Bharatseema* and research vessels like *Sagardeep* had been taken off their regular duty and put on the holiday tasks.

Innumerable boats of the local administration, including 40 hp high-speed boats, and the Navy's yachting boats were pressed into service. The Navy also provided a windsurfer for the holiday makers...

...There was recreation aplenty as the Prime Minister and his party went swimming and boating and tuna fishing in the seas. Kabaddi with men and women lined up against each other provided the Indian touch. The New Year night was marked by a firelit party on the sands...

...The PM's powerful personal secretary, V George... had stayed back at *INS Viraat* along with Mani Shankar Iyer, Mrs Sarla Grewal, M M Jacob and others..."

#### JANUARY 24, 1988 The VIP list EXPRESS NEWS SERVICE, COCHIN

"The Prime Minister's party which holidayed at Lakshadweep consisted of Rajiv Gandhi, his wife Sonia and their two children, Rahul and Priyanka, Ajitabh Bachchan's three daughters... Amitabh Bachchan, his wife Jaya, their children, Sweta and Abhishek... Mrs Sonia Gandhi's mother, Mrs P Maino, her sister, Nadia Valdimero, and her child, G Valdimero, Sonia's brother-in-law, Walter Wincini..., a German friend of Sonia's called Sabina..."

## AN EXPERT EXPLAINS

# How EC evolved, what rules it follows in case of disagreement

While the Election Commission is supposed to transact its business unanimously as far as possible, Commissioner Ashok Lavasa has dissented with the opinion of his colleagues in some recent matters. Under what circumstances did the EC become a multi-member body? What is its procedure when Commissioners disagree?



S K MENDIRATTA

#### When and under what circumstances did the Election Commission of India (ECI) become a three-member body?

Article 324 of the Constitution vests the "superintendence, direction and control of elections" in an Election Commission consisting "of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix".

From the commencement of the Constitution on January 26, 1950 until 1989, the ECI was a single-member body, with only one Chief Election Commissioner (CEC). The ECI was expanded just ahead of the elections to the ninth Lok Sabha, against the backdrop of differences between the Congress government of Prime Minister Rajiv Gandhi and CEC R V Sastri. These differences began with the Presidential election of 1987. The Union government wanted the nomination process for the election to be timed in such a way that Giani Zail Singh, whose relations with Rajiv were tense, was prevented from

throwing his hat in the ring for a second term. But Peri Sastri declined to play ball, and when the time for Lok Sabha elections came two years later, the government, unsure of how he would act, decided to curtail the CEC's powers by turning the ECI into a multi-member commission.

On October 7, 1989, the government, through a notification issued by President R Venkataraman, created two positions in the ECI in addition to that of the CEC. And on October 16, 1989, Election Commissioners S S Dhanoa and V S Seigell were appointed.

Despite many disagreements between the three Election Commissioners, and the fact that there were no rules governing the transaction of business for the Commission, the Lok Sabha elections of 1989 were conducted successfully. However, the three-member arrangement only lasted for 70 days.

#### Why did this happen? How did the ECI revert to being a one-member body?

Soon after coming to power, the National Front government of Prime Minister VP Singh rescinded the Presidential notification of October 7, 1989. Dhanoa challenged his removal in the Supreme Court. The court dismissed his petition — but observed that more heads were better than one in a body that had to perform important constitutional functions, and that there should be a provision for transaction of business if the Commission were to be made a multi-member body again.

The Union government then enacted The

Chief Election Commissioner and Election Commissioners (Conditions of Service) Act, 1991, which gave the CEC a status equal to that of a Supreme Court judge, and his retirement age was fixed at 65 years. The ECs were given the status of High Court judges, and their retirement age was fixed at 62 years. This meant that if and when the ECI became a multi-member body again, the CEC would act as its chairman, and the ECs would be junior to him. At the time of its enforcement, this Act had no provisions to govern the transaction of the Commission's business.

For the next two years, the ECI continued to function as a single-member body. Peri Sastri passed away while in office in 1990, and V S Ramadevi was given temporary charge of the Commission until T N Seshan was appointed CEC on December 12, 1990.

#### What happened thereafter? How did the ECI become a multi-member body again?

Unhappy with Seshan asserting the Commission's independence, the Congress government headed by P V Narasimha Rao decided to expand the ECI again on October 1, 1993. M S Gill and G V G Krishnamurthy were appointed ECs. Simultaneously, the Chief Election Commissioner and Election Commissioners (Conditions of Service) Act, 1991 was amended by an Ordinance. The name of the law was changed to The Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991. The government made

the CEC and the ECs equal by giving all three the status of a Supreme Court judge, retiring at the age of 65 years.

In other words, all three Commissioners now had equal decision-making powers.

Also, a new chapter titled 'Transaction of Business', containing Sections 9, 10 and 11, was introduced in the Act. These three sections envisaged that the CEC and the ECs would act in such a manner that there was unanimity in their decisionmaking and, in case there was any difference of opinion on any issue, the majority view would prevail.

Seshan moved the Supreme Court, alleging that the three provisions were an attempt by the government to curtail his powers. A five-judge Bench headed by Chief Justice of India A M Ahmadi dismissed the petition (*T N Seshan Chief Election Commissioner vs Union Of India & Ors*, July 14, 1995), and the ECI has functioned as a three-member body ever since.

#### What is the nature of the powers of the Election Commission of India?

In *Mohinder Singh Gill & Anr vs The Chief Election Commissioner and Others* (December 2, 1977), the Supreme Court ruled that "Article 324, on the face of it, vests vast functions in the Commission, which may be powers or duties, essentially administrative, and marginally, even judicative or legislative". This means the ECI mainly has administrative functions in the preparation of electoral rolls and conduct of elections. The Commission has to exercise its powers and

perform its functions under Article 324 in conformity with the provisions of Sections 9 to 11 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991. The three Sections apply to all the items of business transacted by the Commission — whether administrative, judicative or legislative.

#### What is the procedure for disposal of matters that come before the Election Commission of India?

Files are normally initiated at the level of the relevant sections/divisions in the Commission's secretariat, and they move upwards, going up to the Deputy Election Commissioners (DECs) or Directors General (DGs) of the relevant divisions. The DECs/DGs then mark the files needing the Commission's decisions or directions to the ECs in order of their seniority. With the observations of the ECs, the file ultimately goes to the CEC.

In some cases, where any of the ECs or CEC desire a matter to be discussed in person, that matter is deliberated upon in the meetings of the full Commission, which are normally attended by the concerned DECs and DGs as well. The decisions taken in those meetings are then formally recorded in the file concerned.

#### What happens if any of the Election Commissioners dissent?

If some difference of opinion persists even after oral deliberations and discussions, such dissent is recorded in the file. All opinions

(S K Mendiratta served with the Election Commission of India for more than 53 years. He spoke to Ritika Chopra)



The Indian EXPRESS

FOUNDED BY

RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

# Dear school leavers

Don't believe all the stories that will be told to you about the world you face



PRATAP BHANU MEHTA

WE OFTEN THINK of education as the means through which social problems and contradictions might be mitigated, if not resolved. But often the reverse is also true: The larger social structures constrict educational possibilities and the way in which we imagine the relationship between education and life. As another generation of school leavers enters college or the job market, we will console them with familiar platitudes. Do not place undue emphasis on marks. We need a greater supply of institutions of higher education so that competitive pressures for admissions decreases. Choose an educational pathway that you like, rather than conform to social pressure, and so on.

These are fine sentiments and make a good deal of sense. But even as we say these things, we know there is something hollow about them in our social context. The familiar tensions between the practical demands of navigating a pathway in a modern economy, and education for its own sake, will play out within each one of us. We will try and resolve these through our individual choices.

But it is worth thinking of the ways in which these sentiments run headlong against other deep social realities. Simply put, broader structures of inequality and unfreedom actually constrain educational choice. The freedom we urge upon our students runs into a world of necessity and constraint, and the promise that education will be the pathway to equality exposes them to a new kind of inequality.

Let us take the equality issue first. There is one familiar sense in which our education system is deeply inegalitarian. Inherited privilege of income, caste and parents' education still deeply structures educational opportunity. Even success at many so-called objective measures of ability that we thought would create pathways to picking out talent turns out to be determined by inherited privilege. And for this the focus, rightly, has to be on access to education, and the easy availability of high-quality institutions.

But the inequality challenge is not just about access. It is about modes of valuation that are inherent in the way we think of the

relationship between education and society. The philosopher, Thomas Nagel, once wrote: "When racial and sexual (and you might add, caste) injustice have been reduced, we shall still be left with the great injustice of the smart and the dumb, who are so differently rewarded for comparable effort." It must be pointed out that "smart" and "dumb" are categories that are themselves the products of forms of social valuation. But to deny the fact that in our cultures there is a deep tension between the cult of individual achievement and the equal valuation of persons, would be to deny reality. You might argue that to acknowledge some particular achievement (good marks) is not necessarily to devalue persons who do not display that achievement. But the truth is that it is hard to sustain that distinction in practice. In aristocratic societies, trappings of wealth and social valuation go hand in hand. In our societies, manifest ability and social valuation go hand in hand; recognising accomplishment shades over into valuing persons differently.

But this mode of valuation is compounded by two other features of modern society. The first is meritocracy, the idea that your achievement is due to individual effort. Again, this is an understandable association. But its corollary is that failure is also an individual failing. In an aristocratic society you might be subordinate, but the psychic story is that this is just the nature of things. In our societies, the individual is devalued or blamed for the lack of achievement, there is a different kind of stress associated with falling behind. Valuing individual achievement is a great spur to ambition, but it is also a psychological disaster: In modern constructions of failure, you have no one to blame but yourself.

The second myth of modern society is this: You might not be able to do some things well, but there are other things you might do well. This is good advice. But the plausibility of this advice depends again upon modes of social valuation. In societies where the income and status gaps between different professions are inordinately high, the line between choosing your own thing and being condemned to social oblivion can be pretty thin. In societies where the social

cost of not making it to the top five or 10 per cent are so high, it is also more difficult to make the argument in good faith to "do your own thing." The life penalties associated with those choices can be much higher.

So as school leavers enter the real world of college and jobs, we often talk to them in bad faith. We say that individual achievement does not matter, when everything around us is structured around individual achievement. We say choose your interests. But the social and economic penalties associated with some professions and choices are so much greater than others. And there is no idiom in society that allows it to say that different professions are indeed valued, if not equally, between tolerable ranges. We say competition is not everything. The hard truth is that almost all the dominant institutions of our existence are structured around competition. And the sheer pressure of numbers is going to make the competition even more severe. We value freedom and encourage it. But freedom simply means the absence of formal constraints. This freedom runs headlong into the empire of necessity: The necessity to work based on dominant modes of social valuation.

Of course, education is still a pathway to empowerment. In its own way, it is still subverting many hierarchies. Knowledge is enchanting; as is the modes of self fashioning education provides. But faced with the annual spectacle of millions of young people arrayed on a commensurable grid of marks, we have to examine the stories we tell them about the world they face. We also have to think beyond individual pathologies. The culture of blame inscribed in our system, or the stigmatisation of parents who are often telling truths to their children about how the world works.

Naipaul once wrote: "The world is what it is; men who are nothing, who allow themselves to become nothing, have no place in it." It is hard to imagine education as a free and equal space, unless broader society lifts the threat of oblivion from the heads of those who do not achieve by its lights.

The writer is vice-chancellor of Ashoka University. Views are personal

## RATE THE RATERS

Accountability of rating agencies is crucial, for India's debt markets to deepen and to help channelise savings

FROM THE SENIOR management of the infrastructure financing firm and developer, IL&FS, now under the scanner for mismanagement and governance failures, the spotlight has shifted to at least four credit rating agencies. They are being probed for their role in rating the debt instruments of one of its multiple subsidiaries, IL&FS Financial Services Ltd (IFIN). According to a report in this newspaper, officials of Care Ratings Ltd, ICRA Ltd, India Ratings and Research Pvt Ltd and Brickwork Ratings India Pvt Ltd have been questioned by the Serious Frauds Investigation Office on why they failed to downgrade the ratings of the company's debt paper given the deterioration of financials and despite the red flags raised by some of their own subordinates.

India's rating agencies have been under watch since last June when IL&FS Transport Networks defaulted, and it became known that the parent company, IL&FS, had still been assigned the highest rating of AAA. After widespread criticism of the rating agencies and their processes, in November last year Sebi tightened the rules governing them to force them to factor in liquidity drivers, including cash balances, liquid investments, cash flows to meet maturing debt obligations and to disclose data on ratings action periodically to stock exchanges. Similarly, the RBI, too, put them on notice in cases of ratings of debt for resolution plans of companies. Parliament's Standing Committee on Finance took note of all these while recommending an end to the conflict of interest inherent when a rating agency or its subsidiary carries out advisory or consultancy services to an issuer of debt. It has also made out a case for rotation of rating agencies and a re-look at the current issuer pays model wherein a company which is issuing debt pays for ratings. This is a model which was reviewed in the West after the 2008 global financial crisis but was not shelved in favour of other business models such as investors, the regulator, the government or stock exchanges paying for ratings. The solution perhaps lies in barring rating agencies from taking up other businesses which have a potential conflict of interest, greater information sharing among financial sector regulators and oversight, easing of entry barriers, and in nudging companies to disclose more information and stiffer monetary penalties.

From a broader perspective, credit rating agencies play an important role. Rating agencies can be effective gatekeepers for investors besides helping them make informed decisions and lowering costs for lenders and borrowers. If India's debt markets have to be deepened and to help channelise the vast pool of savings, both at home and overseas, especially long term infrastructure projects, a key element will be improved governance and credibility of the rating agencies.

## MYANMAR'S GOOD NEWS

Release of Reuters journalists from jail is reason to celebrate, at a time when more journalists are behind bars than ever before

REUTERS JOURNALISTS WA Lone and Kyaw Soe Oo have been released from Yangon's Insein prison, where they were incarcerated for 511 days for breaking Myanmar's archaic Official Secrets Act while reporting on the Rohingya crisis. Their conviction in 2017 had galvanised the international community, with world leaders and rights organisations clamouring for their release. While their liberation is reason for celebration, at a time when the press worldwide is operating under unprecedented pressure from governments and political forces, they did have to endure the entire legal process, and were released only in an annual amnesty, two among 6,520 prisoners. The unwillingness of the state to take back a case which became a symbol of the repression of the press has considerably damaged the standing of Aung San Suu Kyi, Nobel Peace laureate and the country's first State Counsellor.

The case against the journalists is widely regarded as trumped-up. They were arrested after being called to a meeting with government officials, and support for the conviction under the colonial-era law, ironically, had come from documents on their cellphones, which were recovered by cutting-edge Israeli technology. The irony has not been lost on critics of archaic laws which are retained on the statute books of several nations because they are useful against critics and opponents, including the press. Nicholas Bequelin, head of Amnesty International in the region, has reacted: "Until these laws are repealed, journalists and activists remain under a permanent threat of detention and arrest." In India, apart from the Official Secrets Act, the criminalisation of defamation remains a serious issue — the Congress has promised to reduce it to a civil offence if voted to office.

While fake news is a matter of urgent concern, the issue of journalists who are penalised for reporting the truth is no less pressing. An unprecedented number of journalists are behind bars worldwide simply for doing their job, which is to question power. In its 2017 annual survey, the Committee to Protect Journalists found that 262 professionals had been incarcerated for their work, a figure that is slightly higher than the previous year's tally, which itself was a record. Recep Tayyip Erdogan's Turkey took the cake, with China and Egypt close behind. But journalists are also working under unprecedented pressure in democracies led by demagogues, like the US. Amidst a rapidly developing global problem, the release of the two Reuters journalists offers hope.

## STRANGER IN HER HOME

Asia Bibi's flight to Canada speaks of the climate of unfreedom she had to face in Pakistan

SOMETIMES, FREEDOM CAN be a long plane ride that takes you away from a place that no longer feels like home. Pakistan's Asia Bibi, the first woman to be sentenced to death under the country's controversial blasphemy laws, arrived in Canada where she has been granted asylum, after Pakistan's Supreme Court upheld her acquittal and declared her a free woman.

A Roman Catholic, the ordeal of Asia Bibi, 47, of Sheikhpura near Lahore, began on a June morning in 2009 when she had been out working as a farmhand with her Muslim neighbours. A row over drinking water — Asia Bibi had had a drink from a cup that her neighbours were loathe to share — rapidly escalated into accusations that she had defamed Prophet Mohammad, a punishable offence under the Pakistan Penal Code. As Asia Bibi was arrested, convicted and put on death row, her almost decade-long fight for justice sharply polarised Pakistani society, with hardliners such as Khadim Hussain Rizvi and his religious political party, Tehreek-e-Labbaik Pakistan, relentlessly campaigning to uphold her death sentence even as some moderate politicians such as Salman Taseer and Shahbaz Bhatti spoke up in favour of her release and paid with their lives.

Across the world, an obsession with religious supremacy has led to an increase in vigilantism and mob violence, turning neighbours into strangers, friends to enemies. In a country like Pakistan, where religion guides the legal framework, the blasphemy laws have been a hotbed of controversy, often seen as a means to settle personal scores and as a majoritarian instrument of oppression against the country's minorities. In upholding Asia Bibi's acquittal, first granted in October last year and then challenged by Islamist hardliners, the Supreme Court of Pakistan has done its duty by her. Unfortunately, the same cannot be said for Asia Bibi's fellow citizens who hounded her with death threats and denied her both the dignity of equal opportunity and the confidence that comes from being among one's own.

## AN UNFAIR PROCESS

Supreme Court must re-examine procedure to probe allegations against CJ



REKHA SHARMA

A PANEL of three Supreme Court judges has cleared the Chief Justice of India of the allegations of sexual harassment levelled by an ex-staffer of the Court. While the CJ stands vindicated, the procedure adopted by the panel in arriving at its conclusion has left much to be desired. In fact, one of its own, Justice D Y Chandrachud, had reportedly written to the panel to broaden its membership by including an external member. He also asked the panel to allow legal assistance to the complainant. The Hon'ble judge, it seems, went by the call of his conscience, and echoed the sentiments of a large majority, both within and outside the judicial circles. Given the sensitivities of the case, and the fact that it involves someone as high as the CJ, the stand taken by Justice Chandrachud is highly courageous and deserves kudos.

In 1997, in the Vishaka case, the SC laid down that a committee inquiring into allegations of sexual harassment at the workplace should be headed by a woman, and not less than half of its members should be women. To rule out pressure or influence from senior levels, the Court directed that such a committee should comprise a mem-

ber from a third party. After the Vishaka judgment, came The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This piece of legislation was enacted, keeping in view the Vishaka guidelines. There is no doubt that the SC's in-house panel in the case against the CJ was not constituted according to the Vishaka guidelines; it also did not go by the provisions of the 2013 Act. We have been told that the panel was set up under the SC's own procedure to examine whether the allegations warranted an inquiry. The intention behind adopting this procedure is to protect judges from motivated and false allegations. Such charges can, of course, tarnish the reputation of the judge concerned and more importantly, embroil the court in a controversy. But this gives rise to another question: Should the law of the land be ignored when it involves high-ranking individuals? By the same logic, many other organisations and institutions may adopt their own set of procedures on the plea that a non-internal inquiry may bring into disrepute not only the individual concerned but also the institution itself. Would the SC be comfortable with such a procedure? I,

therefore, humbly suggest that the Court revisits its procedure in the case against the CJ. Meanwhile, the complainant has suffered on two counts. The in-house panel was not constituted as per the law and she was not allowed the assistance of a lawyer. It is true that the matter which the panel was dealing with was unprecedented since it involved the highest judicial functionary of the country. Therefore, it was quite likely that everyone involved was under strain. However, even then, the rules of the game ought not to have been given a go-by. While it was imperative that the reputation of the CJ did not suffer because of allegations, it was equally necessary to give the complainant a fair deal. After all, she was merely asking for legal assistance, and now, a copy of the report of the panel.

As I wrote in an earlier piece ('Let the truth prevail' IE, April 24), the truth must come out, however bitter it maybe for either side. May we, in the meanwhile, also hear from those leading lights of the Bar who have been quiet so far.

The writer is a former judge of the Delhi High Court. Views expressed are personal



## MAY 10, 1979, FORTY YEARS AGO

URS UNDER SCANNER DESPITE TWO YEARS of work put in by the Grover Commission, the Karnataka Chief Minister Devraj Urs, it appears, has got away. The commission in its final report has indicted Urs on charges of favouritism and abuse of power. The Union government has accepted the findings of the Grover Commission, but finds itself helpless in taking action against Urs, who was the main target of the inquiry by the former Supreme Court judge. After studying the Grover Commission report for two months, the Union government has merely passed it on to the government of Karnataka for what it describes as "follow-up action". This has led to the peculiar situation when the Centre ex-

pects that the state government will take action against the chief minister and two of his former colleagues. Early last year, the Grover Commission submitted its first report indicting Urs on four charges relating to nepotism, favouritism and misuse of official position.

JUST A REPORT: URS DEVRAJ URS APPEARED unperturbed over the findings of the Grover Commission. In reply to a question if he would oblige the Opposition by conceding their demand for his immediate resignation, he said that it was only a report not a judgment.

PUNJAB POLICY ORGANISED ELEMENTS IN the Punjab

Police had planned a state-wide uprising on the lines of the 1973 PAC mutiny in Uttar Pradesh, it is learnt. The direct action aimed at seeking better working conditions and "protection against political dadas" was timed for the current week. But yesterday's spontaneous incidents in Patiala forestalled the impending action by the police ranks.

NO RSS FOR STAFF CENTRAL GOVERNMENT SERVANTS can't participate in the activities of the RSS and the Jamaat-e-Islami. The Union Minister of State for Home cited a government order dated November 30, 1966 to this effect in response to a question in the Lok Sabha.

# 13 THE IDEAS PAGE

## WHAT THE OTHERS SAY

"A million plant and animal species are under threat. Humans are largely to blame — but we will pay the cost too." — THE GUARDIAN

## Intimate enemies

Prolonged exposure to insurgency situations takes its toll on military personnel. Centre's Kashmir policy ignores this



VAPPALA BALACHANDRAN

IT IS A globally-accepted axiom that a regular army's fitness to face external enemies gets impaired when it is frequently used against the domestic population in insurgency situations. This is because insurgency has some amount of popular support, as opposed to terrorism. India had to face insurgencies soon after Independence. As a result, we have done considerable research on the adverse effects to the mental health of our armed forces when exposed to prolonged insurgencies. Thus, it is not surprising that leading foreign military researchers have been citing our studies on this subject.

A 2012 paper in *Military Medicine*, a journal of the Association of Military Surgeons of USA (AMJMS) quoted a 2006 research paper in the *Indian Journal of Psychiatry* titled 'Psychological effects of low intensity conflict (LIC) operations' on the mental health of our troops. The researchers studied responses from 568 service personnel working in "Low Intensity Warfare" areas. An equal number from other areas was also examined for comparison. They found that those working in LIC areas had suffered from "significantly higher scores" of adverse psychological effects.

The reasons were vagueness on the aim of the operations, a feeling that it is a "futile war with no benefits to the country", fear of unexpected attacks, frustration at fighting with "one arm tied behind the back", anger against those who incite insurgency, lack of societal support to the troops, adverse media publicity, hostility from local public, criticism from human rights groups, lack of monetary incentives and a feeling that their families back home were insecure. The research found that such soldiers had "significantly higher depression, alcohol abuse and psychiatric distress compared to those in other locations". They said that conventional military training made the soldier think in clear-cut extremes like "black and white, friend and foe". However, this created problems in LIC "where the concept of 'enemy' cannot be applied to one's own people".

*Military Medicine* in turn examined the situation in Iraq and Afghanistan after the US Counter-Insurgency (COIN) strategy was rolled out on the termination of the regular war. They found that this had resulted in confusion among the soldiers in the "absence of a clear demarcation between the ongoing combat operations and the implementation of stability operations" to support the nascent Iraqi government due to the "unpredictable threat of an active insurgency". This was because the local public emerged as the decisive factor in COIN for winning over "the peoples' minds", whereas it was not so earlier.

The COIN strategy was meant to supplant insurgent support among the public and displace its influence from social networks. As General David Petraeus, com-

mander of the Iraq Multinational Security Command from 2004 and later CIA director said: "Insurgency is something much bigger than just a few terrorist cells. It is also establishing a political environment that helps reduce support for the insurgents."

The US Department of Army & US Marines faces several intangible realities while executing this strategy: The more force they use, the less effective it becomes because of public hostility; the more they protect their soldiers through heavy escorts (or stopping civilian traffic on highways as we saw in Kashmir), the less secure or confident they appear in the public eye. If a particular tactic works this week there is no guarantee that it would work next week.

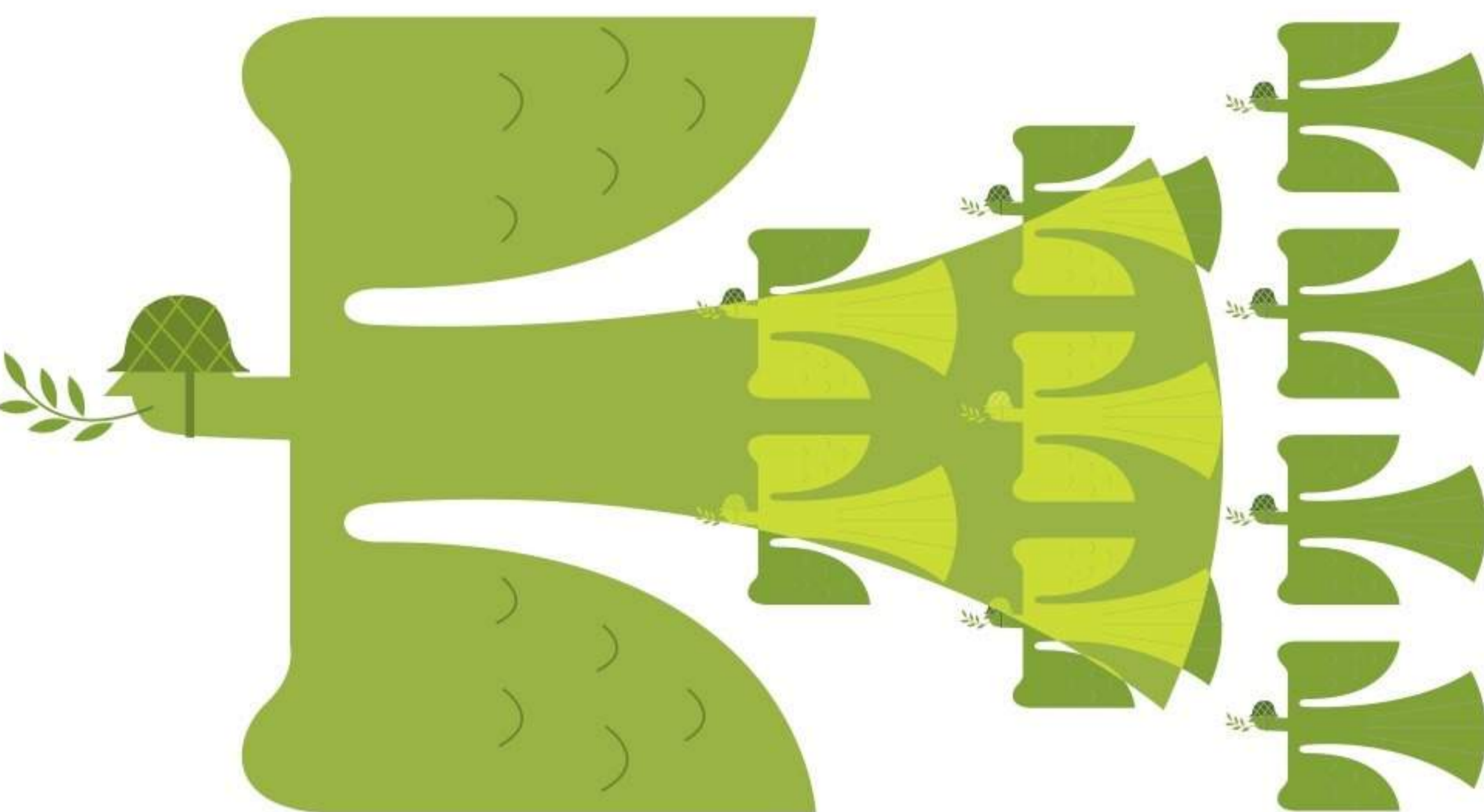
As a result, astute strategists seldom use only "muscular" strategy to tackle insurgency. History records that insurgency was always tackled through a combination of coercive action, conciliation through talks and rehabilitation. Also, all nations try to put civilian agencies to face the public keeping the army in the background.

This will be evident from an excellent compendium, *Policing Insurgencies*, edited by Christine Fair and Sumit Ganguly (Oxford) for which I was asked to do a pre-publication editing in May 2012. The book examines tactics used in 10 insurgencies. These included old cases like the Hukbalahap communist rebellion (Philippines, 1946-54), Malayan communist emergency in two phases (1948-60) and Kenya's Mau Mau (1952-60) where the deadlock was broken after Sir Richard Catling, the new police commissioner, met Jomo Kenyatta in prison. These also included ongoing problem cases like Northern Ireland, Colombia, Iraq, Afghanistan and our own Sikh, Naga and Maoist insurgencies.

Ignoring this historical experience, the BJP government has landed us at the other end of the spectrum in Kashmir by putting the army directly against the public, thereby exposing them to unending strain. Their claim of support to our armed forces has not been followed up by creating conditions for overcoming insurgency through a parallel track of political process as they consider all Valley protesters as Pakistan's proxies. At times, it looks as though they are waging war on the common public only to protect their troops, like the highway blockade which inconvenienced thousands. In that process, we have lost many more security personnel since 2014, questioning the myth that we are safer under the BJP rule: In 2014, we lost 51 security personnel while fighting insurgency in Kashmir. It touched an all-time high of 95 in 2018. This year we have already lost 59. Till 2014, the Maoists used to kill maximum number of security personnel. Under BJP rule, Kashmir has overtaken the Maoists.

Prime Minister Narendra Modi claims during his campaign speeches that he was able to make India strong through his personal diplomacy with top foreign leaders. Unfortunately, his repeated reference to Sri Lanka's Easter Sunday massacres and comparison with the Pulwama killings has not been received well in that country, partly because Pulwama also was a symptom of our major security failure like the Sri Lankan killings.

The writer is a former special secretary, Cabinet Secretariat. Views are personal



CR Sasikumar

## Soldiers for peace

India needs a Shanti Sena to fight for the foundational values of the republic



VENU MADHAV GOVINDU

IF WE TAKE stock of the performance of the Indian government in the last five years, it fails on many counts. Reckless measures such as demonetisation have seriously impacted the economy. Our credibility in international politics has received a severe drubbing. But the singular characteristic of the Narendra Modi regime has been its direct assault on the very identity of the Indian republic.

Profoundly shaped by the movement for Independence, the modern Indian identity transcended the European definition of a nation in monolithic terms of race, religion, culture and language. India was simply the sum of its peoples. One is reminded of the evocative definition of *desam* or a nation by the Andhra social reformer and pioneering writer, Gurajada Apparao. Gurajada's declaration in a 1910 poem is common currency in Telugu: "*Desamante matti kadoyi/desamante manushuloyi*." Translated, it prosaically reads as "A nation is not its land/A nation is its people".

Partition severely tested and wounded this formulation of our nationhood. But over the decades, India has largely avoided the narrowness of monolithic nationalism that has plagued many post-colonial societies. During the struggle for freedom, Hinduva held itself aloof from this worldview. It has bided its time and now seeks to radically reshape what it means to be an Indian. In the past few years, brazen attacks have been unleashed on Dalits, Muslims and other minorities. A climate of fear and terror has been created by measures centred around the National Register of Citizens in Assam and the wanton lynching of Muslims across the country. But let there be no doubt that it is the inexorable logic of any toxic ideology to encompass more people into an ever-expanding circle of hate.

In the face of a bruising attack on India's

secular constitutional identity, the opposition parties have been found to be utterly wanting. Most of them have shown little interest in challenging the construction of an aggressive political Hinduism that defines itself by demonising everyone else. With national elections underway, many people have reposed their hopes in a defeat of the present regime. This seems to be wishful thinking at best. One of the durable transformations effected in the last few years is the normalisation of falsehood and bigotry and the steady undermining of a number of institutions. The legacy of such shifts in the public realm is not going to disappear with a change in the political regime.

Under such bleak circumstances, civil society initiatives like the exemplary Karwan-e-Mohabbat have taken upon themselves the onerous task of addressing the darkest crimes of our times. They have reached out to the families of the victims of mob lynchings and offered the salve of empathy and solidarity. Important as these initiatives are, we need a much larger approach to confront what amounts to an existential challenge to the Indian republic. To this end, history might offer some useful lessons.

Throughout the late colonial period, Indian life was punctuated by riots. Like today, during that period there were individuals who recognised the value of social harmony and were willing to sacrifice their lives in the cause of Hindu-Muslim amity. For instance, the indefatigable editor of the Kanpur newspaper, *Pratap*, Ganesh Shankar Vidyarthi, was murdered in 1931 while trying to intervene during deadly riots. The most famous of such individuals is Mahatma Gandhi.

Throughout his life, Gandhi demonstrated a most capacious understanding of humanity which accorded respect and dignity to all. The last years of his life were spent in a lonely and heroic fight against the furies of communal violence as the dream of a non-violent and compassionate India dissolved in front of his eyes. Gandhi was, to a large extent, able to stanch the blood-letting with his quiet and determined action in challenging both Muslim and Hindu communalism in Noakhali and Calcutta. He then moved to Delhi and played a fundamental role in restoring a sense of belonging to a number of Muslim communities which were under siege in the aftermath of the killings in the

newly-formed Pakistan. Eventually, he fell victim to the same ideology of hate that rules the country today.

As the civic activist Harsh Mander has pointed out, Gandhi had an endless capacity for radical love. But aside from acting out his personal beliefs, Gandhi recognised the need for both moral exemplars and grass roots organisation to propagate the values he desired to institutionalise in society.

In 1938, Allahabad witnessed serious riots between Hindus and Muslims. Although the city was the headquarters of the Indian National Congress, the riots could only be contained with the deployment of police and military troops. Alarmed at the prospect of such recurring violence, Gandhi proposed the constitution of a Shanti Dal, a non-violent peace brigade. Ever ambitious, Gandhi conceived of lakhs of peace activists who would work continually to propagate the philosophy of non-violence but also respond fearlessly and intercede in a peaceful manner to transform the atmosphere of violence during moments of crises. The scope of the Shanti Sena was in all contexts of potential violence and was not limited to communal issues alone.

Owing to the exigencies of the time, Gandhi could not work out his proposal. Subsequently, the idea of a Shanti Sena was taken up by Gandhian constructive workers. It achieved a measure of success in intervening in situations of communal riots as well as addressing political problems in places such as Nagaland and Cyprus. Eventually, owing to differences between Vinoba Bhave and Jayaprakash Narayan, the Shanti Sena exercise came to an end.

Irrespective of the electoral outcomes on May 23, India stands at a crossroads. The foundational values of India as a modern republic that accords equal respect, dignity and opportunity to every citizen are under extreme duress. Mounting an effective challenge to communalism is a task that needs both immediate attention and a long-term strategy. India needs a Shanti Sena for our times.

The writer is a biographer of the economic philosopher and constructive worker, JC Kumarappa and is currently working on a thematic history of Gandhi's life and work in the 1930s. He is an associate professor at the Department of Electrical Engineering, Indian Institute of Science, Bengaluru

## LETTERS TO THE EDITOR

### FLORA MATTERS

THIS REFERS TO the editorial, 'Wake-up call' (IE, May 9). Action needs to be taken to prevent extinction of species. There should be a global summit for such a purpose. The extinction of plants is, in particular, a matter of grave concern as it affects the climate.

Sanjay Chawla, Amritsar

### TOXIC MIX

THIS REFERS TO the article, 'Hindu, by any other name' (IE, May 8). Hinduism is like a vast ocean and history shows us that the Hinduism of today is very different from the past. But religion shouldn't be mixed with politics. Countries that do so end up stifling the voice of people, who don't conform to the views of the majority.

Pragya Srivastava, Ghaziabad

### BAD IN LAW

THIS REFERS TO the editorial, 'Not justice' (IE, May 8). The ex parte verdict of the panel probing allegations against the Chief Justice of India falters on the ground of constitutional morality. It is true that the *Indira Jaising vs Supreme Court of India* verdict doesn't entail placing such a report in public, but it must be kept in mind that the judgment dates back to the pre-RTI era. Not availing fair treatment to the woman complainant doesn't concur with due process.

Bhoomi Keshawala, Veraval

### LETTER OF THE WEEK AWARD

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

THE WINNER RECEIVES SELECT EXPRESS PUBLICATIONS

### LET HER CHOOSE

THIS REFERS TO the article, 'In the garb of religion' (IE, May 9). A Muslim woman's practice of wearing the hijab or burqa is a social practice. While the faith of a person has little to do with the clothes they wear, they are still significant in the social milieu. While there can be regulations on clothing in state institutions, in the private sphere, a woman must have choice.

Anirudh Parashar, Solan

## THE Urdu PRESS

### EC UNDER SCANNER

THE ELECTION COMMISSION has come in for some stringent criticism from several papers.

*Munsif's* editorial on April 27, 'Need an impartial EC,' notes that "it is sad to report that in this election, the EC's conduct has 'been very weak'. Leaders are flagrantly violating the code and all that the EC has done is to call for details. After the EC ticked off leaders like Mayawati and Yogi Adityanath, we realised that the agency does exist". The paper argues that in cases pertaining to major statements, the EC has had a limited response. "The view is gaining currency that it is working under the government like a department and it has no powers," *Munsif* alleges.

*Inquilab's* editorial on the same day, 'EC ki saakh,' points out that "the criticisms levelled against this EC are unprecedented. It is because of such criticisms that some moves have been made to temporarily stall the campaign of a few leaders." The paper alleges that the PM has not been reprimanded for his Latur statement in which he asked first time voters to dedicate their vote to Pulwama martyrs. "It is clear," the paper goes on to say, "that the PM, along with other leaders, is involved in violating the code of conduct, and he must be held to a higher standard". The

paper raises a few questions: Does this mean there is a different barometer for the PM as compared to other leaders? Why is the EC doing this? Is it under some pressure?

Another editorial in *Inquilab* on May 3 contends that more than the elections, the EC's conduct is under scrutiny.

*Etemad*, the AIMIM's mouthpiece, asks in an editorial on April 29, that if the Supreme Court can set up an administrator for the BCCI and cricket and for the disputed land in Ayodhya, why not have a Court-directed administrator to ensure that the EC acts appropriately? The paper says it is a cause for concern if this autonomous institution, mandated to ensure free and fair elections, is being accused of partisanship.

### MASOOD AZHAR'S FALL

*MUNSIF*, ON MAY 3, describes Masood Azhar being designated a global terrorist as a "symbolic victory". The paper contends that the UN Security Council's decision may "get a few more votes for a worried BJP, but it is unlikely to deter terror in Jammu and Kashmir". The paper says that Modi is trying to "government-serving" media is trying to project the UNSC decision as a result of Prime Minister Narendra Modi's great leadership. The paper says, "that the BJP should

be reminded that it was a government led by the party which released Masood Azhar and escorted him to safety. Why did that BJP government release Azhar? If the BJP government hadn't released him, we would not have had the attack on Parliament, or Uri, Pathankot or Pulwama. The party tomming the recent success should be asked such questions because our forces have had to suffer for its actions."

*Etemad* on May 3 says, "India has secured a diplomatic victory in Masood Azhar being named in UN's list of global terrorists. After the terror attack in Pulwama, India had stepped up its efforts towards this end. Founder of the Jaish-e-Mohammad, Azhar has been called out for being close to al Qaeda. But there is no reference to Pulwama in the UN list, while al Qaeda, Daesh and other extremist groups are mentioned."

### POLITICS, GENERALLY

THE CURRENT POLITICAL events and the acerbic discourse in the current elections is a subject of editorials.

*Inquilab* on May 6 has an editorial, 'Bhrashtachari zubaan' (corrupt tongue). The editorial makes a reference to Prime Minister Narendra Modi controversially terming Rajiv Gandhi as a "bhrashtachari". It

writes that while election results will come on May 23, May 21 is the death anniversary of the former prime minister. The paper notes that "while attacks on political rivals are natural, there should be standards and limits. It does not behoove the person occupying the PM's seat to refer to the father of the head of the rival party in such terms." The paper says that, "We need to end corruption, but before that we must end the politics of falsehood and deception". There must be a way to ensure that people who lie to the people are punished. That's how we will have "transparent elections and people will not be able to make false promises to the people".

*Sahara* on April 29 adopts a philosophical tone and raises a few questions in an editorial titled; "Which stage of history are we at?" "How many more funerals of ethics will we attend?" "What would be the end result of this open warfare against Muslims and minorities?" It goes on to ask if the Republic "will survive after May 23? What of our Constitution? What will be our responsibility? A certain political party has made it clear that for a Hindu Rashtra, violence and extremism is valid." The editorial ends by asking people to speak out.

Compiled by Seema Chishty



## Loud and clear

New Delhi must snap out of its denial on the discord with the U.S. on market access

After a scathing speech by U.S. Commerce Secretary Wilbur Ross in New Delhi this week, it is no longer possible for the government to brush under the carpet its differences with Washington. Speaking to Indian and U.S. businesspersons, Mr. Ross lashed out at what he called India's unfair trade practices and "overly restrictive market access barriers". His comments followed a series of measures by the U.S. that have affected India. These include a refusal to revoke or waive tariff increases made last year on steel and aluminium, an ultimatum that India "zero out" oil imports from Iran by May 2 even without securing comparable alternatives, and the decision to withdraw India's GSP (Generalised System of Preferences) trade status. Mr. Ross repeated President Donald Trump's accusation that India is a "tariff king", and threatened India with "consequences" if it responded to U.S. tariffs with counter-tariffs, something New Delhi had threatened but not yet implemented in the hope of hammering out a comprehensive trade package. Despite rounds of talks, however, a package has remained elusive, and it is time for the government to articulate the problem on its hands.

In the face of growing U.S. aggression on the issue, the government that takes office after the election will have to urgently consider its options ahead. Clearly, the strategy of the past year, to ignore the differences in the hope that the problems would be resolved or that the U.S.'s trade war with China would occupy the Trump administration more, has not worked. New Delhi and Washington need to make a more determined attempt to sort out issues, starting from scratch if required, with tariffs. While the 50-60% duties on motorcycles and cars and 150% duties on American liquor that India imposes need a second look, the U.S. must see that average tariffs imposed by India (13.8%) are not much higher than those levied by economies such as South Korea and Brazil. In addition, the government will need to revisit some of its decisions like data localisation requirements and new e-commerce regulations, which were declared suddenly, while the U.S. must show some flexibility on India's price caps on coronary stents and other medical devices. The U.S. must understand the cultural differences over the labelling of non-vegetarian dairy products. It is unlikely that the Trump administration will temper its "my way or the highway" approach to Iranian oil sales, and New Delhi will have to work closely with other countries to build alternative financial structures to avoid U.S. sanctions. Where a compromise is not possible, the government should be ready to push back on unreasonable demands. Perhaps the most worrying signal from Mr. Ross's outburst was that Washington may not be willing to meet India halfway on trade issues. New Delhi must prepare accordingly.

## Endless war

The U.S. must put pressure on the Taliban to heed the Afghan government's concerns

Call by Afghanistan's Loya Jirga, a grand assembly of senior politicians and tribal and religious leaders, for a ceasefire between government troops and the Taliban underscores the mood in Kabul. Afghanistan's leaders, from its rulers to tribal chieftains, want to resolve the 17-year-long conflict. Over a four-day meeting that ended on May 2, the Jirga asked the government to set up a negotiating team with members from the assembly for talks with the insurgents. It also backed women's rights, a critical issue being debated by the political class amid the Taliban's rising clout. President Ashraf Ghani has said his government would honour the assembly's proposals, but wants the ceasefire to be mutual. The Taliban, for its part, immediately shot down the proposal, vowing to continue attacks through the Ramzan month. Without the Taliban's reciprocity, no ceasefire will hold. The group controls half of Afghanistan and has shown its capacity to strike anywhere, including in the most fortified of locations. It has also been engaged in direct talks with the U.S. for months. But the peace talks haven't prevented the Taliban from carrying out its summer offensive against the government. By rejecting the Loya Jirga proposal, the Taliban has once again made it clear that it is not ready to engage with the government in Kabul.

The Taliban's intransigence has darkened the prospects for peace. The talks between Taliban representatives and Zalmay Khalilzad, the U.S. special representative, are primarily focussed on withdrawing foreign troops from Afghanistan. The U.S. seeks, in return, an assurance that Afghanistan will not provide a safe haven to transnational terrorist groups such as al-Qaeda and the Islamic State. But for an eventual settlement of the Afghan crisis, the government and the Taliban need to talk. The war has long been in a stalemate. But the government and the Taliban see different ways out. The government is willing to engage the insurgents, a move which has now been endorsed by the Loya Jirga as well. But the Taliban, like any other successful insurgent group, wants to prolong the conflict, hoping that it can weaken the government's morale and reduce its military strength. The Taliban will change tack only if it is forced to do so militarily or through pressure. The government lacks the resources to accomplish either. It cannot defeat the Taliban militarily, as the 17 years of the war suggest. It cannot forge peace on the Taliban's terms as it would mean endangering whatever few freedoms the Afghans enjoy right now. This resource deficit can be bridged only with the help of the international community. The U.S., which is in talks with the Taliban, should not overlook the interests of Kabul. It must put pressure on the Taliban to cease hostilities and engage with Mr. Ghani's government.

# A vote for the sake of Parliament

Constituents must weigh their candidate's commitment to restoring the dignity of the legislature



NEERA CHANDHOKE

When political historians write of a government that came to power in 2014 on an impressive majority, what will they write? Will they write of a Prime Minister who had promised to set right everything that had gone wrong in India? Will they chronicle the political biography of a man who sadly frittered away the colossal mandate Indian citizens gave him? Will political satirists compare the Narendra Modi government to Sanjay Leela Bhansali's movies, all spectacle and din but little substance? Might political historians write of a man who refused to be accountable for his government's failure to provide the basic preconditions of a dignified life to citizens? Or might they record his government's refusal to deter criminals who openly bullied, maimed and murdered our own people. Will our historians tell frightening stories of Mr. Modi nearly taking his country to war, threatening the use of nuclear weapons, and using this to garner votes from a bewildered India? Do people in power really not know of the unimaginable death and destruction that nuclear wars bring upon people for generations to come? Historians will wonder.

What story history tells future generations will depend on the historian, her political vision, her interpretive skills and her commitment to the ordinary citizen who ekes out a life in want and misery. Court historians will lavish praises on Mr. Modi. But even they can hardly ignore his contempt for his-

tory, for the Prime Ministers that ruled the country before him, and above all his disregard of institutions that his predecessors had built laboriously.

### Questions about institutions

Take Mr. Modi's attitude to the august institution of Parliament. India's Constituent Assembly witnessed a rich and informed debate on the virtues of the parliamentary versus the presidential form of government. Members knew of the hijacking of Parliaments by executives, they were aware of dictatorial Prime Ministers, and they were cognisant of the fatal tendency of political parties to serve their own interests more, and those of their constituents less. Yet members of the Constituent Assembly decided on a parliamentary form of government.

They had good reasons for this. In a plural society, citizens hold diverse and sometimes contrary beliefs; they agree on some issues and they disagree on others. It is only a parliamentary system of government that enables the expression of diverse and divergent opinions. In legislative forums, representatives are supposed to give voice to the interests, opinions and needs of their constituents. Sometimes decisions are taken, at other times backdoor negotiations lead to fragile and provisional outcomes. It does not matter that decisions are provisional. In a democracy there can be no notion of a Hobbesian social contract that binds citizens in perpetuity. Times change, public opinion changes, new issues arise on the horizon, older ones have to be reiterated, and those issues that have become redundant need to be abandoned and replaced by fresh thinking.

Even though observers have



V.V. KRISHNAN

been disappointed by the failure of representatives to represent the interests of the people, they agree that in large and complex societies a parliamentary system of government is infinitely preferable to the presidential model. No one man can collect in his own being the wisdom and certitudes of his age. The precondition of good policy is dissent and debate, the willingness to learn from others, the readiness to change one's mind. The Indian Parliament is noisy, known more for the politics of pandemonium than rational debate. But it is only a parliamentary form of government that can prevent one man from hijacking power.

### Importance of the Opposition

So when Mr. Modi and BJP president Amit Shah repeatedly state that all they want is a Congressmukt Bharat, their desperate ambition to rid the country of an Opposition occasions puzzlement and discomfort. An Opposition is central to the working of a parliamentary system of government. Without an Opposition, the system degenerates into one-party rule. Across the postcolonial world, efforts to de-legitimise the Opposition and create a one-party state have inexorably slid into military rule, and subsequently into what western donors and academics call failed states. Pathological states can neither meet the needs of their people or institutionalise

power. A one-party dictatorship can hardly be the answer to din and deadlocks, it is part of the problem. Failed states abdicate sovereignty, they are rendered vulnerable and dependent on transnational financial agencies, upon conditionalities imposed by funders, they are brought to their knees by international human rights organisations, and they are despised by their own people. We should be critical of any call to do away with the Opposition – many a postcolonial country has floundered on the rocks of one-party rule.

There is more. We must never lose sight of the democratic principle that representatives proxy for their constituents. The Lok Sabha is not only a gathering of political parties, each member of Parliament represents the Indian people, even if he does so inadequately and incompetently. Members of the Opposition are in Parliament by the same rationale that members of the ruling party are. When Prime Minister Modi abuses the leaders of the Opposition, he should be aware that he abuses the people of India who have delegated power to these representatives in the first place.

If the individual is the prime unity of democratic life, and representatives merely a mode of representing her needs and interests in the forum of Parliament, candidates who ask for our vote should be worthy of our confidence. When political parties impose criminals, persons accused of terrorist activities, dealers and fixers upon constituencies, they insult the intelligence of the people who are going to vote. It is time that civil society organisations take this issue up. The moment a party announces a candidate, constituents should take up the task of debating

the merit or otherwise of the person. Realists tell us that parties choose candidates who are self-financing and who can deliver votes. This may be so, but it does not follow that contemptible people should be thrust upon constituencies. There is nothing more ignominious than invoking the nation or religion to justify candidates who send shudders down our collective spine. We deserve candidates we consider worthy, men and women of integrity.

### Text, and the practice

The system of parliamentary government that India adopted is complex, intricate and frustrating. But the institution represents citizens who are the locus of sovereignty. This is what Parliament is for. That is why it should be respected. Admittedly the Indian Parliament has not worked the way it should, but it is not the system that is flawed. In his last address to the Constituent Assembly on November 25, 1949, B.R. Ambedkar remarked presciently that the working of the Constitution does not depend wholly upon the Constitution. It depends on the people and the political parties they set up as their instruments to carry out their wishes and their politics. How will the people of India and their parties, he asked, behave? Will they uphold constitutional methods of achieving their aim? It is futile to say, he concluded, the Constitution has failed without taking into consideration the role of the people and their parties. We would do well to recollect his words. We have to insist on the restoration of the dignity of Parliament. It is a condensate of popular sovereignty.

Neera Chandhoke is a former Professor of Political Science at Delhi University

# By established law and procedure

In the CJI case, there is no violation of natural justice for the simple reason that it is not a judicial inquiry



V. GIRI

A well-publicised case of a complaint by a former employee of the Supreme Court of India against the Chief Justice of India (CJI) has raised questions about legal provisions, procedural propriety and different facets of what could be categorised as principles of natural justice. As a constitutional institution, the Supreme Court had to respond to the same. In my view the response will satisfy the requirements of the law, though I have seen that several opinions have been published to the contrary.

### In public domain

The procedure that was being followed cannot be criticised as being either illegal or otherwise arbitrary. A procedure had to be devised as the circumstances were unique, without any precedent. The only guidance available was "Report of the committee on in-house procedure (in brief "procedure"), drawn up by a meeting of the full court of the Supreme Court on December 15, 1999. The procedure adopted is a public doc-

ument available on the court website. It deals with situations involving a High Court judge, a Chief Justice of a High Court and a judge of the Supreme Court separately. The procedure specifically states that even in the case of an inquiry into a complaint received against a judge of the Supreme Court, the committee shall hold an inquiry on the same pattern as the committee constituted to examine a complaint against a judge of the High Court. The procedure does not expressly deal with the case of the CJI but it definitely would be applicable to the case of the CJI as well because the CJI is also a judge of the Supreme Court. Thus, the procedure does not contemplate the participation of a legal practitioner because it would not be a formal judicial inquiry involving the examination and cross-examination of witnesses by lawyers. It has to be remembered that the committee was bound by the rules under which it has come into being, and though as per the report it is entitled to devise its own procedure (where certain parameters have been laid down in the in-house procedure), the same cannot be deviated from.

The complainant did appear before the committee three times, as newspaper reports would show. It seems she did ask for permission to engage a lawyer, but it was denied. It also seems that she decided to stay away. It is her choice.



GETTY IMAGES/ISTOCKPHOTO

But it is difficult to countenance an opinion that the complainant felt intimidated by three Supreme Court judges being present, to hear and consider her version. We would do well to remember the obvious. The members of the committee are Supreme Court judges, comprising the seniormost judge of the Supreme Court and two women judges. Is not the fact that two of the members of the committee are women, one which would serve to make the complainant give her version in a more relaxed atmosphere? Is it right on our part to be sceptical about the propriety and correctness of the procedure followed by three Supreme Court judges, persons with unblemished reputations, in their character, conduct and integrity? A trust deficit would be counterproductive in these circumstances.

### Legal precedent

A claim for a copy of the inquiry report will have to be turned down going by the law laid down by the Supreme Court in *Indira Jaising v.*

*Supreme Court of India & Anr* [(2003) 5 SCC 494]. The report in the said case was made to the CJI and the report was confidential and discreet, only for the purpose of his information and not for disclosure to any other person. Because the inquiry in the present case was into the allegations made against the CJI, the report has advisedly been given to the next seniormost judge (next in seniority to Justice S.A. Bobde and Justice N.V. Ramana).

The procedure laid down in the in-house procedure has been adhered to in the present case. The law in *Indira Jaising* has also been adhered to. The complainant does have remedies in law. The principles of natural justice which are alleged to have been violated in the present case, by the refusal on part of the committee to afford the complainant a right of legal representation and the decision not to publish the report of the committee, do not and cannot have a straightjacketed approach. What has been done by the committee is in accordance with the procedure that is laid down. In doing so, it cannot be said that there is a violation of natural justice for the simple reason that what is involved is not a judicial inquiry but a fact-finding one. A right of legal representation is not inherent in such an inquiry.

The higher judiciary of this country is an institution to be

cherished and its reputation is a matter dear to every citizen of this country. Some of us are more vocal than the rest, but all of us are stakeholders. The Supreme Court and the High Courts are constitutional institutions and the men and women who occupy positions in the higher judiciary are required to be persons of impeccable integrity. But men and women are not infallible, and why should judges alone be an exception thereto? The founding fathers of the Constitution were wise persons and constitutional protection is afforded to the judges to see that they are able to discharge their duties for the benefit of the citizens of the country, without fear or favour, but this is not to say that there can be no complaint against a judge of the Supreme Court or the CJI. When such complaint is made, it has to be inquired into in accordance with the procedure that is laid down by the full court of the Supreme Court itself, and the said in-house procedure has been laid down keeping in mind the constitutional ethos. The said in-house procedure has all the attributes of law. It is a law governing such situations. Where the law is adhered to, claims for deviation therefrom or complaints of adherence to it cannot be countenanced.

V. Giri is a senior advocate in the Supreme Court

## LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

### Apology to court

Congress president Rahul Gandhi's unconditional apology to the Supreme Court for his wrong attribution to it of a phrase is the right solution (Page 1, "Rahul Gandhi tenders an unconditional apology to SC", May 9). Speech can spread poison and speech alone can also spread nectar. Our politicians should remember this. Hence they should try to speak the truth and be careful about their words.

A.J. RANGARAJAN,  
Chennai

### Plans A and B

Andhra Pradesh Chief Minister N. Chandrababu Naidu seems to be the sole crusader in trying to unite the Opposition parties and form a united front to take the BJP head-on soon after May 23 (Page 1, "Naidu meets Rahul; to call on Mamata too", and Editorial,

"Alternative dreams", both May 9). On the other side of the fence, the Telangana Chief Minister K. Chandrashekar Rao too is making similar efforts to form a non-Congress and non-BJP "federal front". This is intriguing. The moot point is that a strong government should be there at the Centre for the continuation and implementation of foreign policy, internal strategies and welfare schemes, while a strong Opposition needs to be in place to protect democratic norms. In both instances, the plans by Mr. Naidu and Mr. Rao are problematic. A government with the Congress as a small player will not be stable. Either the rest of the Opposition parties should come forward to support the Congress or be prepared to see the BJP instantly form the next government with the help

of its allies and or by means of horse-trading. The example of Goa is still fresh before us.

M.Y. SHARIFF,  
Chennai

The polling process is yet to be completed, but the actions of the regional party chiefs, Mr. Naidu and Mr. Rao, show that vital role in the formation of the next government at the Centre. However, since today's politics revolves around the number game than policies, it is too early for the Opposition to be getting into action. As the saying goes, "there are no permanent friends or enemies in politics". We wait for May 23.

KSHIRASAGARA BALAJI RAO,  
Hyderabad

### Seeking votes

As someone who has been following Indian politics and elections for a quarter of a

century, I see that in this general election, politicians in general have thrown all caution to the wind – there has been all sorts of name-calling, threats and mud-slinging. Rahul Gandhi is immature in the sense that he has not held any position of responsibility. He is where he is now because of his family. Prime Minister Narendra Modi on the other hand has risen to power from the lowest rung. A man of that age, experience and power should not stoop to the level of name-calling. He should have fought this election on the basis of his five-year rule. Both leaders need to step back and analyse their acts.

T. ANAND RAJ,  
Chennai

### Fragile earth

It is ironic that human activity that should have been the very fulcrum of intelligent advancement of

life on earth is becoming self-destructive (Editorial, "Circle of life", May 9). Though there is a certain degree of awareness about pollution, carbon emissions, and climate change, the enormity of the global crisis consequent to degradation of the natural world has not yet sunk in. Before it is too late, nations should initiate suitable actions to stop the impending catastrophe. In the Indian context, there is need to have a rigorous mechanism to ensure that the biodiversity angle is factored in in all economic policies. The government should encourage research and development with sufficient budgetary allocations, to identify and

document ways and means of preserving biodiversity. There should be a separate ministry of biodiversity.

KOSARAJU CHANDRAMOULI,  
Hyderabad

### Boost for rights

Asia Bibi's case sets a precedent for human rights in cases of falsified penitentiary proceedings. Her courage and perseverance are inspirational. Her lawyer deserves generous accolades for reviving our faith in humanity ("World" page, "Asia Bibi leaves Pakistan for Canada", May 9).

SAM VIJAY KUMAR J.,  
Villupuram, Tamil Nadu

MORE LETTERS ONLINE:  
www.hindu.com/opinion/letters/

### CORRECTIONS & CLARIFICATIONS:

In a Business page report headlined "Tata Chem to invest ₹2,100 cr. to expand capacity in 3 years" (May 5, 2019), the opening paragraph had described Tata Chemicals as "part of the \$110 Tata Group." It should have been \$110-billion Tata Group.

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# Are farm loan waivers a political gimmick?

PARLEY

Several interventions are needed on the demand and supply side to alleviate farm distress

*Loan waivers remain the preferred solution for governments to tackle farm distress. S. Mahendra Dev and M. Govinda Rao talk about the inability of governments to think of long-term solutions to tackle farm distress, in a discussion moderated by Vikas Dhoot. Edited excerpts:*

**Despite farm productivity rising, severe distress in the sector is a concern. How grave is the situation, especially for small and marginal farmers?**

**S. Mahendra Dev:** Farm distress is real because there have been low agricultural prices and low farm incomes. The farm sector growth rate is much lower than in earlier periods. As a result, farm prices are low despite production rising. The demand is also low. So, whether the increase in farm production is enough for incomes is not clear. For small and marginal farmers, the additional problem is that the size of land holdings is declining. Earlier, the average size was two hectares, now it has come down to nearly one hectare. Marginal farmers have less than half a hectare. With these sizes, income is difficult to sustain. The recent stress is also because prices are much lower than the MSP [minimum support price] in the market, while long-term problems such as low capital formation in agriculture persist. Public investment in the sector as a percentage of GDP is also stagnant. So, these factors, along with two years of drought, have led to this. Another thing is that the non-farm sector creates jobs. As per NABARD [National Bank for Agriculture and Rural Development] data, 23% of rural income is from agriculture, so the rest is from non-farm activity. The rate of growth in agricultural wages has stagnated and is lower than in earlier years when MGNREGA and the construction sector helped boost wages. The rural economy overall, agricultural as well as non-farm, is facing a demand problem and low incomes, which has caused farm distress.

**Would you say the government's focus on managing inflation in the early years of its tenure and the**

**inability to generate jobs that could have created non-farm avenues for the youth in farming households has contributed to the stress?**

**SMD:** Yes. The agriculture focus is short term, [which is why we have] loan waivers, but the focus on how to generate incomes and jobs has been lacking. The construction sector was earlier responsible for higher wages and demand, but now that sector is also stagnating.

**Eleven years ago, the UPA announced a massive farm loan waiver scheme. Do you think it's an easy way to deal with a far more complex problem?**

**SMD:** Yes, the UPA did, but the impact on farm income was limited. Second, institutional credit to farmers is just 64%, so the rest is from non-institutional sources. The large farmers corner the institutional credit, and small and marginal farmers get non-institutional credit at interest rates of 25-30%. Moreover, there is a moral hazard problem as banks get affected – farmers say they don't have to repay the loans as there will be a waiver some time. There are opportunity costs for this loan waiver spending. Several States have started them, including Madhya Pradesh, Rajasthan and Chhattisgarh. This will also have fiscal implications. But some people say banks have written off ₹5 lakh crore of corporate sector debt, so why not farmers? But both the write-offs are bad.

**The Centre has announced the PM-KISAN scheme under which ₹6,000 per year will be given to 12 crore small and marginal farmers holding cultivable land up to two hectares. Is this any different from the loan waiver in terms of quality spending?**

**SMD:** This is similar but only slightly better than loan waivers, as smaller farmers could also get this amount. Telangana and Odisha have also started such schemes. The amount may not be very high for farmers, but its implementation may be relatively easier as it's a direct cash transfer. But it's also simi-



RAJENDRA SINGH HALDER

lar to farm loan waivers and is just a palliative.

**The Congress had announced farm loan waivers in States like Madhya Pradesh. It has also promised a new law to waive farm loans, a separate farmer budget, and a minimum income support scheme.**

**SMD:** In general, I support cash transfers to the poor. Farmers and agricultural labourers face several risks, so some social protection measures are important for an economy which has 90% of the workforce in the unorganised sector. But on the other hand, if you want to remove distress, these are not the solutions. In the NYAY [Nyuntam Aay Yojana] scheme announced by the Congress, it's not clear where the money will come from.

**Loan waivers create a moral hazard for even those willing and able to repay their farm loans, so could this make banks wary of lending to the sector in the future?**

**SMD:** The moral hazard is a difficult problem as borrowers don't repay in the hope of a waiver being announced.

**Dr. Rao, what is your view on farm loan waivers?**

**M. Govinda Rao:** This is certainly not a solution. First, it doesn't really help the needy farmers who borrow from moneylenders. Second, it creates a bad credit culture. As we go along, commercial banks will be-

**state interventions at every step of the farming process?**

**MGR:** Exactly. Whichever government is in power, it says it will double farm incomes, put ₹15 lakh in your account, and all sorts of things. I would consider these as election gimmicks. The details are never worked out. Even if you increase procurement prices, it will be useful only for those crops that the government procures. Many States don't procure most items. Agricultural markets are in very bad shape and marketing reforms are very important as is the removal of middlemen. Many interventions are needed on both the demand and supply side.

**SMD:** Yes, I think market reforms are the biggest change needed. MSP is not a solution, which focuses on cereals like rice and wheat. Dr. Rao is right – very few reforms have taken place in market infrastructure, value chains, logistics, processing and warehousing to boost farmer incomes. We also need a consistent import and export policy, which is lacking, so that farmers can sell their excess produce. For perishables, a different model is needed. Returns are much higher if the same amount of money spent on loan waivers and income support schemes is deployed on things like water and technology, research and extension services.

**Would you say that institutionally the government is predisposed to such policies as it has a vast bureaucracy built around the agriculture sector? The Agriculture Ministry has multiple joint secretaries. Do we need a reboot of these structures?**

**SMD:** Governments generally think short term. When I was in the Agriculture Ministry discussing medium- and long-term solutions, the Minister told me, "We are interested in only short-term things." They may talk about other things in normal times, but policies are geared towards short-term goals.

**MGR:** Political parties don't have a long-term view. Immediate solutions that lend themselves to sloganeering are the big issue. Somebody has to come and say, look, my agenda is not to double farm incomes,

but these are the reforms I will implement for a better future for farmers. Another issue is the consolidation of holdings. Small farms have become unviable. Farm labourers are not available because of MGNREGA. Many of them have migrated to urban areas in search of work. We need to legally facilitate the consolidation of holdings. Information asymmetry is a big problem too. When the farmer is going to the market with his bullock cart full of produce, he doesn't know what prices he is going to get for his produce. If prices are low, he can't just return as he has to pay rent for the cart and other things, so there is a distress sale as many crops are perishables. We have never thought of this in a comprehensive manner, and unless there is a package of holistic measures, all this talk of doubling farm incomes is meaningless.

**The Prime Minister has also talked of a pension for farmers.**

**MGR:** Giving a minimum basic income deserves to be looked at, but you can do that fiscally only when you get rid of all other subsidies and transfers. The basic issue is the sustainability of a policy measure such as minimum income. The other important thing is farm insurance, which needs to be expanded much more so that farmers are protected from the vagaries of nature.

**Professor Dev, do you think farm insurance has worked in terms of protecting farmers?**

**SMD:** Compared to earlier schemes, the recent farm insurance programme is better, but still many farmers have not benefited because of implementation problems. It's a long way to go. We don't have crop cutting experiments, State governments are not working on it properly when disasters take place. Between subsidies and investments, there is a trade-off – when subsidies increase, investment declines. On old-age pension, there was a scheme that gave ₹200 a month earlier. State governments have offered ₹2,000 in some places. Farmers also come under that scheme. I agree basic minimum income can be considered if you remove non-merit subsidies and move fertilizer subsidy to cash transfers as you can save more and improve soil fertility too.



**S. Mahendra Dev** is the Director and Vice Chancellor of the Indira Gandhi Institute of Development Research



**M. Govinda Rao** is an economist and was a member of the 14th Finance Commission



Scan the QR code to listen to the full interview online

## SINGLE FILE

### Vox populi

While many contest to win elections, some contest only to make their voices heard

SATYA NAAGESH AYYAGARY



When people are let down by their leaders repeatedly, they rise and revolt, and history is replete with examples of such revolts. In a democracy, people often revolt peacefully, using the ballot. In this polarised election, while national security assumed centre stage and accusations and counter-accusations flew thick and fast, a number of ordinary voters contested the election over critical local issues. Of course, these candidates know well that they do not stand a chance of winning against political heavyweights with money and muscle power. But their objective is not to win; it is to simply make their voices heard.

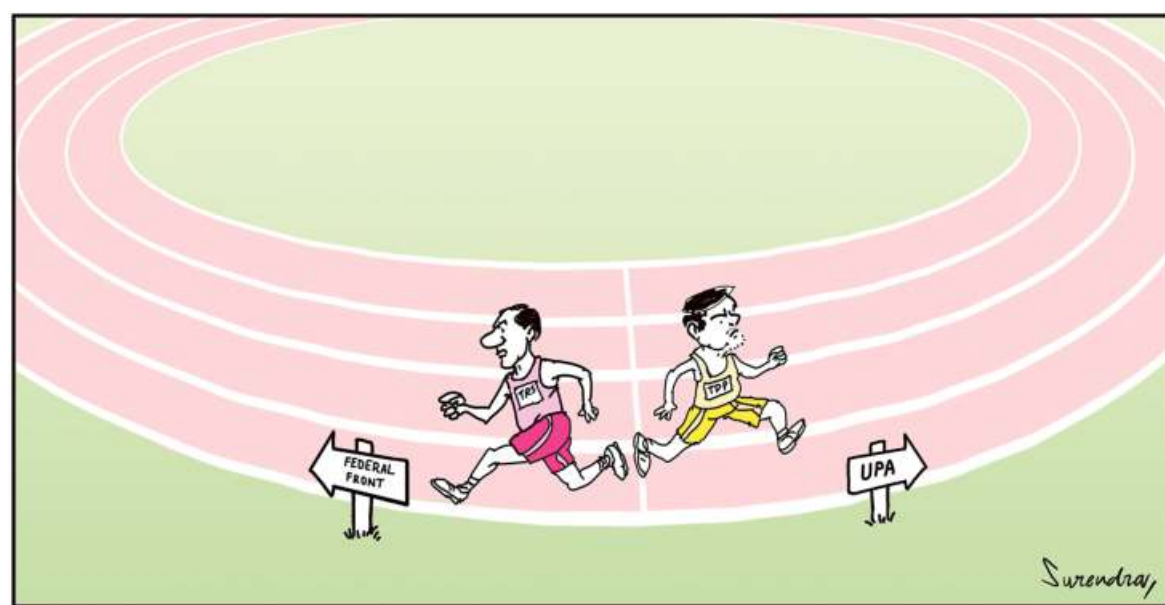
Consider the turmeric and sorghum farmers in Nizamabad district in Telangana. They had been protesting for long, demanding a minimum support price and the setting up of a turmeric board, among other things. Leaders promised to address their grievances but failed. And so the farmers decided to contest the Lok Sabha election. In this case, no fewer than 178 of them jumped into the fray in Nizamabad. In this seat, 185 candidates contested altogether.

The record for the highest number of nominations filed in a Lok Sabha election from a single constituency was set by Nalgonda in 1996 where 480 candidates filed nominations. Most of them were contesting the election to bring attention to the fact that they were victims of fluorosis. Most of them were tribals and Dalits who could not afford to pay the required security deposit of ₹250 (for Scheduled Caste/ Scheduled Tribe candidates). They were reportedly financed by activists and sympathisers at a time when the term 'crowd funding' was not in common parlance.

However, the case of the turmeric and sorghum farmers is different from their Nalgonda brethren. Most of them managed to pay the required ₹25,000 as security deposit on their own, even if it was a considerable burden. Theirs was not a half-hearted decision but a serious one. Such quiet protests have been recorded in Assembly elections too – in 1996 again, in Modakurichi in Tamil Nadu, 1,033 candidates contested the seat as no one had addressed their concerns over farm distress.

An inscription on the arch of the middle gate of North Block in New Delhi quotes British writer Charles Caleb Colton: "Liberty will not descend to a people: a people must raise themselves to liberty. It is a blessing which must be earned before it can be enjoyed." Rise people do, albeit slowly. But contesting elections is unfortunately not always the solution. Such contestants mostly lose their security deposit, do not win, and their issues are not addressed either. It is time our politicians stepped up and listened to the voices of the poor and marginalised.

The writer is Editorial Consultant, The Hindu, based in Hyderabad



## NOTEBOOK

### Hitching rides in coracles, tractors and bullock carts

The journey to a story is often as exciting as the story itself

RAMYA KANNAN

Often, the journey can be as interesting as the destination itself. The destination is sometimes not what one hopes for, but the journey can still redeem it.

This is especially true for a journalist who is chasing stories wherever they need to be chased. Sometimes, when we have time for relaxed reminiscence and we allow ourselves a little throwback, it turns out some journeys have stayed with us, even when the stories have not been great, or have turned out to be non-stories. A bus ride, a train ride in an unreserved compartment, a ride in a swirling coracle, four-wheel drives that send one hurtling across a harsh landscape, old creaky cars that run to prove miracles exist, a ride on a bullock cart – what joy, what companionship, and what convivial situations they lead to.

Driver Murugan owned a ramshackle Ambassador

car in Cuddalore, Tamil Nadu, in 2004, when the tsunami struck. He saw a business opportunity in the droves of people coming to Cuddalore and Nagapattinam – journalists and aid workers who needed to get by. He charged quite a bit, but a scarcity of services had caused the prices to go up. He made up for what his car lacked – a brake shoe, rearview mirrors and the padding on the seats – with his personality. He drove that car like an all-terrain bike – over roads, black strips that were once roads, streams, rocks, the beach, a rubble of homes by the seaside – with a passion that came from knowing the territory and a conscientious work ethic. He knew nearly everyone and insisted on walking along, calling out to people and drawing them into a casual chat. One realised while riding with Murugan that there are things you cannot pay for.

Then, there are rides

you do not pay for. The boatman who took us from Muzhukkuthurai to a small strip of sand called MGR Thittu that the tsunami had ravaged did not care for cash. The boat was basic, wood strung together, but it could float. Thiruvengadam ran an earth-moving equipment firm in Muzhukkuthurai and volunteered to accompany us on the boat, perhaps because we were the only people at land's end. He regaled us with stories of smugglers on MGR Thittu and told the boatman to come back in an hour, nodding in our direction: "They will have to walk a long way to reach the boat, otherwise."

And then there were the four-wheeler drivers of Dhanushkodi who were winding up for the day when we landed there. The only way to travel was by jeep, but it looked like we were too late, and coming back the next day was not really an option. The disappointment must have been

apparent. "What do you do?" one of the drivers came back and asked. "Oh, journalist? Then we need to get you there, somehow." He hustled his brother to tag along with him, one last drive back. On that ride we literally flew across the whitish beach sands as darkness and a chill descended gently together. That is certainly a memory to keep.

There were, of course, as perhaps in most journalists' careers, long treks on foot up treacherous slopes; bullock cart rides with obliging farmers; a short hitch on a tractor; rides on crowded 'town buses' to remote hamlets where passengers shared food and jokes, shouting to be heard above the loud music playing on cheap speakers.

These were rides where comfort might have been lacking but never communion. After all, a journalist's job is with the people, isn't it? And what a ride that can sometimes be.

## FROM The Hindu ARCHIVES

FIFTY YEARS AGO MAY 10, 1969

### Central Bill to deal with extremists

The Government of India proposes to introduce comprehensive legislation during the next session of Parliament for arming itself with extensive powers to deal with individuals or organisations advocating violence for bringing about political, economic or social changes in the country, or preaching aggressive communalism or regionalism. The Internal Affairs Committee of the Union Cabinet has authorised the Home Minister, Mr. Y. B. Chavan, to take suitable steps for amending the Unlawful Activities (Prevention) Act, 1967, in consultation with the leaders of the Opposition parties in Parliament, to curb the activities of not only the extremist political elements but also the private armies that are cropping up all over the country in the name of safeguarding communal, linguistic or regional interests.

A HUNDRED YEARS AGO MAY 10, 1919.

### Mr. Tilak and the Indian Situation.

Addressing meetings in London during the last week, one at the National Liberal Club under the chairmanship of Mr. Harold Spender and the other at the Church of Humanity under that of Mr. S.H. Swinny, President of the Positivist Society, Mr. [Bal Gangadhar] Tilak spoke almost in identical terms on the subject of Indian Constitutional Reform. Confining himself mainly to the Congress demand, he pointed out that, while outside India, Indians demanded equal treatment with Europeans in all parts of the British Empire, in India itself they claimed the right to manage their own affairs; in other words, they asked for the application of the principle of self-determination, so far as the internal administration of the country was concerned, except of course, such matters as the making of war and peace, foreign relations, and relations with native States, law and justice, etc., which according to the Congress demand, were proposed to be left under Government control, as at present, as a guarantee of India's good faith towards the British connexion. Taking his firm stand on the announcement of policy of August 20, 1917, Mr. Tilak declared it would do if the goal obtained therein were reached in a generation, a difference of five or ten years not being of great consequence.

## POLL CALL

### Replacement rate

This refers to the percentage of EVM units and/or VVPATs that are replaced across States due to malfunctions or glitches during an election. In this Lok Sabha election, the replacement rates have been close to 2% for VVPATs (except for Karnataka where it was close to 6% in one of the phases) and negligibly low (less than 0.5%) for ballot units and control units.

## MORE ON THE WEB

Video: India's first mega science exhibition is here

<http://bit.ly/megalexhibition>









