



## The Indian EXPRESS

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RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

# The Sadhvi portent

BJP's move to field Pragma Thakur in Bhopal underlines an ominous political paradigm shift



CHRISTOPHE JAFFRELOT AND MALVIKA MAHESHWARI

## GULF WARNING

Iran's partial withdrawal from nuclear deal is a signal: Iran-US conflict may become a costly showdown

**T**EHHRAN'S DECISION TO stop adhering to some of the provisions of the landmark 2015 nuclear agreement with the international community is a sharp reminder that dark clouds are gathering again in the Middle East. When US President Donald Trump pulled out last year from the nuclear deal negotiated by his predecessor, Barack Obama, Iran had the option of walking out too. It did not. Tehran had hoped that the European powers as well as Russia and China might help limit the effects of America's renewed hostility. The Europeans had criticised the US withdrawal, affirmed that Iran was in compliance with the nuclear agreement, and offered to sustain economic engagement with Iran if Tehran stayed true to the deal. China and Russia had criticised the US decision as unilateral and arbitrary. But Iran's hopes of exploiting the cracks among the great powers are looking increasingly unreal as the actions of Europe, China and Russia have not matched their words. Iran's "strategic patience", in the words of President Hassan Rouhani, is wearing thin.

Meanwhile, the Trump Administration is ratcheting up pressure on Iran. Last month, it designated the Iranian Islamic Revolutionary Guard Corps (IRGC) as a terrorist organisation. This is the first time the US has labeled the entire wing of a country's armed force as "terrorist". Citing an unexplained threat from Iran, President Trump has despatched the USS Abraham Lincoln aircraft carrier strike group towards the Gulf. Meanwhile, US sanctions aimed at choking Iran's oil exports and squeezing its finances are beginning to bite. Tehran has no reason to believe that the Trump Administration is open to a reasonable compromise that might include a revised nuclear deal to address any real US concerns. It is no secret in Washington that regime change in Tehran is the Trump Administration's real goal.

Iran's partial withdrawal from the nuclear agreement is aimed at convincing Washington's allies in Europe as well as its competitors that time is running out to save the deal. Tehran is conscious of Europe's difficulty in effecting a real break with the US in the Middle East. It also knows that China and Russia have their own fish to fry with America and are unlikely to challenge the US on Iran. Worse still, Moscow and Beijing could use Tehran as a lever in their bargaining with the US. Iran might lack real friends among the major powers, but it has the capacity to bring the house down in the Middle East. With armed proxies across the region, Tehran is well placed to launch an asymmetric war against the US and its allies. Iran has also threatened to close the Straits of Hormuz — the strategic waterway that moves oil from inside the Gulf to the rest of the world — if its own oil sales remain blocked. With neither side ready to step back, the conflict between the US and Iran might well be headed for a costly showdown.

## ATTACKING ATISHI

Her predicament is not an isolated instance in a political system where women must struggle daily against misogyny

**A**PAMPHLET CONTAINING a series of derogatory statements about the Aam Aadmi Party's East Delhi candidate, Atishi, has once again brought to the fore the ugliness of gender bias in Indian politics. The unsigned and unclaimed pamphlet, written in English, cast aspersions not just on the Rhodes scholar's educational qualifications but also on her personal life. While the AAP has accused Atishi's opponent, BJP candidate Gautam Gambhir, of issuing the pamphlet, the BJP has dismissed it as the AAP's bid to defame the party.

Atishi, who is credited with contributing to the AAP government's attempts to reform Delhi's government school system, has had a taste of the rough and tumble of Indian politics. In August last year, after her candidature was announced, she decided to drop her second name — Marlena — in a bid to keep the attention focussed on her work and not her identity. Yet, even as the political discourse in the country hits a new low, it's difficult to see Atishi's current predicament as an isolated instance of political skulduggery. Women who enter politics in India find themselves in an unequal struggle to make their voice — and their work — carry. Over and over again, they are put down by a patriarchal order that refuses to recognise their efforts. From actor Jaya Prada, denigrated time and again by Samajwadi Party leader Azam Khan to the BJP's Smriti Irani, from the BSP's Mayawati to Trinamool Congress chief Mamata Banerjee, from the AIADMK's Jayalalithaa to Congress leader Sonia Gandhi, women politicians across the spectrum have been at the receiving end of targeted abuse that is viciously personal and cuts through any pretence of decorum. While a handful of leaders such as the BJP's Naveen Patnaik and the West Bengal Chief Minister Mamata Banerjee have now recognised the importance of addressing this unequal power dynamics by incorporating more women in their ranks, many political parties still treat their women colleagues as props for electoral gains, with no room of their own.

Yet, this is also a time when political parties across the spectrum have recognised the power of increasing women turnouts and are wooing women voters with promises and schemes. Greater participation of women in the electoral process is being lauded as a decisive factor in the ongoing general elections. At such a defining cusp, it is all the more imperative to call out toxic misogyny every time it rears its head in public life or private, to push back against a system that must be held accountable, not just selectively but each and every time.

## THE RIGHT SWIPE

Searches for dating sites are outpacing those for matrimonials. But let's not sound death-knell of Indian conservatism just yet

**L**OVE FINDS A way — or at least an algorithm. Google's recently released report, based on a survey of the queries its search engine has received in India, shows that the interest in dating sites and apps has been growing at a far more rapid rate — 40 per cent — than in matrimonial portals (14 per cent) in 2018. One can imagine, already, the dated detractors of romance fuming at this turn of events. After all, vandalising people and places on Valentine's Day is far easier than trying to police the hormones and hyperbole of young love on the world wide web. But they need not worry.

Indian culture, and business, has proved to be more than a match for the consumer and lifestyle choices that global conglomerations have sought to market here. And Tinder, Bumble and all the other dating apps have been no exception to the "McAloo tikification" phenomenon. Tinder, meant broadly for "hooking up" in much of the first world, bears testimony to this in its advertisements: A concerned mother ensures her daughter is dressed in Indian chic, bindi included, before she is off to meet Mr Right (swipe).

In many contexts in India, love — or even just the assertion of agency that dating implies — can be a truly rebellious act. It has the power to transcend boundaries of religion, caste and class and of women and even men taking control of their physical and emotional destiny. But much like McDonald's and its satvik burgers, dating apps — and dating in general — threaten to give in to consumerism, backed by regressive tradition. Soon, if things go ill, dating apps will have filters for caste, income, skin colour, educational qualifications. But perhaps we are being too pessimistic. According to the survey, people's searches about food doubled in 2018, and pizza topped the list, with biryani up there as well.

DEMOCRACY, WHILE A robust political form, is one whose actual mechanisms might not necessarily be about principle-driven behaviour or perfection of governance. High levels of corruption, political violence, the entry of criminals into Parliament, are examples pertinent to many democracies today. In India, mafia leaders and those accused of gruesome crimes have chosen to contest elections with the aim of converting their catalogue of criminality into something more respectable.

Despite such muddled waters, elections in India had until now remained essentially separated from at least some varieties of public violence and those accused of it. Terrorism and terror-related offences are examples of violence that were still considered to weaken, not aid, access to power. Designating certain forms of violence as terrorism, bombings on civilians included, is done not simply on the basis of the idea that they are attacks on the government or law enforcement, but also on the basis of a belief that the state and its institutions cannot provide implicit or explicit cooperation to such violence undertaken by sub-national groups against non-combatant targets. If so, how do we explain the shift in democratic politics when those arrested on charges of terrorism and out on bail are now beginning to contest elections? What sort of a moral force are they able to wield?

One striking example in the 2019 general election is the candidature of Pragma Singh Thakur. According to the FIR prepared by Hemant Karkare in the 2008 Malegaon case, she took part in the Bhopal meeting of Abhinav Bharat where Himani Savarkar (the daughter of Gopal Godse) became president of the organisation and in the course of which the accused "conspired together to take revenge against Muslims in Malegaon by exploding a bomb at a thickly populated area. Accused (Lt. Colonel) Purohit took the responsibility of providing explosives. Accused Pragma Singh Thakur took the responsibility of providing men for the explosion. In this meeting all the participants agreed and consented to commit the explosion at Malegaon." On June 11, 2008, Thakur allegedly introduced Ramchandra Kalasangra and Sandip Dange to Amritananda Dev Tirtha, another accused,

as two reliable persons who would plant the bomb in Malegaon. In early July, she allegedly asked Tirtha to direct Purohit "to give explosives" to Kalsangra and Dange in Pune.

After the blast, another member of Abhinav Bharat, Major Ramesh Upadhyay, a former defence services officer, was arrested. He admitted that he had taken part in three meetings with Thakur and other accomplices on the Bhonsala Military School, Nashik premises to plan the Malegaon blast. Ajay Misra, the public prosecutor, declared: "Upadhyay, who was posted in the artillery department while working with the Indian military, is suspected to have guided the arrested accused on how to assemble a bomb and procure RDX." Today, Upadhyay is the Hindu Mahasabha candidate from Ballia and another accused mentioned in Karkare's FIR, Sudhakar Chaturvedi, is contesting as an independent in Mirzapur.

Thakur, on bail for medical reasons, is currently under trial for several terrorism-related charges under the Unlawful Activities (Prevention) Act. Her entry in electoral politics under the aegis of the BJP underlines striking shifts in India's democracy. First, it points to the widening of the already rich assortment of candidates who are accused of criminal offences. What this means is not that even the murkiest forms of criminality simply have become more acceptable, but that its expansion occurs more or less in tandem with the eroding legitimacy of public office, severance of trust reposed in elected representatives, and the elevation of ethnic and religious persecution.

Second, it is also a comment on the Hindu nationalists. The use and normalisation of various forms of violence — riots, demolition of the Babri Masjid, vigilantism etc — has cemented not just their electoral and ideological position, but also turned the brutal hostility against minorities into a routine affair. However, the extent to which the Hindu nationalist old guard would have gone to support those accused of terrorism is less straightforward. Even as its own campaign is designed around "national security", the current BJP leadership's encouragement to Thakur, her comment on cursing ATS chief Hemant Karkare to death, all convey less about their ideas of democracy than about the way in

Even as its own campaign is designed around 'national security', the current BJP leadership's encouragement to Thakur, her comment on cursing ATS chief Hemant Karkare to death, all convey less about their ideas of democracy than about the way in which they have contributed to the decline of the basic social etiquette and political norms.

## A CONFESSION IN IRAN

Pak PM admitting to his country harbouring terrorists is a significant moment



KHALED AHMED

PRIME MINISTER IMRAN Khan was in Iran on April 22, mending fences with Tehran over cross-border terrorism, which bothers both the countries. His statement that "Iran also suffered from terrorism from Pakistan" has upset many Pakistanis. Khan had also requested Tehran to stop the terrorists on its side, who recently killed 14 Pakistanis on the Karachi-Gwadar highway. The PPP-PMNLN opposition in parliament and the media cried that Khan's statement had put Pakistan at risk by admitting to terrorism.

There was nothing wrong with Khan's "confession". That the Iranian Baloch terrorists organise themselves in Karachi's underworld is globally known. And that Pakistan has helped Iran capture members of the big terrorist outfit, Jundallah al-Adl, also is no secret. In fact, President Hassan Rouhani could have realised on hearing Khan that Tehran too needed to deal with the Pakistani Baloch rebels who flee into Iran. (Khan didn't mention Kulbhushan Jadhav.) Secessionism could create a sovereign Greater Balochistan by breaking up both Iran and Pakistan.

The case that allowed PM Khan to "confess to terrorism" in Tehran is interesting. Abdolmalek Rigi, the head of Jundallah al-Adl, was born in Sistan-Balochistan province in Iran in 1983, from the Regi tribe of Baloch ethnicity. He was a teenager when he founded his outfit. He never went to school but fled across the border to Karachi where he joined the infamous Jamia Banuria, the madrasa where the UN-accused terrorist Masood

Azhar was trained. Pakistan cannot absolve itself from the guilt of allowing this nursery of anti-Shia terrorism to train killers who today threaten the state of Pakistan. Banuria's chief, Mufti Shamzai, was killed by a Shia youth.

Pakistan's indifference about Rigi is questionable and Imran Khan is clearly bothered by that. Read this: "US cable channel HDNet's television news magazine Dan Rather Reports, interviewed Rigi and showed a video of him personally cutting off his brother-in-law Shahab Mansouri's head. In the same interview, Rigi described himself as 'an Iranian' and denied that his goal is to form a separate Baloch state. He claimed that his goal is to 'improve conditions for the ethnic Baloch [in Iran]', and that his group is fighting exclusively for the rights of Sunni Muslims in Iran."

When the Persian service of Voice of America, in 2007, introduced Rigi as "the leader of popular Iranian resistance movement" and used the title of "Doctor" with his name, there was public condemnation by the Iranian-American community in the US, many of whom were opponents of the Iranian government. Pakistan still sat back and allowed him to muster his group in Karachi and Balochistan.

In 2010, Pakistan woke up or changed policy. A Tehran-based news analysis site disclosed that "Rigi was arrested by, or with the help of, Pakistani intelligence officials, who took action after consulting with the United States". Pakistan's ambassador to Tehran, Mohammad Abbasi, also claimed that "the

which they have contributed to the decline of basic social etiquette and political norms of a diverse society.

Third, one of their tactics in the pursuit of such politics is to claim victimhood. Thakur's campaign has claimed that her fight is against the "conspiracy to insult Hindu religion," against those who "give a bad name to the entire country," who "insult(ed) a woman, a sadhvi, and a patriot," who put her in jail "illegally and tortured (her) physically, mentally and in every way". While the Human Rights Commission that probed into her allegations of torture in August 2014 had to close the case because it could not find any evidence, the discourse of victimisation reflects an attempt at legitimising majoritarian backlash and suggests a perversion of the language of the law and liberalism. It is perverse not simply in the sense that fact checking might be compromised or in the sense of embarrassing those in whose name they seem to be fighting. But most importantly, it is perverse in the sense that convenience and malleability of victimhood have regularly begun to shape political and ideological agendas.

Finally, the electoral arithmetic that has informed Thakur's entry in politics accompanies deep institutional malaise. A decade since the bombings, people know little about the perpetrators. What does the state make of the "evidences", the "FIRs", and the lists of "prime accused"? The NIA, judiciary, police, and government represent aspects of state power: How do they justify the power they wield in the absence of any commitment to security and justice for its citizens?

The implications seem to be that the more deadly the crimes people are associated with, higher are their chances for a career in politics; the more the business of elections relies on crime, the more is the depreciation of any meaningful claims of being a democracy; the more the electorate assimilates this as banal and logical, the more they deprive themselves of the means of justice.

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## MAY 11, 1979, FORTY YEARS AGO

### AMU ATTACKS

HOME MINISTER H M Patel today assured an agitated Lok Sabha that the government would go "thoroughly and fully" into various aspects of the attack on the students of Aligarh Muslim University during their train journey to Delhi yesterday. He rejected the near-unanimous demand for a judicial, parliamentary or a high-level independent probe into the incident. An "official inquiry" would be sufficient, Patel asserted.

### IRAN OIL HIKE

IRAN HAS DECIDED to increase the price of a barrel of crude oil by 60 US cents effective from May 15 due to market demands, a

National Iranian Oil Company (NIOC) official announced in Tehran today. The 60 US cents affects all existing contracts, the official said, and was in addition to a surcharge imposed on April 15. The 3.6 per cent increase on all grades of oil came as a surprise and was expected to bother the tenuous stability into which oil prices had settled. The increase came as post-revolutionary Iran was producing well below its potential, as a matter of government policy.

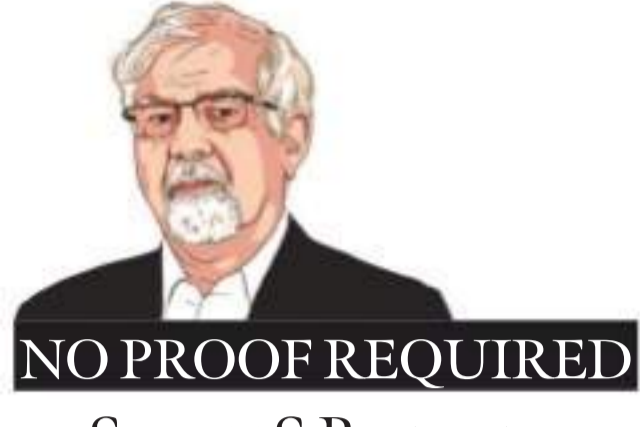
### SUING MOYNIHAN

UNION HOME MINISTER H M Patel advised Indira Gandhi to sue the Indian publishers of Daniel Patrick Moynihan's book, which

speaks of CIA pay-off to the Congress party and once to her for election purposes. Patel said this during a three-hour discussion on a call-attention motion in the Rajya Sabha today. While he denied that there was collaboration between Indian intelligence agencies and those of other countries, Patel added that they kept each other informed. There was also a plea for the placement of a report prepared in 1967 by the Central Bureau of Investigation on the subject, on the table of the Rajya Sabha. Members of the Communist Party of India described Moynihan as a Zionist and imperialist. Mody, however, claimed Moynihan as his friend whom he respected.

# Another Black Swan?

Opinions vary, but not reality. The 2014 election was contested around the economy, the 2019 election is being fought along similar lines. Will the result be similar?



**NO PROOF REQUIRED**  
BY SURJIT S BHALLA

THIS IS A polarised election. No, this is a presidential election. Wrong, this is a caste election. In any case, it is manifestly different from the 2014 "wave" election in which Narendra Modi won 282 seats with just 31 per cent of the vote. So goes Conventional Wisdom-Delhi (hereafter CWD).

That Modi became prime minister with the lowest percentage of vote share any winning party in India has got in a general election is cited often. Extrapolating, scholars have derived the conclusion that Modi was a minority winner (only 31 per cent vote), that he did not win a popular mandate, that 2014 was a Black Swan (very unusual event) election and, therefore, unlikely to be repeated again. Hence, the expert view that since Black Swans do not come in pairs, 2019 would revert back to a "normal" election.

What would the results of such a normal election look like? Between 1996 and 2009, the number of seats held by the Congress wavered around 145, with a dip to 114 in 1999 and a bounce to 206 in 2009. Hence, the common refrain (or estimate) that the Congress is likely to obtain around 140-150 seats and thus be in a strong position to form the next government. Recall that in 2004, the Congress obtained 145 seats and ran the government for the next 10 years.

For those arguing that 2014 was Black Swan, and unusual, here are some sober (and sobering) statistics. Peruse through election history (short cut, read my book *Citizen Raj!*). Jawaharlal Nehru and Indira Gandhi won six elections between them and garnered, on average, a vote share of around 42 per cent. In 2014, the BJP contested 426 seats and obtained 31 per cent of the vote. The NDA obtained 38.5 per cent of the vote and won 336 seats.

The centre of gravity of the big Nehru-Indira wins was around 350 seats and 42 per cent of the vote. The CSDS March opinion poll has the BJP increasing its vote share to 34 per cent and they are contesting about the same number of seats. With Nitish Kumar of Bihar replacing Chandrababu Naidu in Andhra Pradesh, the forecast vote share of the NDA might well reach the Nehru-Indira average of 1952-1971 (and 1980). No respectable scholar, or historian, called those elections as unrepresentative of a democracy. Then why so "serious" about the NDA in 2014, and possibly 2019?

I had the occasion to travel in West Bengal and UP between May 1 and May 7. (Full disclosure: I am a card-carrying member of the Limousine Liberals (LL) team which, around major election time, farms out to the countryside to find out how real India is voting. The LL group is diverse and what follows are my observations, and interpretations, about Election 2019.)

**Polarisation:** This is commonly understood as division between communities separated by caste (and religion). My travels suggested that while polarisation exists, it is more on the basis of whether you are pro-BJP or pro-Congress. In UP, the pro-Congress vote is not reflected in a vote for the Congress, but as a vote for the Mahagathbandhan. Indeed, possibly the most striking statistic from West Bengal and UP is there was nary a mention of the Congress. Whether the centre of gravity of the Indian polity, held by the Congress



CR Sasikumar

from Independence to 2014, has permanently shifted to the BJP we will only know on May 23. The conclusion is there is polarisation, but not in the Delhi sense.

**Development not a concern in 2019:** A certified CW-Delhi conclusion is that somewhat surprisingly, after 2014, 2019 is emphatically *not* about economic development. It is ostensibly about everything but. Regardless of the election result, this conclusion is certified wrong. Every journalist has her own style of soliciting a view from the potential voter. Mine is to never ask who the individual, or group of individuals, are going to vote for. I like to find out indirectly, that is, which way is the *hawa*, what are the issues, what is the thinking on the problems being faced, etc. I then enjoy engaging the voter in a *discussion* about the issues. If one believes that there is no truth, just opinions about an "expected truth", then it is relatively less difficult to infer voting preferences of the potential voter.

In an UP village, one of my fellow travellers asked me to talk to a group of youngish men about the "no-jobs economy" they were facing. I readily jumped into the conversation and asked the group what had been happening to the economy overall. Is it true that it is difficult to find jobs? Yes, very difficult. This obviously happened because of Modi's economic policies, right? A worsened economic environment, right? Yes, the emphatic reply to both questions. But comparing today with 2014, is the situation worse, or the same, in terms of job availability? Here, unlike his highly educated counterparts in urban India (the old elite!), the rural voter does not believe in arguments for the sake of argument. He admitted that the situation, in terms of jobs, was no worse than 2014, and may even be better.

The LL group arrives in large vans and enters villages, and constructs interviews by the roadside. I worry always, especially post 2014, as to how does the rural semi-urban voter see us. Do they see us as part of the old elite (associated with the Congress) or as the new upwardly mobile elite (associated with the BJP)? Do they tailor their responses according to what they think we want to hear? Many seasoned journalists have come to the conclusion that Election 2019 will unleash the punishment of the silent voter. Is the

If there is one unanimous view emanating from UP travel, it is that farmer distress is real, and that cow politics has deepened the distress among all, farmers and non-farmers. I have yet to come across anyone defending this policy, whether a BJP supporter or not. (I did not meet a self-confessed RSS man, who might have a different view). Can anyone come up with a defence about this lose-lose policy? The poor Hindu farmer is hurt; Muslims have lost jobs, and in some instances, life; the rural economy is hurt. Yet Hindu India continues to support this madness. Platitudes about *gaushalas* are heard. What does this imply for voting in UP? Modi does not get the blame, Yogi does.

silent voter pro-BJP or pro-Congress? Again, another defining view which will become known on May 23.

What nearly everyone admitted is that their broadly defined income levels had gone up. Construction of roads and delivery of nearly 24/7 electricity. Add toilets and LPG cylinders and bank accounts, mostly benefiting women. The beginnings of national health insurance. Motorcycles (and scooters) have increased manifold. Some even have got houses — average welfare seems to have increased substantially in UP. The favourite explanation for the preponderance of motor-cycle usage given that there were (ostensibly) no jobs is dowry demands for motorcycles. Still, a sign of progress.

**The fearful voter:** Did not see any evidence of fear on the part of the voter. She might be lying, but she is not fearful in giving an opinion. At one roadside conversation, on the one side were OBCs emphasising support for Modi; on the other side of the highway, barely 20 yards away, was a group of Muslims complaining about the bias against Muslims, and why they would definitely vote against the BJP (but not for the Congress).

**Farmer distress and cow politics:** If there is one unanimous view emanating from UP travel, it is that farmer distress is real, and that cow politics has deepened the distress among all, farmers and non-farmers. I have yet to come across anyone defending this policy, whether a BJP supporter or not. (I did not meet a self-confessed RSS man, who might have a different view). Can anyone come up with a defence about this lose-lose policy? The poor Hindu farmer is hurt; Muslims have lost jobs, and in some instances, life; the rural economy is hurt. Yet Hindu India continues to support this madness. Platitudes about *gaushalas* are heard. What does this imply for voting in UP? Modi does not get the blame, Yogi does.

**Conclusion:** The number one policy concern of the new government should be a completely revamped policy towards agriculture and animal husbandry.

The writer is contributing editor, The Indian Express and consultant, Network 18. Views are personal

## WHAT THE OTHERS SAY

"The undisguised overbearing and capricious manner of the US has affected the world. Such behavior is targeted at Iran today, and it may be another country tomorrow."  
— GLOBAL TIMES, CHINA

# Lies and loopholes

Non-disclosure of information and filing of falsities in election affidavits cannot be treated equally



SHRADDHA GOME AND HARPREET SINGH GUPTA

ON APRIL 15, 2019, a Public Interest Litigation (PIL) was filed in the Supreme Court against Prime Minister Narendra Modi for filing a false affidavit. The petitioner, Saket Gokhale, a former journalist, has alleged irregularities regarding a plot of land, which, as per the land records, still belongs to the PM — but it has been omitted from his recent election affidavits. Recently, Union minister Smriti Irani was accused of falsifying her educational records in her affidavit. Surprisingly, despite the upsurge in the number of complaints of false affidavits, we are yet to see any strict action taken in this regard. Hence, it is important to look into the law governing false affidavits under the Representation of People's Act, 1951 ("RPA") and examine its effectiveness in curbing this malpractice.

Section 33 of the RPA, read with Rule 4A of the Conduct of the Election Rules, mandates all candidates contesting national/state assembly elections to furnish an affidavit comprising basic information such as their assets, liabilities, educational qualifications and criminal antecedents (if any). Failure to furnish information or filing false information in the affidavit is a penal offence under Section 125A of the RPA which prescribes a penalty of maximum six months or fine or both. However, unlike conviction for offences like bribery, conviction under Section 125A does not result in disqualification of candidate.

Another relevant provision is Section 8A which disqualifies any candidate found guilty of corrupt practice from contesting the election. Section 123 of the RPA defines "Corrupt Practices" to include "bribery", "undue influence", appealing to vote or not on grounds of caste, religion etc. What is baffling is that non-disclosure of information has been interpreted as a corrupt practice amounting to disqualification under section 8A, but, the courts' silent stance in the treatment of filing false information has led to the understanding that filing false information does not amount to corrupt practice. This means that candidates who do not disclose certain information can be disqualified, but those who file false information can only be punished for maximum six months.

In *Krishnamoorthy v. Sivakumar & Ors* (February 6, 2015), the issue before the SC was whether non-disclosure of criminal antecedents by a candidate in his affidavit amounts to corrupt practice under Section 260 of Tamil Nadu Panchayats Act (which is similar to section 123(2) of RPA). The court ruled that the voter's right to know the candidate who represents him in Parliament is an integral part of his freedom of speech and expression, guaranteed under the Constitution. Suppressing information about any criminal antecedents creates an impediment to the free exercise of the right to freedom of speech and expression. Therefore, non-disclosure amounts to an undue influence and corrupt practice under Section

123(2) of RPA.

A similar question came up before the SC in *Lok Prahari v. Union of India & Ors* (February 16, 2018), wherein the court followed the *Krishnamoorthy* judgment. It held that non-disclosure of information relating to source of income and assets by candidates and their associates, is a corrupt practice. The court laid emphasis on the following paragraph from *Krishnamoorthy*: "While filing the nomination form, if the requisite information, as has been highlighted by us, relating to criminal antecedents, is not given, indubitably, there is an attempt to suppress, effort to misguide and keep the people in dark. This attempt undeniably and undisputedly is undue influence and, therefore, amounts to corrupt practice."

Evidently then, furnishing false information which misguides and violates the voters' right to know their representative is a corrupt practice under the RPA. To reaffirm the same, a petition was filed in the SC in September 2018, seeking directions from the court to declare the filing of false affidavits a corrupt practice, and to direct the legislature towards implementing the recommendations of the 244th Law Commission Report. While the SC agreed in principle that filing a false affidavit for elections is a corrupt practice, it expressed its inability to direct a relevant legislation. It failed to realise that the mere absence of a separate clause declaring the filing of false information as a corrupt practice, does not stop the court from interpreting "undue influence" to include filing of false information. The court should have relied on its earlier judgments in *Lok Prahari* and *Krishnamoorthy* to rule that similar to non-disclosure of information, false affidavits will also constitute "undue influence" as they also try to misguide people.

Thus, the SC missed a golden opportunity to prevent the abuse of process and cure a gross error — of treating non-disclosure and filing false information differently. If at all, deliberately filing false information should be dealt with more strictly. In the absence of any specific direction from the SC, there is no clarity on the filing of false affidavits. Candidates are incentivised to file false information since the risk of disqualification exists only in cases of non-disclosure.

The lack of legal clarity relating to false affidavits has led to multiple candidates, including prominent leaders, getting away by filing false information in their election affidavits. It is high time the SC clarifies that filing false affidavits (similar to non-disclosure of certain information) constitutes "undue influence", which is a "corrupt practice". Further, to add clarity and discourage false affidavits, the legislature must incorporate threefold changes suggested by the Law Commission in the RPA. First, increase the punishment under Section 125-A to a minimum of two years; second, conviction under this provision should be a ground for disqualification of candidates under Section 8(1) of the RPA; and, third, falsification of affidavits by candidates must also be separately included in section 123 of the RPA as a corrupt practice. These changes are needed to ensure that the voter's right to information remains paramount, and the candidate's constitutional right to contest is subservient to it.

The writers are Mumbai-based lawyers and alumni of National Law School of India University, Bengaluru

## LETTERS TO THE EDITOR

### OUT OF ORDER

THIS REFERS TO the article, 'An unfair process' (IE, May 10). An in-house panel appointed in haste delivered a verdict on the charges against the CJI without giving a copy to the complainant. The Vishaka guidelines enjoins all companies to have a committee to probe sexual harassment charges. Such a committee should have a member who is not from the institution. Why was this rule not followed when the committee to probe charges against the CJI was constituted? The haste with which the CJI was exonerated has given rise to "suspicions".  
**Bholey Bharadwaj, Mumbai**

### OTHER ASIA BIBIS

THIS REFERS TO the editorial, 'Stranger in her home' (IE, May 10). Asia Bibi is among the few whose story reaches the world. Many more are victims of religious orthodoxy. Governments across the world need to do some hard thinking on issues pertaining to religious minorities. Otherwise, people whose "solution" derives from religion might end up causing problems for them.  
**Rahul Singh, Vadodara**

### US'S HUBRIS

THIS REFERS TO the editorial, 'Give and take' (IE, May 9). Trump is a of deception. He wants to divert attention from a possible impeachment over the

### LETTER OF THE WEEK

#### GOOD JOB

THIS REFERS TO the editorial, 'Taming the tempest' (IE, May 7). Much has changed since the super cyclone of 1999, which killed around 10,000 people in Odisha. Much of it owes to the high level of preparedness of the state government and other agencies. Accurate updates about the cyclone's path by the India Meteorological Department helped in containing the cyclone's possibly devastating effects. But there's no room for complacency. With extreme weather phenomena increasing due to climate change, there's a need to constantly expand disaster management capacities.  
**Sanjay Chopra, Mohali**

Mueller report. His criticisms of India over the Harley Davidson motorbike issue is well known, though India has corrected the duty long time back. With an highly imbalanced trade with India, US will be hurting itself more than India if they chose to raise tariffs.  
**Ashok Goswami, Mumbai**

The writer is a national spokesperson of the BJP

# Under cover of a story

'Time' article on PM Modi omits his achievements, presents a false narrative



SAMBIT PATRA

BIAS CAN BE recognised not only from what is visible, but also from what is missing. There is a crucial word missing from the rambling lead article in *Time* magazine, which purports to be an analysis of five years of Prime Minister Narendra Modi's government. The missing word is "corruption".

Any balanced report would have mentioned, even if it was only grudgingly, that one of the most important reasons for Narendra Modi's victory in 2014 was the pervasive corruption that had become synonymous with Congress rule between 2004 and 2014, bolstered by smaller parties who picked up their share, through a voiceless Prime Minister Manmohan Singh who paid the price of his office with silence. You can rest assured that if there had been even an iota of credible evidence of corruption against PM Modi or his ministers, it would have dominated the diatribe that has been published under the guise of journalism by *Time*.

For the Indian voter in 2019, this is an exceptional achievement. Modi famously said, after being sworn in, "na khaonga, na khaaney doonga" ("I will not take money; and I will let no one else take money"). He has delivered. This is a principal reason, along

with many others, why "Modi! Modi! Modi!" has become a signature chant at the massive crowds that gather to hear him on the campaign trail in 2019. It is unsurprising that the magazine found neither the time nor the space to even mention the extraordinary turnout when PM Modi went to file his nomination at Varanasi. To do so would have interfered with a false narrative.

You also will find no mention of "Swachh Bharat" or "Jan Dhan" or "Mudra", or indeed any of the economic welfare programmes that have transformed the lives of the poor. Nearly 50 years ago, Mrs Indira Gandhi won a remarkable victory in the general elections of 1971 with a simple but powerful slogan: "garibi hatao" (remove poverty). But Mrs Gandhi could not find the ideas or the mechanisms that would eliminate this dire tragedy. When Modi became PM, a quarter of India was still mired in harsh poverty. Modi did not bracket poverty into statistics. He viewed this historic curse through the lens of lived experience, largely because he had once been there himself. He devised a set of programmes that aimed to improve the daily lives of the poorest of the poor.

What observers seem to miss, or choose

to miss, is that there has been absolutely no caste or communal bias in this colossal drive against poverty. Any opposition party during a general election is not kind towards government in its rhetoric. Why should it be? This is a free country. But no opposition party has accused the Modi government of discrimination on the basis of caste or creed in implementing its social empowerment policies.

It is one of the fantasies of the post-Independence Indian elite to believe that secularism has been one of its gifts; and without them India would never have been a secular state. Our syncretism is not manna from the privileged; it comes from the basic faith and philosophy of our land. Indeed, one of the reasons why communalism slowly became entrenched into political consciousness during the British era was because the vote then was limited to only the top 10 or 11 per cent. It is the poor, and indeed Indians of all shades and classes, who have protected the shared religious and cultural space.

Five years ago, parties campaigning for the Muslim vote ceaselessly proclaimed that if Modi came to power there would be riots every week. That has not happened. There have been a few terrible incidents of lynch-

ing, and they have been resolutely condemned. But you would need either a very short, or a very convenient, memory to forget the riots that took place in Uttar Pradesh during the UPA decade.

Democracy is, at its root, a popularity contest; it is a question of who gets more votes. As has been famously, there might be a hundred things wrong with democracy, but every other option is infinitely worse. Democracy is deeply rooted in India's psyche. Our great generation of freedom fighters, led by Mahatma Gandhi, did not win freedom from the British in order to deny freedom to Indians. Narendra Modi is a product of democracy; for only democracy finds a map for the journey from a hut to the prime minister's residence. The poor, and those who emerge from poverty, have a far greater vested interest in democracy than the elite, who will remain in power no matter what system prevails.

The proof of this pudding called elections lies in the voting. You can hear the voice of the people at Narendra Modi's rallies.