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TELLING NUMBERS

Of every 7 women candidates in LS polls, 1 faces a criminal case

PARTY-WISE, 2019

Party	Women candidates	Facing cases	%	Avg assets (Rs crore)	Crorepatis	%
Overall	716*	110	15%	5.63	255	36%
Independent	222	22	10%	1.63	43	19%
BJP	53	18	34%	22.09	44	83%
Congress	54	14	26%	18.84	44	82%
Trinamool	23	6	26%	2.67	15	65%
BSP	24	2	8%	3.03	9	38%

*Out of 724 women candidates, 8 affidavits not analysed

Source: Association for Democratic Reforms, New Election Watch

OF THE women candidates who contested the just concluded Lok Sabha elections, more than one in seven have criminal cases pending against them, according to an analysis of their affidavits by the Association for Democratic Reforms (ADR) and New Election Watch. A statement released by the two organisations said that out of 724 women candidates, 716 were covered in the analysis and 110 (15%) have declared criminal cases. The affidavits of the other eight candidates are unclear, the statement said.

Of the 15% who have declared criminal cases, 11% (78 of 716) have declared serious cases — rape, murder, attempt to murder, crimes against women etc. In 2014, 13% (87 of 665 women candidates had been covered in that analysis) had declared criminal cases, with 8% (51) having declared serious cases.

Of the 78 facing cases in 2019, four have declared cases of murder (IPC Section 302), 16 have declared cases of attempt to murder (Section 307), and 14 have declared cases relating to

ASSETS DECLARED: TOP 3 AMONG WOMEN CANDIDATES

Hema Malini (BJP) Rs 250.82 cr

D A Sathya Prabha (TDP) Rs 220.48 cr

Harsimrat Kaur Badal (SAD) Rs 217.99 cr

crimes against women (Section 313).

Of the 110 women facing cases, 22 are independent candidates, representing 10 per cent of all women independents contesting in 2019. Among parties, the BJP and the Congress, respectively, have 34% (18 of 53) and 26% (14 of 54) women candidates facing criminal cases.

Of the 716 women candidates analysed, 255 (36%) are crorepatris. Of the 665 women candidates analysed in 2014, 219 (33%) were crorepatris.

The average assets per woman candidate contesting in 2019 are Rs 5.63 crore. The average per woman candidate in 2014 was Rs 10.62 crore.

TIP FOR READING LIST

MOST FORMIDABLE SPY IN HISTORY

THE SOVIET military intelligence officer Richard Sorge (1895–1944) is widely acknowledged as one of the most accomplished spies ever. Before and during World War II, he worked as a journalist in Nazi Germany — his father was German and his mother Russian — as well as Japan. He is also credited with having been a seducer who used his charm to find out closely guarded state secrets — James Bond creator Ian Fleming described him as “the most formidable spy in history”. Sorge’s intelligence inputs proved vital to the Soviets in the Battle of Moscow, which in turn determined the outcome of the war. Sorge, however, was arrested for espionage in Japan and hanged in November 1944.

British journalist and historian Owen Matthews now retells Sorge’s story from the perspective of the Russians as well as the Germans and the Japanese. *An Impeccable Spy: Richard Sorge, Stalin’s Master Agent* draws from declassified

Soviet archives — along with testimonies from those who had known and worked with Sorge, a dedicated communist apart from being a spy.

Among the few previous English language books on Sorge, one is *Stalin’s Spy* by Robert Whyntan, a former journalist with *The Guardian*. Whyntan, whose book was published in 1996, had interviewed people who knew Sorge well, an advantage Matthews did not enjoy with all those witnesses having passed away. Reviewing the new book, *The Guardian* praises Matthews: “He tells the dramatic story well, not least the final twist. In the Brezhnev and Andropov eras in the 1970s and 80s, Sorge became a Soviet hero with a flood of books about him, even though he had been totally abandoned in 1944 when he was arrested in Tokyo. He had hoped the Soviet authorities would press the Japanese to let him go back to Moscow, but the Kremlin betrayed the man who had done so much for it. No effort was made to save him.”



Matthews now retells Sorge’s story from the perspective of the Russians as well as the Germans and the Japanese.

SIMPLY PUT

The journey of an EVM

Amid controversy over the movement of EVMs, a look at the EC procedures for storing these machines, commissioning them for polls, and how they travel from the strong room to the poll booth and back

RITIKA CHOPRA

NEW DELHI, MAY 21

AHEAD OF counting of votes for the Lok Sabha elections, the security of electronic voting machines has become the centre of controversy. On Tuesday, 22 Opposition parties approached the Election Commission over reports of supposedly suspicious EVM movements, while the EC dismissed allegations of EVMs being switched. A look at the arrangements made by the EC to secure the journey of an EVM from the strong room to the polling station and back:

During non-election period

All available EVMs in a district are normally stored in a treasury or a warehouse under the direct control of the District Electoral Officer (DEO). Exceptions can be made in case of unavailability of storage space, but the designated treasury or warehouse should not be below the level of tehsil. The warehouse is secured by a double lock, guarded round the clock by policemen or security guards, and is also under CCTV surveillance. During a non-election period, EVMs cannot be moved out of the warehouse without specific instructions from the Election Commission. The first-level check of the EVMs by engineers is done here, in the presence of representatives of political parties.

During poll season

Closer to the election date, EVMs are allocated randomly to various Assembly segments (in a Lok Sabha seat) through a software in the presence of party representatives. If the representatives are absent, then a list of allocated EVMs and VVPAT machines for each Assembly segment is shared with the party office. From this point, the Returning Officer (RO) of the Assembly segment takes charge of the allocated machines and stores them in designated strong rooms.

Here, the second round of randomisation takes place. EVMs are commissioned to specific polling stations in the presence of party representatives. In fact, candidates are advised by the EC to share the machine numbers with their respective polling agents so that they can verify these before polling begins.

After all machines are prepared with the setting of candidates and fixing of ballot papers, and then commissioned, the strong room is sealed in the presence of party representatives who can, if they wish, also put their own seal on the locks. The strong room is guarded round the clock under the charge of a senior police officer, not below the rank of a Deputy Superintendent of Police. It can also be guarded by central police forces, wherever possible.

Once sealed, the strong room can only be opened on a fixed date and time when the machines have to be handed over to the polling parties to be delivered to their designated polling stations. All candidates and their election agents are informed beforehand about the date and time of opening of the strong rooms.

Apart from the machines allocated to specific polling stations, some reserve EVMs are also taken from the strong rooms and stored in a central place in the Assembly segment, so that defective machines can be replaced with as little delay as possible.

This year, in view of last year’s controversy over the movement and storage of unused EVMs during the Madhya Pradesh Assembly elections, polled and unused machines are being transported only in GPS-enabled vehicles so that their movement can be tracked by the DEO and CEO.

From booth back to strong room

Once voting ends, EVM are not dispatched to the strong rooms right away. The

A SECURE PROCESS

Gurmeet Singh



EC SAYS NO POSSIBILITY OF

EVM HACKING

Software can't be changed, read; EVMs standalone

MEMORY MANIPULATION

Would require free access to polled EVMs

VOTE-STUFFING

No votes can be cast after 'Close' button is pressed

KEY SAFEGUARDS

- FROM first-level check to counting, EVMs in strong rooms; 24/7 security
- PARTIES/candidates witness, participate in every stage of process
- MOVEMENT of EVMs/VVPATs is only by container trucks or sealed trucks
- VEHICLES transporting EVMs/VVPATs sealed with locks and paper seals
- SHIFTING under 24/7 security (left); is videographed; vehicles are tracked by GPS
- MANAGED using Election Commission's EVM management software (EMS)
- ADVANCE information to parties on opening/closing EVM/VVPAT warehouses

STEP BY STEP

1 FIRST-LEVEL CHECK (FLC)

- Full physical check of machines, their functioning. Defective EVMs kept aside
- Mock poll on every functioning EVM/VVPAT
- Result in EVM's Control Unit (CU) tallied with VVPAT slips in front of parties' representatives
- CU sealed with 'Pink Paper Seal' after FLC is completed
- Seals signed by engineers and representatives
- EVMs/VVPATs stored in strong rooms; 24/7 security
- Photocopies of record registers shared with representatives of parties
- Sanitised hall; entire process recorded in EMS; videography; FLC process carried out before representatives of parties

2 RANDOMISATION

Two-stage process of randomising EVMs using EVM Management software; in addition, there is a three-stage randomisation of polling station officials

FIRST RANDOMISATION

- OF FLC-approved EVMs to allocate EVMs from a district randomly to a particular Assembly constituency (AC)
- DONE in front of representatives of political parties; list of AC-wise randomised EVMs shared with parties

SECOND RANDOMISATION

- JUST BEFORE 'candidate setting', which is the process of preparing EVMs after names of candidates are final. (In fully sanitised hall, under videography and in presence of candidates/agents, number of each candidate is set in Ballot Unit (BU), which is then sealed and a mock poll is conducted)
- DONE to allocate EVMs in an AC to specific polling stations; in presence of representatives of political parties



Vishal Srivastava

RANDOMISATION ENSURES THAT

- UNTIL first randomisation, no one knows which EVM is going to which Assembly constituency (above)
- UNTIL nominations are finalised, no one knows sequence of names on ballot paper
- UNTIL candidate setting, no one knows which button on BU will be assigned to which candidate
- UNTIL second randomisation, no one knows which EVM will go to which polling station

3 AFTER POLLEND

- EVMs SHUT by pressing 'Close' button on CU
- SEALED in carrying cases under signatures of polling agents
- TRANSPORTED to reception centres under armed guard, with candidates' representatives being allowed to follow

4 STORING POLLED EVMs



Gajendra Yadav

- STRONG ROOM opened in presence of candidates, Returning Officer and Observer under videography
- CUs BROUGHT to counting tables

5 ON COUNTING DAY

- round-wise under continuous CCTV coverage
- UNIQUE ID number of CU and signed seals verified, shown to polling agents

- KEPT IN strong rooms that are sealed in presence of candidates and observers; candidates allowed to put their seals on locks
- 24/7 CCTV feed from strong rooms to candidates' camping area (left)
- OPENED/CLOSED only in presence of party representatives, with advance written intimation

- AFTER COUNTING, EVMs/VVPATs kept back in the strong room in presence of candidates until the end of Election Petition period

Source: Manual on Electronic Voting Machine and VVPAT, February 2019: Election Commission of India

Reserve EVMs should also be returned at the same time when the polled EVMs are returned. Once all used EVMs have arrived, the strong room is sealed and the candidate or her representative is permitted to put their own seals or locks as well. They are also allowed to keep a watch on the strong rooms round the clock.

Once sealed, the strong room cannot be opened until the morning of counting day. If the strong room has to be opened before that

for an unavoidable reason, it can only be done in the presence of the candidate or his representative, who will be allowed to put their seals or locks again after the room is closed.

Security forces are deployed in three layers around storage rooms with Central Armed Police Forces guarding the inner ring. On the day of the results, counting begins only after the candidate or her polling agent has checked the machine number and whether the seal is unbroken.

Carbon dioxide in atmosphere hits a high: how it relates to global warming

AMITABH SINHA

NEW DELHI, MAY 21

ON MAY 11, global concentration of carbon dioxide in the atmosphere was measured to have crossed the 415 parts per million (ppm) mark for the first time. On every subsequent day thereafter, the daily average atmospheric concentration of carbon dioxide has remained over that level, touching 415.7 ppm on May 15. On May 18, the daily average carbon dioxide concentration, as measured by sensors at the Mauna Loa observatory in Hawaii, was 415.02 ppm.

The rapidly rising concentration, as measured from Mauna Loa and other observatories, is one of the best indicators of the manner in which the planet has been warming up. The higher the concentration of carbon dioxide, the greater the greenhouse gas effect that causes the Earth's atmosphere to heat up.

For several thousand years, the carbon dioxide concentration remained constant around 270–280 ppm, before the industrial revolution began to slowly push it up. When

direct measurements began at the Mouna Loa observatory in 1958, concentrations were around 315 ppm. It took nearly 50 years for it to reach 380 ppm, a mark first breached in 2004, but thereafter the growth has been rapid.

The first full-day average of more than 400 ppm was achieved on May 9, 2013; two years later, in 2015, even the annual average exceeded 400 ppm. Currently, the carbon dioxide concentration is growing at more than 2 ppm per year, and scientists say the growth rate is likely to reach 3 ppm a year from this year.

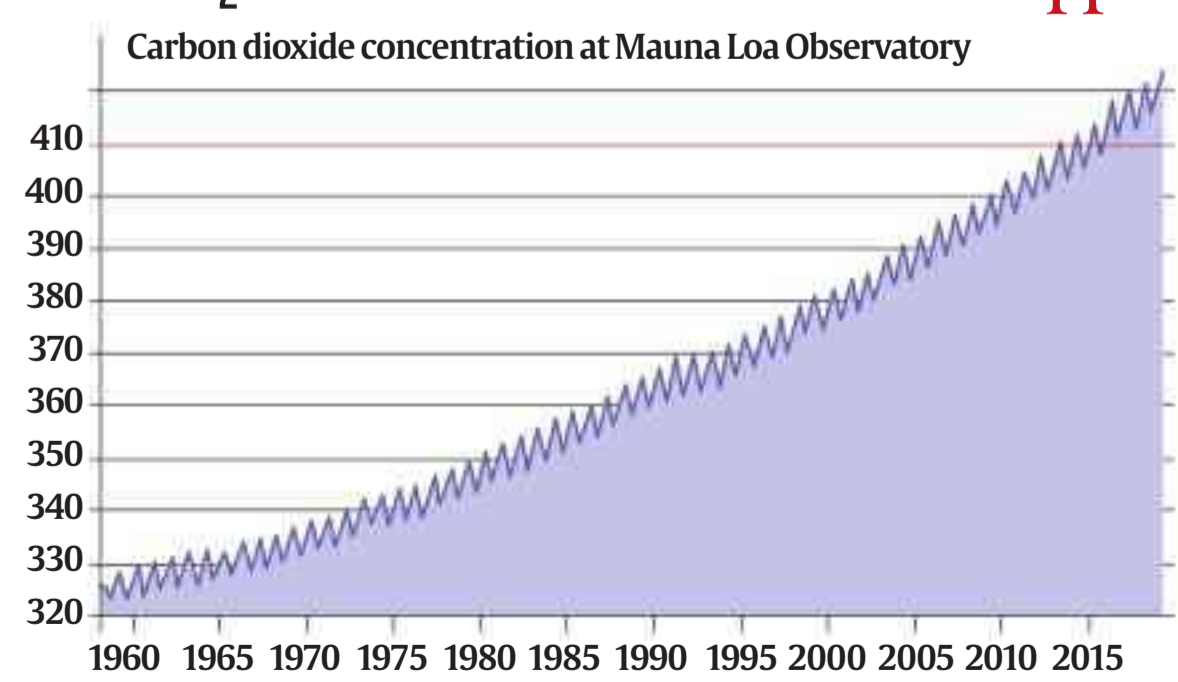
Carbon dioxide's long life

The increase in atmospheric concentrations is caused by the carbon dioxide being constantly emitted in different, mostly man-made, processes. In recent years, the growth in global carbon dioxide emissions has slowed down considerably. It remained almost flat between 2014 and 2016, and increased by 1.6% in 2017 and about 2.7% in 2018. In 2018, the global emission of carbon dioxide was estimated at 37.2 billion tonnes.

The rapid rise in the atmospheric con-

LATEST CO₂ READING MAY 18, 2019

415.02 ppm



Source: Scripps Institution of Oceanography

centrations, however, is due to the fact that carbon dioxide has a very long lifespan in the atmosphere, between 100 and 300 years. So, even if the emissions were to miraculously reduce to zero all of a sudden,

it would have no impact on the atmospheric concentrations in the near term.

About half of emitted carbon dioxide is absorbed by plants and oceans, leaving the other half to go into the atmosphere. An ad-

dition of about 7.5 billion tonnes carbon dioxide to the atmosphere leads to a 1 ppm rise in its atmospheric concentration. So, in 2018, for example, half the total emissions, or about 18.6 billion tonnes of carbon dioxide, would have been added to the atmosphere, leading to rise of 2.48 ppm in atmospheric concentrations.

The absorption of carbon dioxide by plants follows a predictable seasonal variability. Plants absorb more carbon dioxide during the summer, with the result that a lower amount of carbon dioxide is added to the atmosphere in the summer months of the northern hemisphere, which has considerably more vegetation than southern hemisphere. This variability gets captured in the very rhythmic seasonal fluctuation of atmospheric concentration of carbon dioxide.

The temperature equivalence

The global goal in the fight against climate change has been defined in terms of temperature targets, not carbon dioxide concentrations. The stated effort of the global community is to keep the rise in av-



The Indian EXPRESS

FOUNDED BY
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

Why Congress can't

It doesn't possess the vision, strategy or ground strength to take on the deep challenges to the republic



YOGENDRA YADAV

MY REMARK ON a TV show, that the "Congress must die", has triggered a debate, perhaps somewhat prematurely, on the role of the country's principal Opposition party in the times to come. Some of the early reactions have been virulent. Perhaps the timing of the remark made it look like an attempt to kick someone when he is down. And the metaphor of death invited strong emotional reaction.

Let me, therefore, spell out the rationale in the hope that it would generate a more serious and constructive debate. Let me begin by clarifying what this remark was not. One, it was not a knee-jerk emotional outburst in reaction to an exit poll. I had expressed a similar opinion earlier too. The broad judgment is not dependent on the exit polls, unless, of course, the Congress manages to defeat the BJP in the states where it is a direct Congress-BJP contest. Two, I harbour no animus or *khundak* against Congress leaders. I have said publicly that Rahul Gandhi is more sincere than most political leaders that I have met and far more intelligent than everyone thinks.

Three, this is not a forecast. I know big political parties don't die easily, and not just because they lose two elections. I don't have Pragma Thakur's powers to give *shrapa* (curse), so you may call it my wish. Finally, this wish is not born out of a congenial anti-Congressism. I have always maintained that Ram Manohar Lohia's anti-Congressism was a short-term political tactic and must not be turned into an ideology. Unlike most Lohiaites, I have come to admire the role of Nehru and the Congress party in nation-building in the first two decades after Independence.

To my mind, the core issue is assessing the Congress' potential in acting as a bulwark against the onslaught on the foundations of our republic. There are two assumptions here. One, the rise of the Narendra Modi-led BJP presents a threat to the core constitutional values of democracy and diversity. Two, as the principal national Opposition party, the Congress carries the first charge of protecting the republic against this onslaught.

Once we agree on these, and I think most of my critics would share these assumptions, then we can enter into a mean-

ingful debate and disagreement on the following questions: Has the Congress done justice to this historical responsibility in the last five years? Or, can it be trusted to perform this responsibility in the foreseeable future? My answer is a clear no. The Congress is not just not up to this task, it is a hurdle for those who wish to do so.

Let us look at what the Congress did, or rather didn't, in the last five years. The Modi regime's economic performance was below average. Did the Congress organise any nation-wide mass movement to articulate and mobilise the farmers' distress, or the rising unemployment among the youth, or the small traders' anger against the way the GST was being implemented, not to speak of the disaster of demonetisation? These five years were marked by a spate of lynching of Muslims and rising atrocities against Dalits. Did the Congress even articulate it coherently in a way that would make sense to non-Muslims and non-Dalits as well?

Or take this election, after the Congress got a dream launch—pad with victory in three assembly elections. Did the Congress do something in these three states that could be presented as an alternative to the Modi regime? Did the Congress have a message for the voters of this country? No doubt, it finally came out with a decent manifesto, but that is hardly a political message for the last person. Nor did it have a credible messenger. Pitted against Modi's communicative onslaught, Rahul Gandhi carried little appeal. The Congress did not appear to have a strategy to handle the post-Pulwama "nationalist" blitz by the BJP. And it certainly had no roadmap for building a Mahagathbandhan: Just compare how the BJP brought back the Shiv Sena and the AGP with how the Congress dealt with alliances in UP, Bihar and Delhi.

I don't overlook the odds the Congress was up against: The Modi government's brazen misuse of state power, its mind-boggling money power and the near complete control over mainstream media. But did the Congress do what could be done under these constraints? Besides, the only reason why mainstream parties exist and flourish is their viability and reach. The Congress cannot say everyone must come to it because this is the

only party that can take on the BJP and then give reasons why it couldn't.

Let's focus on the future. The prospects of a second Modi regime bring with it two deeper challenges to our republic. On the one hand, we are walking towards electoral authoritarianism where the electoral mandate will replace any constitutional constraints. On the other hand, there is a slide towards non-theocratic majoritarianism, where minorities are reduced to the status of second-rate citizens. Do we expect the Congress to be the principal force to combat these two dangers? To my mind, the Congress does not seem to possess the vision, the strategy or the ground strength to take on this historic responsibility. If so, the Congress is not the instrument needed to save the republic.

Worse, the Congress is an obstacle to those who want to build an alternative. A large mainstream party acts like a magnet that catches a lot of energy around it. So, even when the Congress is unable to defeat the BJP, it ends up diverting and diffusing a lot of the energy that gets drawn to it. It won't do the job and won't let anyone else do it. Alternative politics cannot take off until it calls the bluff of "Vote for Congress or else...", unless it begins to carry on its work as if the Congress did not exist. This is how the metaphor of death should be understood.

Of course, parties don't wither away or die an instant death. There are two ways in which the Congress can "die". There is death by attrition, where a big party keeps getting marginalised and gradually loses traction with the voters. This process takes many elections, perhaps many decades. This is exactly what the BJP would wish for the Congress. But there is also death by submergence, where the remaining energy of the party gets subsumed in a new, larger coalition. There is still a lot of energy in the country to take on the challenge to our republic. The ideal "death" for the Congress would be for this energy, inside and outside the Congress, to merge into a new alternative.

The dark metaphor of death is an invitation to think about a new birth. Or a rebirth?

The writer is president, Swaraj India

POWER UNDER PRESSURE

High AT&C losses, inadequate tariff hikes, continue to pose challenges to discoms

LAUNCHED IN NOVEMBER 2015, the Ujwal DISCOM Assurance Yojana (UDAY) was designed to turn around the precarious financial position of state distribution companies. Broadly, the scheme had three critical components. Takeover of discom debt by state governments, reduction in aggregate technical and commercial (AT&C) losses, timely tariff revisions and elimination of the gap between the average per unit cost of supply (ACS) and average revenue realised (ARR) by FY19. But as the NDA government ends its term, indications are that the turnaround hasn't materialised, with several targets being missed.

First, at the aggregate level, the AT&C losses for major states stood at 19.05 per cent against the target of reducing them to 15 per cent by the end of FY19. In the case of some states, especially in the northern and central parts of the country, the losses are of a much higher magnitude, suggesting that pilferage continues to be rampant. Second, while the ACS-ARR gap was supposed to be eliminated by FY19, it remains as high as Rs 0.25 per unit. In many states, the gap is even higher. Part of the problem can be traced to inadequate tariff hikes. While it is true that some states have aggressively raised tariffs, the median hike remains muted. This is where political compulsions overtake commercial decisions. Then there's also the issue of whether the power subsidy released by state governments is adequate. As a result, discoms have reported financial losses to the tune of Rs 21,658 crore at the end of FY19, reversing the declining trend since the launch of UDAY, say reports. This deterioration in the financial position of discoms does not bode well for the entire power sector chain. Reports suggest that dues by state discoms to power generators have in fact risen. And though the recent CERC order on tariff relief for independent power producers is positive for producers, it runs the risk of timely realisation, as the financial position of discoms continues to precarious.

Apart from these, there are several other operational efficiency targets under UDAY, such as feeder metering, smart metering and feeder segregation. Progress on these is mixed. For instance, not much progress has been made in the case of smart metering above 200 and upto 500 kwh and above 500 kwh. These issues need to be addressed quickly or else discom losses will rise further to levels where talks of another bailout are likely to surface. The only difference being that, this time around, state governments have little fiscal space to offer support.

NO LAUGHING MATTER

HD Kumaraswamy threatens legislation against media satire. His peevishness would be comical if it wasn't disturbing

KARNATAKA CHIEF MINISTER H D Kumaraswamy has joined the teeming ranks of politicians who seek curbs against unfavourable portrayal in the media. It is a large community agnostic to allegiance and inclination, and includes members from all walks of politics. In Kumaraswamy's own state, two BJP candidates, Tejasvi Surya and Pratap Simha, had secured gag orders from Bengaluru courts prior to the general election. But Kumaraswamy has trumped them by threatening to legislate against media. Ironically, he owns a TV channel himself and was speaking at the launch of two books by a journalist. He appeared to be particularly incensed about the satirical portrayal of his family on TV, against the backdrop of continuing speculation about the future of the JD(S)-Congress coalition ruling the state. "In the name of humour, they are defaming politicians," he said. "Who has given you the authority to portray politicians in bad light?" Cartoonists, whose business it is to lampoon politicians every 24 hours, may well marvel at this absurdly rhetorical question, for the authority is conferred by Article 19(a) and (g) of the Constitution, which confer the right to free speech and the right to practise any profession.

The generation of politicians who framed those rights took them seriously. Jawaharlal Nehru had no objection to Shankar's merciless lampooning, even when the father of Indian cartooning portrayed him naked. But Indira Gandhi was offended by press freedoms, abolished the Press Council and subjected the press to day-by-day censorship. In recent years, the cartoonist Aseem Trivedi was charged with sedition in 2012 for publishing cartoons on his website displaying the Ashok Stambh, with the lions replaced by wolves. The intent was political rather than seditious, but the matter dragged on for months. In the east, Mamata Banerjee has been chronically touchy about satirical depictions of herself, both in the press and on social media, and the ruling party has unfailingly invoked the law, most recently just 10 days ago.

The archaic colonial laws of sedition and criminal defamation make such repression possible. These should be struck off the statute books or brought up to speed with modern, rights-based political thought. Unfortunately, Kumaraswamy has threatened to go the other way, and introduce fresh legislation to curb the alleged menace of political satire. Here's hoping that his outburst can be put down to a temporary burst of pique, in a tense week when the results of the general elections are due.

TRY RESPECT

Amid jingoistic taunts and military escalation, Iran's foreign minister offers Donald Trump sound diplomatic advice

WHILE "OFFICIAL END" doesn't quite soar to the hyperbolic heights of President Donald Trump's now infamous "fire and fury" threat to North Korea in 2017, its import is much the same. And earlier this month, the US had suddenly (and somewhat surprisingly) deployed bombers and an aircraft carrier in the Persian Gulf to meet as yet unnamed threats from Iran. The government in Tehran, for its part, is using US aggression to ratchet up patriotic sentiment: "@realdonaldtrump hopes to achieve what Alexander, Genghis & other aggressors failed to do. Iranians have stood tall for millennia while aggressors all gone. #EconomicTerrorism & genocidal taunts won't end Iran," tweeted Foreign Minister Javad Zarif. Zarif, though, ended his tweet with some sage advice — "try respect, it works".

"Muscular" diplomacy, a term often used by those appreciative of Trump's foreign policy stances, is in essence a contradiction in terms. And it is this crude, short-term approach that has defined the Trump Administration's approach to Iran, beginning with pulling out of the carefully negotiated nuclear settlement last year and more recently by strict sanctions. The act of talking, of cajoling and compromising, is one of subtlety and understanding, backed by erudition. The villainising of entire countries and civilisations is hardly likely to achieve an amicable solution to the seemingly intractable geopolitical quagmire in West Asia. In fact, the insults and threats are only likely to strengthen the hold of the more regressive elements within Iran's polity, a muscular response to muscular threats.

Perhaps the root of the problem, the festering source of the invective that laces diplomatic parlance, is domestic politics. Trump faces an election next year, and ill-planned adventures and imaginary enemies abroad have often helped political fortunes in the US. On the other hand, there are political gains in making peace, as Trump himself has no doubt learnt from the partially successful overtures between Washington and Pyongyang. Maybe, just maybe, it's time to try respect with Iran too and see if that works.

UNSEEING THE WAVE

When it comes to elections, experts and politicians tend to wear blinkers



COOMI KAPOOR

EVEN AFTER EXIT polls indicate near-unanimously that Narendra Modi will be back, some people refuse to read the writing on the wall. When it comes to elections, experts and politicians often tend to wear blinkers.

Some poll watchers base their assumptions on issues which may be irrelevant on the ground. During brief trips to western Uttar Pradesh and Haryana, I did not once hear a voter express concern about the Rafael deal or rake up demonetisation. Nor did the non-performance of local MPs seem to matter. The chorus generally was, "We are voting for Modi, not the MP". The majority of the electorate clearly saw this as a presidential election. "This time Modi," was the usual response followed by the query, "What is the alternative?" Even Modi's own party has reason to be worried — everyone talked of Modi, no one mentioned the BJP.

Liberals will be concerned to know that some of the very issues and speeches for which they mocked the prime minister were appreciated by some rural folk. Many saw Modi's bear-hug diplomacy as one of his strengths. They believe India has finally been recognised as a major power. Balakot and Pulwama, expectedly, added to the PM's macho image. In the hinterland, people seem to want a strong man for PM, not necessarily a gentleman.

In this election, UP was supposed to be the game changer, where the BJP would be bested

Liberals will be concerned to know that some of the very issues and speeches for which they mocked the prime minister were appreciated by some rural folk. Many saw Modi's bear-hug diplomacy as one of his strengths. They believe India has finally been recognised as a major power. Balakot and Pulwama, expectedly, added to the PM's macho image. In the hinterland, people seem to want a strong man for PM, not necessarily a gentleman.

by a more powerful caste and community arithmetic of Yadavs, Muslims, Dalits and Jats. Deciphering an election result on the basis of caste arithmetic is a dicey business. This was a lesson I learnt covering my first parliamentary poll in 1971. The campaign manager of the Jana Sangh candidate from Delhi's Karol Bagh constituency offered a glib explanation as to why his party, the precursor to the BJP, would romp home. The constituency was made up of x percentage of Punjabis, y percentage of South Indians, z percentage of banias and so on, with each caste and ethnic group loyal to his party for some reason or the other. He left me in no doubt that the Jana Sangh had the election sewn up. Halfway through the campaign, I began to have grave doubts, most people on the street were clear that Indira Gandhi would win hands down.

Mrs Gandhi's 1971 election sweep taught me some basic lessons in election coverage. Trust your instincts and don't get influenced by the local know-it-alls. Don't let a constituency's profile and past history overwhelm your judgement. Most importantly, never let your hopes cloud your objectivity. In 1984, I was in Mumbai and the simple test of checking with dozens of taxi drivers left me in no doubt that Rajiv Gandhi would win a thumping majority. But in my magazine's head office in Delhi, the political head honcho, with BJP leanings, confidently predicted

a hung Parliament. During the parliamentary poll in 1990, I travelled with two journalist friends in UP. On the highway from Kanpur to Agra, almost everyone spoke belligerently of building a Ram Mandir at Ayodhya. But my companions, because of their secular beliefs, kept insisting that we had not met a representative sample.

When I visited western UP in the first phase of this election, I temporarily forgot my own rules. Instead of going by the usual head count, I was swayed to some extent by the logic of caste and community arithmetic, in view of the sharp polarisation of the electorate. The Kairana by-poll of last year was on my mind since it demonstrated that when the BSP, SP and RLD came together, they could take on the BJP. In UP, like many scribes, I made the mistake of focusing more on discovering how united the gathbandhan was, rather than fully assessing the overall mood and appreciation for the government's development schemes. I could also see that Jats, supposedly part of the gathbandhan, were clearly divided.

If I was confused in UP, when I visited Haryana the answer was clear as a bell. It was Modi all the way. *The Indian Express* reports in other regions noticed similar voter sentiment.

The writer is consulting editor, The Indian Express

MAY 22, 1979, FORTY YEARS AGO

RICE PRICE POLITICS

MAJOR RICE-GROWING states pleaded for a much higher procurement price for paddy than Rs 90 a quintal recommended by the Agricultural Prices Commission for the 1979-80 marketing season. Punjab, Haryana and Andhra Pradesh wanted it to be raised to between Rs 115 and Rs 125 per quintal for average quality. Chief ministers, food ministers and senior officials of the state governments put forward their pleas during talks with the Union Agriculture Minister Surjit Singh Barnala on the proposed price policy for kharif cereals. Barnala had invited the representatives in four groups for detailed exchange of views before formulating the central policy.

During the discussions, it became clear that major rice-producing and deficit states were in rival camps. Consuming states were not interested in the procurement price going beyond Rs 95. Deficit states were opposed to any increase in the issue price.

SANJAY HELD
SANJAY GANDHI AND R K Trikha, who came to appear in the court of the Special Judge (Anti-corruption), were arrested along with more than 200 supporters for defying Section 144. They were all sent to Bareilly jail as there was no accommodation in the district jail. This is the second time that Gandhi and Trikha have been ar-

rested during the case proceedings.

PRISONERS EXCHANGED

CHINA AND VIETNAM have carried out the first exchange of prisoners captured during their recent border war. The Chinese handed over an initial group of 120 sick and wounded soldiers, 10 of them described as stretcher cases. After they had crossed the frontier at Friendship Pass, the Vietnamese Red Cross signed a receipt, and then handed over 43 Chinese prisoners. The Chinese had cleared the frontier of landmines and other obstacles. Red Cross officials are expected to meet to work out a timetable for the release of the remaining prisoners.



13 THE IDEAS PAGE



CR Sasikumar

A one-sided justice

The complainant in the sexual harassment case against the Chief Justice has not been fairly treated. Institutional bias is visible in the inquiry, which leaves complaints about victimisation unaddressed



MADAN B LOKUR

ELEANOR ROOSEVELT SAID: "Justice cannot be for one side alone, but must be for both." Was justice done to the Supreme Court staffer who made two allegations on affidavit — first of unwanted physical contact by the Chief Justice of India (CJI) and second, of victimisation? For the present purposes, I would only like to consider the allegation of victimisation. The allegation of victimisation relates to a departmental inquiry that continued despite the hospitalisation of the complainant; her dismissal from service for expressing dissatisfaction about her frequent transfers and not reporting for duty but taking unauthorised half-day casual leave; the dismissal of her brother-in-law from service in the Supreme Court; the suspension from service of her husband and another brother-in-law and her arrest in an unrelated case.

Institutional bias: Judges and lawyers are aware of institutional bias, that is to say a procedure influenced by decision-makers in an institution which casts a doubt on the judicial or administrative process. Among the first reactions to the publication of the allegations was an email sent by the Secretary-General of the Supreme Court to *The Wire* early morning on April 20. This was surely not an individual response but a response given by the Secretary-General in his capacity as a representative of the Supreme Court or the CJI or both, otherwise he could very well have denied any concern with the allegations while allowing the law to take its own course. But no, the Secretary-General wrote: "The allegations regarding 11 October 2018, as well as other allegations as can be discerned from your emails, are completely and absolutely false and scurrilous and are totally denied." The denial clearly indicated that, officially, all the allegations were denied.

Unfortunately, the matter was reopened the same day (Saturday) at 10:30 am in Court No 1 of the Supreme Court on a mention having been made by the Solicitor General of India. It is not clear before whom he mentioned the matter, when and why was the mention entertained and what procedure was followed. In the normal course, it would be fair to assume that the Solicitor General mentioned the matter before the Secretary-General, who in turn brought it to the notice of the CJI, who gave an order to have the matter "touching upon independence of judiciary" listed in court. As per the notice brought out by the Supreme Court, the Bench was presided over by the CJI. The Bench would have been constituted by the CJI, being the Master of the Roster, and he nominated himself as the Presiding Judge.

On the Bench, the allegations were described by the CJI as unbelievable and that he would not stoop so low as to deny the allegations. He also stated that some bigger force wanted to deactivate the office of the CJI. In short, the CJI rubbished the allegations.

Though the sitting was unprecedented and extraordinary, what is even more unprecedented and extraordinary is that the record of proceedings did not indicate the presence of the CJI on the Bench. In other words, either the news reporters were seeing and hearing the equivalent of Banquo's ghost in Court No 1 or the record of proceedings was incorrect — tampering with the record

may be too strong a word. Either way, the misreporting of the proceedings by the journalists or by the Registry of the Supreme Court was something extremely serious. I say this because earlier in the year two officials of the Registry of the Supreme Court had been dismissed from service for tampering with the record of proceedings in a case.

On April 22, the Supreme Court Employees Welfare Association, on behalf of all the employees, strongly condemned the allegations against the CJI as false, fabricated and baseless. Given these events, could it not be said that institutional bias had crept in, in the manner in which the allegations of the lady staffer were initially dealt with? To me, the trappings of institutional bias are clearly made out whichever way one looks at the events of April 20.

On April 22, the Supreme Court Advocates on Record Association (SCAORA) as well as the Supreme Court Bar Association (SCBA) were sufficiently perturbed by the events that had taken place and they passed independent resolutions. While SCAORA was unhappy with the procedural impropriety, it strongly disapproved the manner in which the staffer's complaint was dealt with. It also requested for the appointment of a committee by the Full Court to investigate and enquire into the allegations and give an independent finding. The SCBA did not approve the procedure adopted for conducting the court proceedings and requested the Full Court to take necessary steps required by law. In other words, according to the SCBA, the proceedings were not in conformity with the law and along with SCAORA, they were quite disturbed by what had transpired.

Mandate of the internal committee: Perhaps in view of the strange events and the resolutions passed by SCAORA and SCBA, a decision was taken to set up a committee to enquire into the allegations made by the staffer. According to a website, the CJI appointed Justice SA Bobde on April 23 to conduct an in-house inquiry into the allegations of sexual harassment levelled against him and Justice Bobde confirmed the development. From the confirmation, it appears that the decision to set up a committee was a decision taken by the CJI and not the Full Court. That apart, the so-called in-house inquiry is a complete misnomer. With respect to the alleged misconduct by the CJI, there is no in-house inquiry procedure or any other remedial procedure laid down at all. So, the decision by the CJI can only be understood as a decision to set up some kind of an ad hoc committee, which I would prefer to call an internal committee of sorts.

Please note, the internal committee was set up by a person charged of unwanted physical contact with a lady staffer and that person chose the judge to inquire into the allegation. Equally significantly, the mandate given to the internal committee was limited to the allegation of unwanted physical contact, itself difficult to prove. The mandate did not include the allegation of victimisation. Why was the mandate limited? If there was to be an inquiry by an internal committee, then it should have been in respect of both the allegations, particularly since the affidavit of the staffer does contain verifiable documentary evidence which could lead (if proved) to a conclusion of victimisation.

What is equally mysterious is the rejection of the sane advice given by the Attorney-General on April 22 to the CJI and the next four senior judges to constitute an outside committee of three retired judges of the Supreme Court. We have several eminent retired judges, including women judges. It would have been to the credit of the Supreme Court if the advice had been accepted, thereby negating the belief of pos-

Though the sitting was unprecedented and extraordinary, what is even more unprecedented and extraordinary is that the record of proceedings did not indicate the presence of the CJI on the Bench. In other words, either the news reporters were seeing and hearing the equivalent of Banquo's ghost in Court No 1 or the record of proceedings were incorrect — tampering with the record may be too strong a word. Either way, the misreporting of the proceedings by the journalists or by the Registry of the Supreme Court was something extremely serious.

sible institutional bias. Moreover, the carefully thought out view expressed by SCAORA and SCBA would also have been accommodated if an outside committee had been set up. But it was not to be.

Report of the internal committee: Again, as reported on a website, the proceedings before the internal committee were informal and that is why the staffer was not permitted legal representation. However, given the enormous power imbalance between the CJI and the staffer, could not the internal committee have been a little charitable and conditionally permitted a support person? In matters of alleged sexual offences, judges try to protect the victim from re-victimisation. It is for this reason that various protections have been provided to victims of alleged sexual offences. In this case, surely the internal committee could have been a little magnanimous and permitted the staffer the comfort of a support person, particularly in view of the power imbalance and since the internal committee proceedings were informal.

The report of the internal committee was submitted to the next most senior judge on or about May 6. The contents of the report have not been disclosed, but a notice issued by the Secretary-General stated that the in-house committee found no substance in the complaint made by the staffer. Obviously, given

the mandate of the internal committee, this relates to the allegation of unwanted physical contact and not the allegations of victimisation. Now, what about the allegations of victimisation? Will another internal committee be set up or will these allegations be forgotten and not looked into, as not worthy of consideration? There is no way of knowing this.

The Secretary-General declined to give a copy of the report to the staffer by referring to a judgment in *Indira Jaising v. Supreme Court of India*. That decision is not at all relevant. First, the internal committee was not an in-house inquiry of the kind understood by the judges of the Supreme Court in 1999-2000, when the in-house procedure was adopted. Second, the decision was rendered in the context of a formal in-house inquiry and not in the context of informal in-house proceedings or internal committee proceedings. Moreover, the judgment of the Supreme Court does not say that the complainant is disentitled from getting a copy of the report of the so-called in-house committee. The procedure for conducting an in-house inquiry merely says that a copy of the report shall be furnished to the judge concerned. There is no prohibition in giving a copy of the report to the complainant — neither the in-house procedure refers to any prohibition nor does the judgment of the Supreme Court refer to any such prohibition. Besides, under what law can the report be denied to the complainant? A similar question came up in a case before the Supreme Court and the government claimed privilege under the Indian Evidence Act to deny a copy of the report to the complainant. The defence was rejected since a report on an allegation of sexual harassment does not (and cannot) concern the affairs of state. Accordingly, a direction was given to the government to hand over a copy of the report along with all other material to the complainant. Therefore, can a copy of the report on allegations of sexual harassment be denied to the complainant merely on the say-so of the Secretary-General? Under what law does he get the power to give a copy of the report to the person charged but at the same time deny a copy to the complainant, thereby making justice one-sided? In my opinion, the staffer must be given a copy of the report of the Committee so that she gets answers to the questions that she and others have raised.

Finally, has the report of the internal committee been accepted by the concerned judge? Is there an order to this effect? Can the concerned judge disagree with the report of the informal so-called in-house committee? In my view, the in-house procedure (assuming it applies) postulates a decision by the concerned judge to either accept the report or reject it or decide to take no substantive and follow up action on it. Either way, the concerned judge must apply his mind and take a decision on the report. It appears that no such decision has been taken and if it has been taken, it has not been made public.

On a consideration of the overall facts, it does appear that some injustice has been done to the staffer. Martin Luther King Jr. famously wrote: "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly." I am reminded of this because of my belief that the staffer has not been fairly treated. Many questions are left unanswered and actually many are trying to solve a riddle, wrapped in a mystery inside an enigma. Some transparency is needed. Can any member of the internal committee or somebody from the Supreme Court please help?

The writer retired as a justice of the Supreme Court of India in December 2018

WHAT THE OTHERS SAY

"The struggle over Huawei isn't really about technology. It is about whether China or the US is to be master." — THE GUARDIAN

Dear Yogendra, I disagree

Why the Congress is necessary



SUHAS PALSHIKAR

YOGENDRA YADAV'S CLAIM, that the Congress needs to die so that the way for a new politics may be cleared, calls for a response. In these times of easy branding, arguing in favour of the continued existence of the Congress runs the risk of being ridiculed both by pro-establishment circles and self-righteous pro-transformationists. So, the caveat is that the following is not an endorsement of "the Congress". It is more about the fundamental nature of India's politics, and also about the long romance called non-BJP, non-Congress politics.

The Congress that Jawaharlal Nehru led was transformed by Indira Gandhi beyond recognition. This led to the crisis that the party has been facing since the late 1980s. Since then, the Congress has never been able to reorganise itself. Neither could it instil a new purpose among its workers nor convince voters to remain loyal to it. Many have often believed that the decline and demise of the Congress would open up new possibilities electorally, and also in terms of changing the nature of our politics. They believe that the Congress is an impediment to structuring any new politics. In the past three decades, liberals, radicals, leftists, have miserably failed to create a different politics. Using the Congress as an alibi for those failures tends to understate the in-built difficulties in the project Yadav is looking forward to.

Along with the dream of alternative politics, the present moment also represents, as Yadav himself has recently articulated, India's imminent journey into a dark tunnel. If one agrees with this prognosis, then the "utility" of the Congress should not be ignored. It would act as a buffer to the BJP and its power machine because it would want to protect itself. In the process, the Congress would end up protecting many others with whom it may not fully agree. The kind of assault on dissent and diversity the BJP is likely to unleash, would require a relatively strong political counter. It is likely that elections may not throw up a stronger counter to BJP than the present, wounded and incompetent Congress. Yet, this Congress would have its uses in times of crisis of democracy. The Yogendra Yadavs, Prakash Rajis, Kamal Haasans and Kanhaiya Kumars, despite the goodwill they enjoy, need larger social acceptability beyond their immediate circles in order to be operational.

India's democracy does not easily admit a liberal fringe or a radical liberal extravaganza. Nor is there enough space for an autonomous but healthy politics of "alternatives". The politics of alternatives seeks to mainstream itself by changing society in the first place. Until society changes for the better, such politics has to piggy-back on political forces that occupy the mainstream. So, in seeking an end to the Congress, Yadav is probably undermining the feasibility of his own politics. This may sound an instrumentalist argument, but the politics of change also needs political support, a political vehi-

cle, a sympathetic political mass. But beyond this instrumental logic, are there other reasons to plead for the survival of the Congress?

First, among the dispersed non-BJP political forces, the Congress gets at least two votes out of every 10 — next to the BJP's three in every 10. This is not an inconsiderable political space, though it is residual. This space shall go only to the BJP if the Congress were to die. Two, the Congress seems to be countering the BJP ideologically. One may not be fully happy with the response, but in the backdrop of the lame (or vacuously shrill) counterarguments made by state parties, the Congress would surely deserve credit for mobilising a semblance of opposition to the BJP.

Three, if the Congress were really to die, the oppositional space would be occupied only by the state parties. Most of them have, at one point or the other, been allies of the BJP and facilitated the latter's entry in the states — Odisha and Bihar being examples. In other words, in any electoral counter to the BJP, the Congress continues to be crucial despite itself.

But there is a more fundamental reason for arguing against Yadav. Radical or transformational ambitions notwithstanding, at least in the near future, the game of electoral competition and shaping of public opinion will be played out within the range of broadly "middle-of-the-road" or centrist possibilities. Today, the BJP seeks to dominate this space and claim that it represents centrist tendencies. The Congress comprises possibilities of presenting the public with a somewhat different version of centrism. As is known, historically, the party included "right-wingers", Hinduists and socialists et al. While the party may have lost that accommodative agility, it still has the capacity to attract citizens attracted to a centrist position. The death of the Congress would mean only one version of centrism survives — the one advocated by the BJP. The politics about the kind of democracy India would remain will be played out on the terrain that is more or less middle-of-the-road and that is where not just the Congress but many other parties, with clumsy ideologies and even limited visions, would be valuable.

A victory for the BJP's version of centrism holds three challenges. One, its pursuance of Hindutva, which has already contaminated ordinary Hindu religious sensibilities. The other is its present leadership, which represents a cynical appropriation of existing liberal democratic spaces toward the end of uninhibited personalisation of authority. Even without Hindutva, this is reason enough to ensure that there is enough political possibility of constraining them. Third, the centrism of BJP is rather fragile, it can be easily set aside by Adityanath or Pragya Thakur; they, certainly, are not the fringe, but claimants to the main space of the BJP, representing a more direct attack on India's diversity and plurality.

Of late, Yadav himself has been talking about reviving the true *swabhav* and *swadharma* of India. The Congress may not be actively protecting that, yet its existence would allow many Indians who still hold on to their *swadharma* — simply through their native wisdom — to retain that innate character of being true Indians.

The writer was a professor of political science and is based in Pune

LETTERS TO THE EDITOR

PM'S STRATEGY

THIS REFERS TO the article, 'Politics from the pulpit' (IE, May 21). There is no doubt that Narendra Modi can strike a chord with the masses. However, in the age of the social media, the press conference is losing its relevance. In press conferences, often the impromptu replies are taken out of context. The PM's strategy to avoid press conferences may be to avert controversies.

Deepak Singhal, Noida

THE TRUMP EXAMPLE

THIS REFERS TO the editorial, 'Taking cue from exit polls predicting Modi's return, Sensex surges 1400 points to new high' (IE, April 27). With a strong NDA government set to return, stocks have got a big boost. Despite all the challenges it faced, the Narendra Modi government did remarkable work on the economy. Like Donald Trump in the US, who managed to rescue the country's economy after the Obama years, Modi too has revived the Indian economy during his first term.

Sauro Dasgupta, Kolkata

TASKS AHEAD

THIS REFERS TO the report, 'All Exit polls point to the return of NDA,' (IE, May 20) Most exit polls results give the NDA a majority in the Lok Sabha elections. But exit polls do not reflect the complete picture since the sample size is extremely small. For a country of 125

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 or sent to The Indian Express, B-1/B, Sector 10, Noida-UP 201301. Letter writers should mention their postal address and phone number.

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crore people, the sample size is not even one per cent of the electorate. This makes the exit poll results somewhat unconvincing. Whichever party or alliance forms the next government, it will have a challenging time. The return of normalcy to Jammu and Kashmir, resumption of dialogue with Pakistan and to put India on the path of progress and development are some issues that require the next government's attention.

Devendra Khurana, Bhopal