



The Indian EXPRESS

FOUNDED BY

RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

NOT JUSTICE

Panel's report on allegations against CJI falls short on yardsticks of transparency and fairness

THE THREE-MEMBER PANEL probing charges of sexual harassment against Chief Justice Ranjan Gogoi had a task much broader and more critical than its stated remit. Given that it was investigating allegations levelled against the highest office of the country's apex court, the panel needed to answer questions that pertained, inevitably, to the integrity of the institution itself. Upon it also lay the onus of instituting procedures that mitigated the unequal power relations in a case where a former junior employee of the court was ranged against the CJI. In a report submitted on Monday, the panel has given a clean chit to CJI Gogoi. It has "found no substance" in the charges. But this denouement — an ex parte report, which will not be made public — raises more questions than it answers.

The committee comprising Justices S A Bobde, Indira Banerjee and Indu Malhotra wrapped up the inquiry in sittings over four days, three of which were devoted to questioning the complainant. On the third day, the complainant withdrew from the probe alleging that the panel did not adopt "a procedure that would ensure fairness and equality". She accused the committee of not informing her about its procedures, denying her legal help, not recording its proceedings and not providing her with a copy of her depositions before it. Each of these four points raises issues of power asymmetry. The committee's task was, no doubt, complicated by the fact that the SC's "in-house procedures" do not have provisions to deal with charges against the CJI. But the apex court has, over the years, also interpreted and re-interpreted Articles 14, 15, 19 and 21 of the Constitution to lay down the rights of working women. The probe was a chance to extend such jurisprudence to a situation inside the institution of the court.

The panel's recourse to an ex-parte investigation is problematic. Aside from the fact that such a probe is against the principles of natural justice, the apex court has, in February this year, ruled that an ex parte verdict can be set aside under the Code of Civil Procedure. And by not making its report public, the panel has come up short on the requirement of transparency that should have been fundamental in a case of such gravity. It has argued that the verdict in *Indira Jaising vs Supreme Court of India* does not enjoin placing in public "the report of a committee constituted as a part of the In-House Procedure". But surely a probe into an issue where the institutional propriety of the SC is in question cannot hearken to pre-TJ jurisprudence — which *Indira Jaising* is. The panel's verdict goes against the Court's tradition of interpreting the law creatively for the sake of upholding and strengthening constitutional morality. The Court has corrected itself in the past. It should do so again

PRUDENCE FOR FUTURE

EPFO needs linkage with market determined rates. That would be in long-term interest of its growing number of subscribers

A MONTH BEFORE the announcement of national polls this year, the Employees Provident Fund Organisation (EPFO) announced an interest rate of 8.65 per cent for millions of its subscribers for 2018-19, which is 15 basis points higher than what it paid in the previous fiscal. Now that the polls are in the last phase, it is time for a reality check and for some tough decisions. The finance ministry, which has to ratify the interest rate proposed by one of the world's top social security providers, has flagged its concerns on the higher pay-out this time in the context of the potential risks to some of the EPFO's investments in troubled firms such as IL&FS. The ministry's worry stems from the fact that the organisation may have to dip into its surplus if some of the investments turn sour and the prospect of demands being made on the government to underwrite such losses. That may be a little overblown considering that its investments in IL&FS amount to Rs 574.73 crore, a tiny slice in an investment portfolio now over Rs 10 lakh crore.

Yet, an interest rate of 8.65 per cent for its subscribers — exempt from tax at all three stages — contributions, earnings and withdrawal, is over one per cent higher than the risk free ten-year government bond and much more attractive than other schemes such as small savings and PPF. The EPFO would be left with a residual surplus of only Rs 151.67 crore after the high payout in 2018-19. Clearly, this rate is out of sync with the markets and is unsustainable. Recognising the need to move away from administered rates and to prevent distortions, the government has benchmarked returns on small savings schemes to the yields on government bonds. The EPFO, too, now needs to have a linkage with market determined rates. Over the past few years, the organisation has transformed, reflected in the huge expansion in coverage with formalisation of the workforce, better compliance and governance, besides faster resolution of claims and the use of technology.

In the same spirit of change, and in the long-term interest of its growing number of subscribers, the EPFO should adopt a more prudent fiscal course. The asset to GDP ratio of pension and retirement funds in many countries in the West is well above 100 per cent but it is in the low single digits in India. The government has much at stake in ensuring sound governance in the EPFO, not just because of its social security obligations but also given its potential to fund long-term infrastructure projects and to emerge as a stabilising influence in India's financial markets.

A ROYAL ADDITION

Babies are cute, and must be celebrated. But royalty continues to benefit from a willing suspension of disbelief

THIS EDITORIAL MARKS the failure of the French Revolution. A nonagenarian matriarch — whose largely unemployed family owns vast amounts of unearned, inherited property — has just been blessed with her eighth grandchild. Of course, births are joyous occasions, and there is nothing wrong with celebrating a baby.

But all royalty is a lie and worse. Go back far enough into a clan's genealogy and their greatness is based on the ability to do violence and institutionalise it. And, given the fact that this point was made quite forcefully — the importance of liberty, equality and fraternity was brought home on the edge of the guillotine in 1789 — the abiding fascination for the House of Windsor and other absentee landlords is somewhat worrying. In Japan, for example, the loss of collective reason is being marked by a shrewd businessman selling jars of air to mark the end of a royal era.

So, why are otherwise able citizens of modern democracies taken in by the trials, tribulations, joys and sorrows of blue-blooded reality TV stars? Well, British royalty, like many others, has managed to stay relevant, adapted to the changing times. In an age of global warming, rising threats of authoritarianism and the rise of machines, they are real-life Disney characters, distractions that keep reality from becoming overwhelming. In fact, such is the power of this celebrity that even as the greatness of Great Britain is under a cloud thanks to Brexit, the fandom of its first family only grows, colonising Asia, Africa and the Americas, a shadow of a once vast and cruel empire. To maintain this mirage, all that Prince William and Meghan Markle must do is preen and wave and fit into a carefully-crafted public image.

Once upon a poll

The 1990s were the most violent years in Bihar's electoral history. That gloomy picture has changed



SUSHIL KUMAR MODI

PEOPLE LIVING IN Bihar shudder at the mere mention of this era. It doesn't take one by surprise if we were to call the 1990s the darkest phase of Bihar's electoral history. The period must have a special mention in the Guinness World Records for registering the maximum number, and probably worst forms, of electoral violence perpetrated in this state.

Yes, there are myriads of records of violent elections in the developing world, but their tolls are just no match for Bihar. A poll watcher might jump onto the bandwagon and say that, look, 270 people died in last month's general elections in Indonesia. But look carefully, this is the number of poll staff succumbing to fatigue resulting from counting millions of ballots, and no violence.

Though almost all Hindi heartland states witnessed moderate to heavy electoral violence during this period, Bihar certainly accounted for the major chunk. Bihar's history of electoral violence during 1990-2004 is replete with incidents of murder, loot, arson, kidnapping, intimidation, and other crimes. For the electorate, the poll season always came as a time to practise caution in general life. For the contestants, too, this was a harrowing time. But the major difference was that while the contestants either won or lost, the electorate always lost. Lost lives, lost rights, lost property, lost dignity.

Official statistics say 641 lives were lost to poll-related violence during a total of nine elections between 1990 and 2004. Out of this, 196 people died only during panchayat polls in 2001, which had been held after a long gap of 23 years in Bihar. A total of 28 lives were lost in the 2004 Lok Sabha elections. All these people died either in the run-up to elections, or on the poll day itself, or in many cases, even after the polls were over in a constituency. Law and order had hit rock bottom.

Let's compare these figures with those of the Lok Sabha elections of 2009 and 2014 and the assembly polls of 2005, 2010 and 2015. Eight lives were lost to incidents of grievous

nature in the above-mentioned two Lok Sabha elections and seven in the above three assembly elections taken together. The last assembly elections in 2015 saw not a single casualty for such incidents. This looks miraculous, but is a fact.

Hundreds of crimes were spun around just one purpose, booth loot. This practice dates back to 1927 when a re-poll was ordered, during district board elections, for the first time in the electoral history of Bihar, and probably India. However, there's no official record of it. And then it went on to scale new heights. Initially, booth loot was the "business" of a "few", but its gradual passage into the hands of criminals, who later themselves began testing their mettle by contesting polls rather than merely working for their "lords", first maligned and then finally tore apart the very character of political institutions.

Booth loot and the consequent re-poll and countermanding of polls had become a norm. Lok Sabha elections were countermanded in Patna twice, in 1991 and 1998. This was the state of the state capital. Imagine what could have happened in smaller towns and villages. There are well kept dossiers of the reports sent by the returning officers to the Election Commission and to the state government. Even the decisions of the Election Commission regarding the countermanding of polls were contested at times. But then those decisions were purely based on what returning officers wrote in their reports. In Chhapra, in 2004, the Election Commission had a great deal of difficulty in calling it a void. Finally, the poll was countermanded. These are just a couple of glaring examples.

Many other incidents of countermanding are well documented in the media and recorded on the government files. An incident worth a mention here is when two dozen legislators, including ministers, had been apprehended, capturing booths during the 1998 Lok Sabha elections. There can't emerge a more gloomy picture if one looks at the number of times a re-poll was ordered

in the state. The very tools of representation were given a silent burial. Can you imagine, polls were reconducted on 4,995 booths in just one state, that is, Bihar, and in just one election year, that was the 1998 Lok Sabha elections.

Compare this with the Lok Sabha elections of 1952 when only 26 booths went to a re-poll. So, booth loot became a far more organised "business" and the number of re-polls ordered more than quadrupled 45 years after the country's first election. Assembly elections were not far behind in leaving their own mark. During the assembly elections of 1995, a re-poll was ordered on 1,668 booths. Similarly, 1,420 booths saw a re-poll during the assembly elections in the year 2000.

By the time the ballot went electronic and Electronic Voting Machines (EVMs) made their advent in Indian elections in 2004, the electorate had lost faith in due process and subsequently the voting percentage had also nosedived in Bihar along with a few other north Indian states. By the way, even the EVMs were not spared. News of EVMs destroyed by miscreants during the process of electioneering abounded those days. And then some icing on the cake was also in waiting.

This became available when the management of a poll area on polling day was put to the test. Against the usual talk of EVM "tampering", which has all so far been proved false and termed a gimmick, I would talk of their "management". It wasn't unusual those days for journalists to report how deployment of police and paramilitary forces was tampered with, so that EVMs, or say a booth, can be "managed", forget "tampered".

Post-2004, why is it so difficult to document such "management" at poll booths, or destruction of EVMs, or tampered deployments of security forces, or, the near-impossible now, a booth loot? That's food for thought.

The writer is Deputy Chief Minister of Bihar

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A MANDATE MORE TRUE

Ranked-choice voting system could deepen democracy, prevent polarisation



TARUNABH KHAITAN

ELECTIONS TO THE Lok Sabha and Vidhan Sabhas take place under the first-past-the-post (FPP) system. Under the FPP, a candidate only needs to get more votes than any other candidate to win a seat. It over-translates the votes of the winning party into seats, which is why the BJP won over 50 per cent seats in Lok Sabha despite winning only 31 per cent of the popular vote in 2014. The FPP also encourages political polarisation because a party with a sufficiently energised base needs to convince a relatively small number of unaffiliated voters in order to win an election. A party opposed by a majority of voters forms the government.

This democratic deficit of the FPP has been long recognised. The main alternative that has been suggested over the years is some version of the proportional system (PS). Under PS, voters do not vote for individual candidates in particular constituencies. Instead, they vote directly for a party. A party that gets 31 per cent of the votes wins 31 per cent of seats, usually subject to a threshold requirement that a party has to secure a basic minimum share of the popular vote (say, 5 per cent) in order to get any seats at all.

Our Constitution does not mandate the FPP, but it does require elections to be conducted on the basis of territorial constituencies. Although it is possible to design a mixed PS system based on territorial constituencies, PS may actually exacerbate polarisation. Under PS, all that a radical party needs in order to win 10 seats in a 100-member house is to convince 10 per cent of the electorate

through a hateful and polarising campaign, even if the remaining 90 per cent detest its ideology. What we need is a voting system that goes beyond FPP's yes-no binary and is sensitive to the strength of voters' preferences — whether she loves a party, or merely tolerates it, or loathes it.

There is one such system, which would reduce democratic deficit, discourage polarisation and respect territorial constituencies. It is variously called the preferential vote, alternative vote or ranked-choice vote system (RCV), used in Australia, Papua New Guinea and the American state of Maine. Under the RCV, instead of voting for only one candidate, a voter ranks her candidates in order of preference.

Say a voter ranks candidate E as her number 1 choice, candidate C as number 2 and candidate F as number 3. In the first round of counting, every voter's first-ranked votes alone are counted. If any candidate reaches the 50 per cent mark, she is declared the winner. If not, the candidate with the lowest share of first-rank votes — say, candidate E — is eliminated. The second-rank votes of voters whose first choice was E are now counted and added to the tally of remaining candidates. If a candidate now closes the 50 per cent mark, that candidate wins. If not, this process of elimination and re-distribution is continued until either one candidate crosses the 50 per cent mark, or is the last one standing.

The democratic deficit in RCV is markedly lower than FPP, because the winning candidate secures or comes very close to the 50

per cent mark. It also eliminates the need for strategic voting. An FPP voter whose first preference is the BJP but strategically votes for Trinamool because she wants to ensure the defeat of the CPM candidate can, under the RCV, honestly rank the BJP candidate as her first choice, the Trinamool candidate as her second choice and so on.

The RCV should also reduce political polarisation. Under this system, parties cannot win elections by relying solely on their base. They need not only enough first-rank votes but also a sufficient number of second and third-rank votes. This will require them to build broad social coalitions.

An optional RCV is not only constitutionally viable but even endorsed by the Constitution. When MPs elect our President or Vice-President, they also rank the candidates on the ballot — the Constitution calls it a "single transferable vote" (STV), but in a single-winner voting, there is no difference between STV and RCV. In Indian conditions, a limited optional RCV might be logistically better. Instead of mandating the ranking of all candidates, a voter can have the option of ranking up to three top choices: She may cast only a single-unranked-vote, or rank her top two or her top three candidates. Such a 1-2-3-vote system would deepen democracy and reduce political polarisation.

The writer is an associate professor in law at the Universities of Oxford and Melbourne. He is also the General Editor of the Indian Law Review



MAY 8, 1979, FORTY YEARS AGO

TITO AND NAM THE YUGOSLAVS ARE hedging their bets about attending the Havana summit of non-aligned nations. Will President Tito, who has attended every non-aligned summit since the movement's inception, make an appearance at Cuba, or will Belgrade send a lower-level delegation? This impression was unmistakable at the Yugoslav Foreign Minister Josip Vrhovec's news conference. Asked during his visit to New Delhi if President Tito would attend the Havana summit, Vrhovec said in good humour, "You will have to ask President Tito personally". But he added that it depended on the host country to follow all the principles of non-alignment and thereby

establish its credibility with all non-aligned nations so that they have no reservations about attending the summit.

MOYNIHAN DEBATE THE EAGERLY-AWAITED Lok Sabha debate on the charge by the former US Ambassador to India, Daniel Patrick Moynihan, that the Congress Party under Mrs Indira Gandhi asked for and got US money to fight elections, collapsed after the initial speeches today, and ended with an anti-climax of a reply by Home Minister H M Patel. "It is a subject we shall study in the Home Ministry," Patel said in his staid civil servant manner, and then added "but it's not going to be a simple ex-

ercise". It was desirable to control the inflow of foreign money, but "it's not easy to say what steps will be taken". The only new information he gave the House was the disclosure that the Home Ministry had contacted the US State Department for additional details of payments, and the State Department had refused to offer further comment.

PRINCE CHARLES VISIT BRITISH CROWN PRINCE Charles will pay a two-week official visit to India in November. The tentative dates for his visit are from November 18 to December 6. He will have meetings with the President, prime minister and other government leaders.

WHAT THE OTHERS SAY

"No weapon, it seems, large or small, novel or traditional, lethal or merely limited to 280 characters, is neglected when Donald Trump is in a mood to throw his weight around."
— THE INDEPENDENT

The OBC-ness of Narendra Modi

If caste is about experience, the PM has never spoken about any discrimination he faced on account of his birth



KANCHA ILAIAH SHEPHERD

THERE IS a saying in English: "Those who have a 'why' to live, can bear almost any 'how'." Prime Minister Narendra Modi wants to occupy the highest position without answering any why and how. But the citizens have a right to pose whys and hows to him since he is the prime minister.

Why did Modi twist a young inexperienced "dynastic" daughter's remark about "neech rajneeti" as "neech jati" and bring up his Other Backward Caste (OBC) background while campaigning in UP in 2014? Why does he want to avoid a debate on his caste status in 2019? How much of oppressed caste consciousness did he have during his tenure as prime minister? Is there any evidence in Modi's many biographies that he suffered caste discrimination at any stage in his life or that he fought that discrimination with the kind of caste consciousness seen in Mahatma Phule, Periyar EV Ramasamy and Babasaheb Ambedkar? Is it that Modi used the enlistment of his caste in the central OBC list to become prime minister? Did the RSS/BJP allow him to use the OBC status to win over OBC voters?

When Mayawati, Tejashwi Yadav and Akhilesh Yadav allege that the PM's OBC status is *naqli*, Modi must at least recall a few anecdotes to illustrate how he suffered discrimination and humiliation in his life because of his caste background.

Our birth, of course, is an accident, but did Modi's birth into his caste make him feel it was a "fatal accident", as Rohith Vemula felt, at any stage of his life? Did he ever feel that the tortuous pain an OBC person or a Dalit suffers is his own? Caste discrimination is a continuous systemic process that has affected generations. Where does the nation see the generational discrimination in Modi's life?

Yet the oppressed castes appreciated when he said "I came from a neech jati" and I want to serve them as prime minister. The appeal of Modi even moved the OBCs in West Bengal, where caste identity had been pushed under the red-carpet.

Has he revealed any discriminated caste consciousness and caste culture when he was in power at Delhi? Are not the cattle growers who lost their right to sell and buy their hard-grown animals because of the upper-caste government in UP mostly OBCs? What did the OBC PM do about it? The discrimination structured into the being of an OBC — that too most backward — is not an issue of claims but an experiential process realised in one's life. Dhyananjay Keer's biographies of Phule and Ambedkar recall the humiliation they faced. They fought the humiliation not for their own sake but for the sake of the entire OBC and Dalit communities, for the sake of transforming this nation.

Modi turned chaiwala and chowkidar

into metaphors to establish his OBCness and claim suffering. But not all chaiwalas and chowkidars are OBCs. Manu dharma has not ordained these occupations for the Shudras, the varna to which the OBCs belong. There are upper-caste chaiwalas and upper-caste chowkidars!

Modi's OBC background was talked about when he became chief minister of Gujarat in 2002. I wrote in December 2002: "Narendra Modi's victory with a two-thirds majority in Gujarat has signalled the emergence of a strong, independent OBC (Other Backward Class) leader in the BJP." The nation did not come to know about his caste background because he spoke about it. The nation got to know about it through media after his community was included in the central list of reservation just before he became chief minister. He did not talk about it when he was chief minister of Gujarat. And, he had not mentioned it during the 1990 Mandal struggle.

Modi has disputed the allegation made by Mayawati, Akhilesh Yadav and Tejashwi Yadav that he belongs to an unreserved upper caste. But he also ought to tell the nation how he has experienced discrimination in the society, in institutions and organisations he has worked on account of his caste. That is what all "neech jati" people do.

According to Mayawati, Modi got his caste included in the OBC list only after he became the CM. In response, Modi has claimed he actually belongs to a "most backward caste, not just backward caste". His caste name is Modh-Ghanchi. Historically, Modh-Ghanchis are oil mongers. At no stage in history has the Modh-Ghanchi community been considered as Shudra. However, Modh Ghanchi, Teli-Sahu, Teli-Rathod, Teli-Rathore were added to the central OBC list as per the order 12011/36/99-BCC dt 04.04.2000. Hence, Modi is officially an OBC.

But what about that caste's cultural history? Does it have Shudra links? Was Modh-Ghanchi community a part of the Shudra varna?

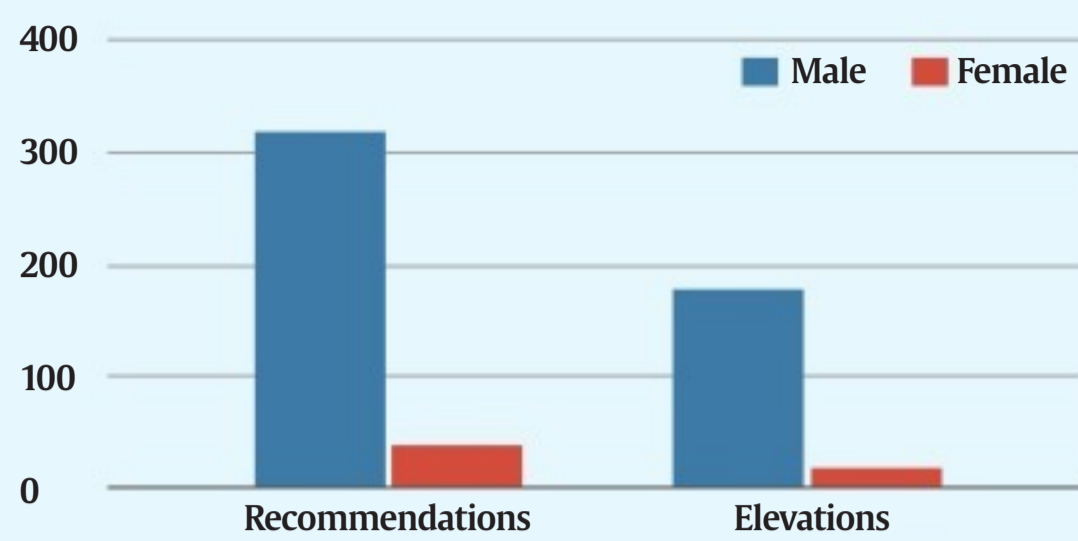
Modi's caste was added to the OBC list when the BJP held office in Delhi and Modi was an influential general secretary of the party. It was Sushil Modi, now deputy chief minister of Bihar, who claimed on TV after Narendra Modi's PM candidature was announced, that the BJP was the first national party to propose an OBC PM candidate. Many were surprised that the RSS and BJP, which do not accept a discourse centred on caste, allowed this. I, for one, thought it was a good thing.

A section of the OBCs who were outside the fold of the BJP, voted for the party in 2014. But within a short time, the forces that matter in the RSS/BJP started opposing OBC reservation. The PM did not object even once to their negation of OBC reservation. During Modi's tenure there were no policy initiatives to uplift the OBCs.

Karl Marx left for us a principle that explains this sort of behaviour. He wrote: "It is not consciousness of men that determines their being, but, on the contrary, their social being that determines their consciousness."

The writer is a political theorist and social activist

GENDER GAP IN RECOMMENDATIONS AND ELEVATIONS



DISPARITY IN HIGHER JUDICIARY

	Recommendations	Elevations	Deferred	Remitted
Male	324	179	62	83
Female	39	21	10	8
Total	363	200	72	92

CR Sasikumar

No courts for women

The current crisis in the SC is an opportunity to address the serious gender disparity on the bench



DEEPIKA KINHAL

THE INDIAN JUDICIARY is facing its worst hour of crisis. The allegation of sexual harassment and victimisation levelled against the Chief Justice of India by a former Supreme Court staffer, followed by what can only be termed as a mockery of due process and law, has brought the judiciary to a tipping point. It is now left with no choice but to undertake a massive exercise in introspection and reform. Judicial reforms are no longer empty rhetoric. They are essential to keep the judiciary from becoming irrelevant and severed from the idea of justice. Nothing can be more damaging to this idea than going unheard and unrepresented before the judiciary — a fear that constantly plagues all disadvantaged sections of the society, especially women.

In the context of the apathy shown towards the woman complainant by an all-male bench (headed by the CJI) in the immediate aftermath of the allegations, and by the in-house committee which has given a clean-chit to the CJI, one cannot help but ponder: Would this incident have been handled differently if the judiciary was not as male-dominated as it always has been?

The judiciary is one of the least diverse institutions in India, with the lack of gender diversity being the most visible yet ignored aspect. Since 1950, the SC has had only eight female judges out of 239, with the present three out of 27 being the highest concurrent representation women have ever had on the SC bench. In the subordinate judiciary, merely 27.6 per cent of the judges are female. This lack of women on the bench, at all levels of the judiciary, is at the very root of the impunity with which the top court has, in a sin-

gle stroke, destroyed decades worth of progress made in deterring sexual harassment of women from all walks of life.

The stark gender disparity on the bench is reflected in, and in fact, stems from the minimal representation of female advocates in the bar as well. The deep-rooted systemic issues that act as barriers for women to enter and remain in the legal profession are all too well known. Even if a female advocate crosses these barriers to continue and thrive in her profession, the current collegium system for the appointment of judges is simply not designed to ensure her elevation to the bench. At present, the appointment of a judge to a high court is based on a recommendation made by a collegium of the three senior-most judges of that HC, and approved by a collegium of the three senior-most judges of the SC. Although the state and central governments have a role to play in the process, the final say, for all practical purposes, rests with the SC collegium.

This appointments process in itself is severely lacking in women's representation. In 25 HC collegiums across the country, there are just five senior female judges with 19 of the collegiums having no female judge at all. Only one woman so far has been a member of the SC collegium (Justice Ruma Pal), with Justice R Banumathi set to become the second later this year; and, at least until 2025, no female judge is going to occupy the CJI's position.

This nearly all-male composition of the highest decision-making bodies in the judiciary has made gender disparity a self-perpetuating phenomenon which becomes amply clear when one studies the decisions made by the SC collegiums in the recent past.

This author undertook a study of 80 (out of 191) SC collegium resolutions made public since October 2017, pertaining to elevations of judges to the SC and various HCs, and it shows that the gender gap in the judiciary is here to stay.

The data shows that out of the 363 persons recommended for elevation, merely 39 were female (just over 10 per cent). Of these, only 21 were confirmed with the remaining

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18 names either being remitted to the HCs or deferred for later appointments. Interestingly, for both male and female candidates, the conversion rate from recommendation to elevation is the same, around 55 per cent: It would be tempting to conclude from this that the all-male SC collegium is immune to the gender of the recommended candidates. However, what it actually signals is that this body is simply not invested in correcting the prevailing gender disparity.

In the current scheme of things, the chances of female judges occupying decision-making positions, either as chief justices or as part of the HC and SC collegiums in significant numbers, is very bleak. Hence, the only way out of this vicious cycle is for the nearly all-male collegiums to go beyond their inherent biases and take affirmative measures to improve gender diversity on the bench. The HC collegiums should consciously recommend more female names for elevation and the SC collegium must consider such recommendations more favourably. Further, the female judges should be elevated early enough in their careers so that they make it to the collegiums and become decision makers (the average age of the 19 female judges elevated since October 2017 is 53 years).

Lack of gender diversity is not just a perception problem. It is seen to have a real impact on the manner of proceedings and the nature of the final verdict — as is evident in the present instance. Especially in the judiciary, gender diversity is a virtue in itself — it reassures litigants that diverse opinions are taken into consideration and re-instills their trust in the justice-delivery system. The present calamity in the judiciary, as unfortunate as it is, also provides an unprecedented opportunity to course correct on several accounts. Here's hoping the men in power have the wisdom to seize it.

The writer is senior resident fellow, Vidhi Centre for Legal Policy, Karnataka. Inputs by Anamika Kundu and Alok Prasanna Kumar



MANMOHAN VAIDYA

Hindu, by any other name

Bharat's identity is intrinsically tied with the eternal philosophy of Hindutva

FOR AGES, Bharat has offered a unique view of life because it is based on spirituality. Bharat believes that Truth can have various forms, names and paths to reach it. Though diverse, all these paths are equal. Bharat sees unity in diversity and has a capacity to establish unity amongst such expansive variety. It doesn't see diversity as difference: This brand of spirituality teaches us that every soul is potentially divine and the same divinity pervades all things, animate or inanimate, and hence we all are connected with each other. To realise this connectedness, to expand its ambit and to work accordingly towards the betterment of the connected, is the basis of Dharma. Dharma, which is different from religion, is not exclusivist; it includes, connects and benefits all.

This view of life is the Hindu view and all those who live in Bharat, irrespective of their caste, region, religion or language, subscribe to this view of life. Hence, being Hindu or "Hindutva" has become the identity of all Bharatiyas. The founder of RSS, K B Hedgewar, made this Hindutva the tool to awaken the sense of unity among all Bharatiyas — connecting them with each other irrespective of their caste, religion and language. He started organising the entire society by binding them together with this thread of Hindutva.

However, those who, for their individual

and political gains wanted to keep the society divided started opposing Hindutva and the Sangh by calling them communal, regressive, divisive and anti-minority: The opposition to and rejection of the seminal works of great souls and Hindutva proponents like Swami Vivekananda and Dayanand Saraswati was condemned by levelling these allegations.

But the activities of the Sangh, built on the foundation of Hindutva, kept expanding despite the ill-will directed at it. Then, the same ill-intentioned critics started saying that Hindutva is alright, but there is a demarcation between soft-Hindutva and hard-Hindutva. The Hindutva of someone like Swami Vivekananda is soft, but RSS practices hard Hindutva, which is condemnable. Books such as *Why I Am Not a Hindu* and then *Why I Am a Hindu* have been written by such naysayers, but irrespective of such attempts, acceptance of Hindutva has grown exponentially. This is because it's the soul of Bharat and an expression of its consciousness: It cannot be countered by books that seek to compete with the epics.

Elements with vested interests started creating confusion by calling Hinduism a virtue and Hindutva an evil. A media house recently asked me, "What is the difference between 'Hinduism' and 'Hindutva'?" I told them that it's one and the same. One is in Hindi whereas the other is in English. S

Radhakrishnan wrote a book in English, titled *The Hindu View of Life* and used the term "Hinduism". Had he written it in Hindi, he would have used "Hindutva". If Savarkar had written his book, *Hindutva*, in English, then he might have used the term Hinduism. That said, it is my personal belief that an apt translation of Hindutva should be "Hinduness" instead of "Hinduism".

RSS sarsanghchalak Mohan Bhagwat has clearly enunciated the meanings of "Hindu" and "Hindutva" in his three-day lecture series at Vigyan Bhavan. But propagandists won't refer to it because it does not suit their mala fide intentions. The real ideological battle is between the two different ideas of Bharat. One is the Bharatiya concept with roots going back to age-old spiritual traditions of the nation, and the other is an alien or foreign conceptualisation.

A journalist-turned-politician recently stated that in this election, the choice to be made is between "Hindu India" and "Hindutva India". The only reason people like him talk of Hindu India is because of the growing influence of "Hindutva". It doesn't reflect their conviction but convenience. Given that Bharat is coming together and uniting due to "Hindutva", their casteist, communal and regional politics is weakening everyday and their support base is eroding. For their petty politics, it is imperative

for them to divide society — if not in the name of caste, language or religion, then on the basis of Hindu and Hindutva. But today, the common Bharatiya is not foolish enough to fall into their trap. Their sense of entitlement has, thus, been challenged.

Another term which is being used to spread confusion is "Hinduvaadi" or Hinduist. There are capitalist, communist or socialist ideologies in the world, but in Bharat there is no place for any "-ism" like in the West. The "-ism" in the west have a hegemonic tendency to impose their world-view on others, even by force. In Bharat, "Hindutva" (Hinduness) refers to people living and leading their personal, familial, social and professional life in the light of this spirituality based on a holistic view of life, called "Hindu".

It is, therefore, imperative to expose the conspiracy to divide and confuse, and to establish the eternal philosophy of Hindutva, by dedicated action and practice. This will result in the unfolding of Bharat's identity, known to the world since centuries, and Bharat's *purusharth* will manifest in every sphere of social and national life. In his essay, *Swadeshi Samaj*, Rabindranath Tagore rightly says — "First of all, We will have to become what We actually are".

The writer is joint general secretary of the RSS

LETTER TO THE EDITOR

CREDIT TO ODISHA

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 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

PARTISAN POLICE

THIS REFERS TO the editorial, 'High insecurity' (IE, May 7). It is unfortunate that the Delhi CM was heckled and attacked in the presence of Delhi Police. This is not a one-off event. It is incumbent upon Delhi Police to be more vigilant. Such assaults invite the apprehension that there is a tacit understanding between the attackers and the law and order machinery.
Deepak Singhal, Noida

SECURITY MATTERS

THIS REFERS TO the article, 'A false discourse' (IE, May 3). The writer accuses Prime Minister Narendra Modi of using "emotive national security issues" in the

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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current general elections. However, this is not the first time that such issues have been raked up. Indira Gandhi justified the imposition of Emergency on the grounds of threats to national security. Margaret Thatcher raised the issue of Falklands crisis in UK's elections in 1983. In 1984, the Congress under Rajiv Gandhi again raised the plank of national security.

P M Kamath, Mumbai



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If there are questions of current or contemporary relevance that you would like explained, please write to explained@expressindia.com

FACT CHECK, GROUND REALITY

ISSUES AND CONTENDERS IN SOUTH AFRICA'S ELECTION



ANC poster in Johannesburg. AP

Issues in the poll

The rampant corruption during the years of ANC rule, which has caused deep disillusionment among voters and given the DA and EFF hope and campaign issues, dominates the election. South Africa's official unemployment rate is 27.1%, and more than six million people out of a population of 58 million are without jobs. Former President Zuma faces 16 charges around an international arms deal that was negotiated in 1998, and a public inquiry is under way into the role of the Indian-origin business family of the Guptas, who are accused of "capturing" several major state enterprises during Zuma's presidency.

Results of election

Both the 400-seat National Assembly and the 30-80 seat provincial Assemblies are elected by a system of 'closed list' proportional representation. The President is elected by the members of the National Assembly. The Independent Electoral Commission has up to seven days after the vote to declare the results but it has, in the past, announced results within three days.

Why biodiversity report matters

Comprehensive assessment of state of nature has found 1 million species at risk of extinction because of man-made reasons. How was it compiled, and can it bring about change? What does it mean for India?

AMITABH SINHA & SOWMIYA ASHOK
PUNE, BEIJING, MAY 7

A FIRST-OF-ITS-KIND report released on Monday by an international group of scientists, whose findings were reported in The Indian Express Tuesday, is being hailed as one of the most important scientific studies of our time. The report by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) is the most comprehensive scientific evaluation ever made of the state of our nature, and gives a detailed account of health of the species that inhabit this earth, and the condition of habitats that they live in and depend upon.

Among the findings that are making global headlines is the assessment that as many as 1 million different species, out of a total of an estimated 8 million plant and animal species, are facing the threat of extinction, more than at any previous time, because of changes brought about in natural environments by human activities. The report says that 75% of Earth's land surface and 66% marine environments have been "significantly altered", and that "over 85%" of wetland area had been lost. But, on an average, these trends were less severe on areas controlled or managed by indigenous people and local communities (like tribal communities in India).

What is IPBES

IPBES is a global scientific body very similar in composition and functioning to the better-known Intergovernmental Panel on Climate Change (IPCC) that makes periodic reviews of scientific literature to make projections about the earth's future climate. IPCC's assessment reports, which won it the Nobel Peace Prize in 2007, form the scientific basis on which the international negotiations on climate change have been happening.

IPBES is mandated to do a similar job for natural ecosystems and biodiversity. Formed in 2012, this is the first global assessment report by the IPBES (IPCC, set up in 1988, has produced five assessment reports, and sixth one is under preparation). IPBES has produced a few regional and specialised reports earlier. Like IPCC, IPBES does not produce any new science, it only evaluates existing scientific knowledge to make assessments and projections.

Unlike IPCC, however, the IPBES assessment reports are likely to feed into and inform several multilateral processes. The two UN Conventions — Convention on Biological Diversity that addresses biodiversity issues, and the Convention on Combating Desertification that deals with sustainable land management — are likely to be guided by this report in future. It is possible that so would be a host of other international agreements and processes, like the Ramsar Convention on wetlands, the Convention on International Trade in Endangered Species, or the Cartagena Protocol on Biosafety.

The India connection

The report does not have country-specific information. But as a major biodiversity hotspot, vast areas, especially the coastline, of which are under tremendous stress due to large population, India can identify with most of the trends pointed out in the report.

For example, it says 23% of global land area had shown a reduction in productivity due to degradation, and that between 100 to 300 million people were at an increased risk of floods and hurricanes because of loss of coastal habitats and protection. It says plastic pollution had increased 10 times from 1980, the number of large dams (those with a height of 15 m or more) had reached almost 50,000, and that human population had more than doubled since 1970s, and the number of urban areas had doubled since 1992. All these trends have been clearly visible in the case of India, and bring with them the associated risks to natural ecosystems highlighted in the report.



Hawksbill Turtles in coral reef, Maldives. 33% of reef forming corals, sharks and shark relatives are faced with extinction. Andrey Armyagin/Shutterstock.com

TELLING NUMBERS

What humans have done to nature

8 million

estimated number of animal and plant species on Earth

1 million*

of these species are threatened with extinction, many within decades

40%: amphibian species threatened with extinction

33%: reef forming corals, sharks and shark relatives, and 33% marine mammals threatened with extinction

680: vertebrate species driven to extinction by human actions since the 16th century

+/-10%: tentative estimate of proportion of insect species threatened with extinction. Total insect species are 5.5 million.

3.5%: domesticated breed of birds extinct by 2016

70%: increase since 1970 in numbers of invasive alien species across 21 countries with detailed records

47%: proportion of terrestrial flightless mammals (besides 23% of threatened birds) whose distributions may have been impacted by climate change already

>6: species of ungulate (hoofed mammals) would likely be extinct or surviving only in captivity today without conservation measures

FORESTS



Tree stumps in Madagascar; result of deforestation and slash & burn farming. Dudarev Mikhail/Shutterstock.com

50%: agricultural expansion that occurred at the expense of forests

68%: global forest area today compared with pre-industrial level

7%: reduction of intact forests (>500 sq km with no human pressure) from 2000-13 in developed and developing countries

URBANISATION

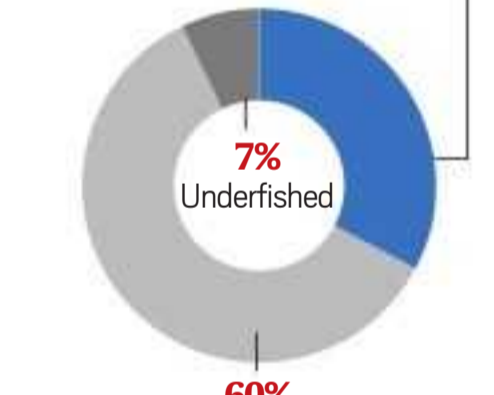
>100%: growth of urban areas since 1992

105%: increase in human population (from 3.7 to 7.6 billion) since 1970 unevenly across countries, regions

>2,500: conflicts over fossil fuels, water, food and land currently occurring worldwide

OCEANS & FISHING

33% Marine fish stocks being harvested at unsustainable levels



60% Maximally sustainably fished

3-10%: projected decrease in ocean net primary production due to climate change alone by the end of the century

3-25%: projected decrease in fish biomass by end of century in low and high warming scenarios, respectively

+/-50%: live coral cover of reefs lost since 1870s

100-300 MILLION: people in coastal areas at increased risk due to loss of coastal habitat protection

>107: highly threatened birds, mammals and reptiles estimated to have benefited from the eradication of invasive mammals on islands

HEALTH



Kuta beach, Bali. Plastic pollution has multiplied 10 times since 1980. Maxim Blinkov/Shutterstock.com

40%: proportion of global population lacking access to clean and safe drinking water

>80%: global wastewater discharged untreated into the environment

300-400 mn TONNES: Industrial wastes dumped annually into the world's waters

CLIMATE CHANGE

1°C: average global temperature difference in 2017 compared to pre-industrial levels

>3 mm: annual average global sea level rise over the past two decades

5%: estimated fraction of species at risk of extinction from 2°C warming alone, rising to 16% at 4.3°C warming

Source: Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, first assessment report

TIP FOR READING LIST

THE MAN WHO TALKS TO THE DEAD

BRITAIN'S TOP forensic pathologist Dr Richard Shepherd has been cutting up bodies for 35 years, and reckons that he has performed over 23,000 autopsies in his career. Beginning with the Hungerford massacre of August 1987, he has examined the evidence in a very large number of high-profile cases — including the Clapham Junction crash of 1988 in which 35 people were killed, the 1989 Marchioness disaster on the Thames in which over 50 people died, the death of Princess Diana in Paris in 1997, the 9/11 terrorist attacks that killed 3,000 people in the United States, the London bombings of July 7, 2005, and the Bali bombings of 2002 and 2005.

"Bodies speak to me," Dr Shepherd told GQ magazine in an interview last year. "They give me answers, but the hardest thing [for the dead person's relatives] to see is that the insertion of that knife into their loved one is an act of respect and maybe of love."

This "man's inhumanity to man", as Dr Shepherd described it in the interview, pushed him over the edge in 2016, and left him with Post-Traumatic Stress

Disorder (PTSD). *Unnatural Causes: The Life and Many Deaths of Britain's Top Forensic Pathologist*, is his memoir.

About his PTSD, Dr Shepherd told the BBC that although he was used to death, "there comes a moment when you can't compartmentalise it". The trigger, he said, had been the ice cubes in his drink that reminded him of Bali in 2002 when corpses had to be kept on ice to prevent them decaying — but the roots of the breakdown possibly lay in his first major case in 1987. "Maybe I should have gone to see a counsellor once a year," he told the BBC.

In the book, he speaks of his fear of shutting his eyes, lest his mind be "pursued by body fragments". "There were intestines. Spongy livers. Hearts that did not beat. Hands. The clawing stench of decay that took my breath away." At times, he thought "it better to die than to live like this".

Unnatural Causes, says the publisher's promotional description of the book, "is a record of an extraordinary life, a unique insight into a remarkable profession, and above all a powerful and reassuring testament to lives cut short".



Why US has cleared dengue vaccine with conditions, where India stands

ABANTIKA GHOSH
NEW DELHI, MAY 7

SANOBI PASTEUR'S controversial vaccine dengvaxia has been approved by the US Food & Drug Administration, the first dengue vaccine to get the regulatory nod in the US.

Dengvaxia ran into trouble two years ago when the Philippines had to suspend a school vaccination programme following several casualties. That is why the FDA has now cleared it for use only in people who have a previous history of the disease, particularly in dengue-endemic areas.

The background

Dengvaxia is basically a live, attenuated dengue virus. An attenuated virus is a virus that retains its properties of triggering an immune response in the body but its ability to lead to a disease is compromised. Three dengvaxia shots are administered,

with the second and third given six and 12 months after the first one. It was cleared in three randomised, placebo-controlled studies over approximately 35,000 individuals in dengue-endemic areas, including Puerto Rico, Latin America and the Asia Pacific region. It was found to be about 76% effective in 9-16-year-olds already exposed to the disease.

The need for a vaccine

According to the Centers for Disease Control and Prevention, an estimated 400 million dengue virus infections occur around the world. Of these, approximately 500,000 cases develop into dengue haemorrhagic fever, which contributes to about 20,000 deaths, primarily among children. In India, until November 26, 2018, 89,974 dengue cases were reported, with 144 deaths. In 2017 the counts were 1,88,401 and 325 respectively. India is among the dengue-endemic countries.

Dengvaxia is the first dengue vaccine to be licensed, Mexico being the first country to clear it in 2015. Subsequently it has been cleared in some 20 countries but what happened in 2017 in Philippines has raised question marks about CYD-TDV, as dengvaxia is known in technical parlance.

The Philippines casualties

Ten deaths were reported in the island nation in 2017 in the aftermath of a school vaccination campaign with dengvaxia. Some 800,000 school children had been vaccinated when adverse events started being reported and the campaign was suspended. Sanofi, in a statement soon afterwards, urged health authorities to update the product label. The statement said: "Based on up to six years of clinical data, the new analysis evaluated long-term safety and efficacy of Dengvaxia in people who had been infected with dengue prior to vaccination and those who had not. The analy-

sis confirmed that Dengvaxia provides persistent protective benefit against dengue fever in those who had prior infection. For those not previously infected by dengue virus, however, the analysis found that in the longer term, more cases of severe disease could occur following vaccination upon a subsequent dengue infection." In other words, Sanofi admitted the vaccine was not safe to be used in people with no history of the disease. WHO too issued a statement saying that it has asked the company for more data.

Earlier this year, Philippines permanently halted the sale distribution and marketing of dengvaxia.

The FDA recommendation

In its announcement last week, FDA said the vaccine can be used for the prevention of dengue "caused by all dengue virus serotypes (1, 2, 3 and 4) in people ages 9 through 16 who have laboratory-confirmed

previous dengue infection and who live in endemic areas".

"Dengvaxia is not approved for use in individuals not previously infected by any dengue virus serotype or for whom this information is unknown. This is because in people who have not been infected with dengue virus, Dengvaxia appears to act like a first dengue infection — without actually infecting the person with wild-type dengue virus — such that a subsequent infection can result in severe dengue disease. Therefore, health care professionals should evaluate individuals for prior dengue infection to avoid vaccinating individuals who have not been previously infected by dengue virus," the FDA said.

India's position

In May 2017, India turned down a recommendation of the Subject Expert Committee of the Drug Controller General of India and told Sanofi that there could not