



## Lynching redux

In Jharkhand, another instance of mob mentality combining with a communal motive

The death of a 24-year-old man in Jharkhand days after he was brutally beaten by a mob is a sordid reminder that the disturbing phenomenon of lynching is not going away any time soon. The assault on Tabrez Ansari also followed a recognisable pattern. The victim was Muslim and came under the suspicion of a mob, which chose to mete out vigilante justice, and someone in the crowd recorded trophy footage. This one was not motivated by cow vigilantism or suspicion of transporting cattle for slaughter or possessing beef. Yet, the communal angle was on display, with the crowd forcing him to shout ‘Jai Sri Ram’ and ‘Jai Hanuman’, confirming that vigilante justice and mob lynch mentality are invariably accompanied by a sectarian motive in the present context. Following a public outcry, some of the villagers allegedly involved were arrested on suspicion of murder. However, the conduct of the police typifies the official apathy and tacit acceptance of mob justice as a way of life in some parts of the country. Ansari was tied to a tree and beaten for hours before they came to his aid. They merely took him into custody based on a complaint of theft, and neither recorded his injuries nor mentioned in the FIR that he was assaulted. It was only after his condition worsened in jail that he was taken to hospital, where he died.

It is distressing that lynching, as a consequence of vigilantism, communal bigotry and the dissemination of hate messages and rumours on social media, has acquired the status of a preponderant social trend. The Supreme Court noted this when it observed in a judgment last year that “rising intolerance and growing polarisation expressed through [a] spate of incidents of mob violence cannot be permitted to become the normal way of life or the normal state of law and order”. It directed States to take specific preventive, punitive and remedial measures. It mooted a special law to deal with lynching and the appointment of a nodal officer in each district to combat the threat. While these measures are not yet in place, the latest incident must be thoroughly investigated and the perpetrators brought to book. However, the larger issue has to be faced squarely by the political leadership. Organised vigilantism by cow protection groups was initially behind a wave of lynchings; rumour-mongering through social media platforms came next. The Ansari incident shows that the problem has transmogrified into a sinister form of enforcing the chanting of Hindu slogans by citizens professing other religions. It may well be that the unseemly political use of the religious chant of ‘Jai Shri Ram’ in Parliament by some ruling party members to heckle those in the Opposition ranks is finding its echo on the streets.

## A city gone dry

The water crisis in Chennai needs holistic and widely resonant solutions

Chennai’s aspirations to grow into a global economic hub appear considerably weakened as it struggles to find water. The shadow of drought from 2018 has stretched into the torrid summer this year, evaporating not just the city’s reservoirs, but the prosperity of its residents who are forced to hunt for tankers, pay bribes and spend hours even at night waiting for trucks to dispense some water. Ironically, Tamil Nadu’s capital, which in a normal year gets anything between 1,300 mm and 1,400 mm of rainfall, has been laid low by the indifference of successive governments. That residents are now given minimum piped water and meagre tanker supplies totalling a third of the installed capacity of 1,494 million litres a day, that too mainly from desalination plants, faraway lakes and farm wells, is proof of the neglect of water governance. Yet, even searching questions posed by the Madras High Court to the AIADMK government have elicited only vague assurances on meeting basic requirements and restoring 210 waterbodies to augment future storage, rather than a firm timeline. Chief Minister Edappadi K. Palaniswami was wrong to dismiss reports on water scarcity as “an exaggeration”, and he must end this business-as-usual approach. A time-bound plan is needed to augment the resources in the Greater Chennai region encompassing the neighbouring districts of Thiruvallur and Kancheepuram. This plan should be tasked to a Special Officer, to be framed by officials in consultation with credentialed experts in research and academia, and public comments invited before it is finalised.

Given the large base of tanks and reservoirs in Greater Chennai – over 4,000 waterbodies of significance – prudent rainfall management can help it through withering summers and weak monsoons. A white paper with a full assessment of these wetlands and their storage potential should be a priority for the State’s Sustainable Water Security Mission. Deepening storage in the four major reservoirs must get priority. Such a project must quantify the increase in storage and set an early deadline of a year. These measures can harvest the bulk of the rain in a good year, and prove superior to the fire-fighting approach of installing expensive desalination plants and bringing small quantities by rail from another district. Tamil Nadu made rainwater harvesting mandatory quite early, but failed to follow it up with an institutional mechanism to help citizens implement it. The government should give monetary incentives to NGOs, as NITI Aayog proposed in its Water Index report, to encourage them to install systems and show quantifiable recharge outcomes. On the consumer side, devices and practices to reduce wastage should be promoted, especially on commercial premises. Droughts are bottlenecks for profit, and several actors have developed a vested interest in transferring water to the city at high cost. Long-term solutions can end this cycle.

# The future of parliamentary democracy

When any individual eclipses his party in a parliamentary election, it is uncharted terrain for the system



M.K. NARAYANAN

Weeks after the nation gave a decisive mandate to Prime Minister Narendra Modi and the Bharatiya Janata Party (BJP)-led National Democratic Alliance (NDA), political analysts are yet to come up with plausible reasons for what happened. No one had forecast this kind of majority, though there are many who now claim they saw it coming.

### The magnitude of victory

The figures say it all. First and foremost, in 2019 the NDA eclipsed its performance of 2014. It secured 352 seats, while the Congress-led alliance came next with 91 seats. The BJP tally of seats was 303 while the Congress secured 52. Regional parties such as the Dravida Munnetra Kazhagam, All India Trinamool Congress, YSR Congress Party, Shiv Sena, Janata Dal (United), Biju Janata Dal and Bahujan Samaj Party each secured 10-23 seats, demonstrating the overwhelming nature of the Modi victory. In 224 of the 303 seats it won, the BJP vote share exceeded 50%, compared to 136 in 2014. The BJP retained over 81% of the seats it had won previously.

With regard to voting percentages, the BJP vote share this time was around 37.4%, while that of the Congress was 19.5%. Analysing the results on the basis of seats won and voting percentages conveys an impression that the BJP had enlarged its reach not only in Gujarat, but also in Rajasthan and Madhya Pradesh (which only a few months earlier had dealt the BJP a resounding defeat in the Assembly elections). The reality may, however, be different. What is more true, perhaps, is that the BJP’s vote share among the Scheduled Castes

and Scheduled Tribes appears to have gone up. Also interesting is an analysis that first-time voters and younger sections among the electorate revealed a clear preference for the BJP.

Mundane statistics still do not explain the scale of victory. Various theories have been floated, viz. that India was entering a new epoch in which Mandir-Mandal politics had no place; caste and subaltern politics had receded into the background; and we are seeing a new India. These are mere facile arguments being put forward to explain an unprecedented victory which no one saw coming. Certain strategists meanwhile have speculated that the “victory” could be attributed to: the adoption of a new revolutionary approach to ‘data-driven’ communications; the utilisation of ‘influence politics’; and the employment of new ‘social media tactics’, which had the potential to change the behaviour of the electorate. This again makes for good copy, but the truth of what led to such a massive victory for the BJP still eludes everyone.

### Without issues

What, perhaps, is nearer the truth is that ‘issues’ as such had little resonance in the just concluded elections. The Opposition concentrated its attack on the weakening economy, but it is conventional wisdom that the true state of the economy or the lack of jobs is often irrelevant to voters when other matters of greater significance intrude. The Prime Minister, knowingly or unknowingly, never entered into a debate on the economic aspects, thus denying the Opposition a platform. The Opposition also had little occasion to bring up the Mandir issue, since the BJP never projected it as a major election card this time. Mandal politics has long since lost its edge, as the benefits to be derived from it have since become part and parcel of the political philosophy of every party in the country. The



Opposition, hence, had little ammunition to deploy against the ruling dispensation.

For its part, the BJP (as also some analysts) has argued that it was people-friendly policies such as the cooking gas subsidy, the Atal Pension Yojana, and the Ujjwala scheme that had created a wave in their favour. This again is more illusory than real.

This election was one of a kind, in which issues did not matter. This may seem like an ‘anomaly’, but in much the same manner as ‘anomalies’ during revolutions in science led to new paradigms, the Opposition failed to recognise the change that had taken place this time. This, together with the unparalleled polarisation and a Hindu consolidation, meant that the Opposition had probably lost the election even before the majority of the electorate had got to the polling booths.

It is hardly surprising in these circumstances that the grand Opposition alliance proved to be a damp squib, and not only because of their internal squabbles. Whether in Uttar Pradesh or across other States, the Mahagathabandhan was doomed from its inception. The electorate could not quite understand what the Mahagathabandhan was opposing. This was an extraordinary situation, the like of which has not been seen previously.

The ruling dispensation was, perhaps, as clueless as the Opposition about the changes taking place. Bereft of any grand strategy,

by default it took a leaf from the strategy of the most consummate politician in the ranks of the BJP, L.K. Advani, viz. whipping up nationalist fervour and passions, and employing high decibel rhetoric towards this end, not excluding the demonisation of Pakistan. This created an atmosphere in which the BJP stood for patriotism, one by which the Opposition could be branded as anti-national if they contested the arguments put forward by the ruling party. Pulwama and Balakot were critical to the success of this strategy and the BJP employed both to the hilt. Vast segments, especially in the northern belt of the country, were swayed by this type of propaganda, and there was hardly any requirement for the BJP faithful to spread this message.

Policy orientation of this nature required a towering symbol and voice. Mr. Modi with his powerful oratory was the quintessential person for this task. He did his part splendidly, addressing over a 100 rallies in the space of six weeks, covering over one lakh kilometres, in which economic issues, unemployment, farmers’ distress, Mandal-Mandir were conspicuous by their absence. Nationalism was the theme, and defending the nation’s integrity from threats of every kind, especially terror attacks from Pakistan, was the line of propaganda. The strategy succeeded far beyond the expectations of the BJP. One person alone was the architect responsible for this victory. The 2019 verdict was, hence, a verdict for Mr. Modi, and not for the BJP.

What does the 2019 election victory of Prime Minister Modi presage for parliamentary democracy? Parliamentary democracy is the cornerstone of the edifice sanctified by the Constitution. If any part of the edifice, and especially its cornerstone, is affected or diminished, it could spell damage to what we have come to believe since 1950. The question is not

rhetorical, but requires a well-considered answer.

When any individual, the Prime Minister included, eclipses his party that is notionally responsible for victory in a parliamentary election, then we are entering uncharted waters, where current rules do not apply. Across the world, there is a wave today in favour of tall and powerful leaders – from Donald Trump to Vladimir Putin and Xi Jinping – but they do not head parliamentary democracies. In a parliamentary democracy, the Prime Minister is clearly the first among equals, but is not larger or bigger than the party.

### Presidential-style vote

In 2014, Mr. Modi had crested the wave of disillusionment against the then ruling dispensation, which had been in office for a decade. This was not, however, the case in 2019, where incumbency and the inability to deal with a variety of issues had led to a degree of disillusionment with the BJP. Yet, Mr. Modi proved invincible, and the party benefited from it. Few among the electorate possibly voted for the BJP; they voted for Mr. Modi and what Mr. Modi stood for. The reality is that the electorate voted as if it were a presidential election to elect Mr. Modi.

Where does this leave parliamentary democracy? If political parties are redundant, can parliamentary democracy survive? If the current trend is maintained, it could well mean the end of parliamentary democracy. Now that the elections are over, it might be worthwhile to look dispassionately at the growing trend of favouring ‘maximum leaders’ to the detriment of the parties they lead, and to the policies and practices the latter espouse. This does carry risks for the future of parliamentary democracy.

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# The state of Indian prisons

The National Crime Records Bureau must be more prompt and open in releasing data



MRINAL SHARMA

Indian prisons make news when there is a jail break, a prison riot or when the lawyers of high-profile businessmen or economic evaders fight against their extradition to India. And in the midst of the election process this year, the release of the data-driven report, the *Prison Statistics India 2016*, published by the National Crime Records Bureau (NCRB) in April went largely unnoticed.

This edition of the report is different from its earlier versions on account of its omission of certain key demographic data. Despite these gaps, the report raises a number of red flags signalling the rot in India’s prison system. But before we go forward, a simple question needs to be asked. Who are our prisoners?

The report tells us that at the end of 2016, there were 4,33,033 people in prison; of them 68% were undertrials, or people who have yet to be found guilty of the crimes they are accused of. India’s under-trial population remains among the highest in the world

and more than half of all undertrials were detained for less than six months in 2016. This suggests that the high proportion of undertrials in the overall prison population may be the result of unnecessary arrests and ineffective legal aid during remand hearings.

### No demographic details

The most significant shortcoming of the report lies in the NCRB’s failure to include demographic details of religion and the Scheduled Caste and Scheduled Tribe status of prisoners, which are crucial to understanding India’s prison population. This information was consistently published for the last 20 years and instrumental in revealing the problematic overrepresentation of Muslims, Dalits and Adivasis among under-trials in prisons.

The report of 2015, for instance, said that Muslims, Dalits and Adivasis accounted for 55% of the under-trial population even though they made up only 50% of the convict population and 38% of the total Indian population.

Another disturbing point is the rise in the number of people held under administrative (or ‘prevention’) detention laws in Jammu and Kashmir (a 300% increase), with 431 detainees in 2016, compared to 90 in 2015. Administrative, or ‘preventive’, detention is



used by authorities in J&K and other States to unfairly detain persons without charge or trial and circumvent regular criminal justice procedures.

### Data on prisoner release

But a new and important addition to the report is the number of prisoners eligible to be released and actually released, under Section 436A of the Code of Criminal Procedure, which allows undertrials to be released on a personal bond if they have undergone half of the maximum term of imprisonment they would have faced if convicted. In 2016, out of 1,557 undertrials found eligible for release under Section 436A, only 929 were released. Research by Amnesty India has found that prison officials are frequently unaware of this section and unwilling to apply it.

In 2017, the Law Commission of India had recommended that undertrials who have completed a third of their maximum sentence

for offences attracting up to seven years of imprisonment be released on bail. Perhaps the NCRB should consider including the number of such undertrials in its upcoming report for informing the policy on the use of undertrial detention.

The 2016 prison statistics do not mention the number of prison visits by official and non-official visitors which typically include district magistrates and judges, social workers and researchers. This number, while not as disaggregated as it should be, must nevertheless be used to provide some information on independent monitoring of prisons. This is essential to uncover torture and other forms of ill-treatment, increase transparency and balance the power asymmetry in prisons.

### Mental health concerns

The relevance of prison visits is underlined by the number of “unnatural” deaths in prisons, which doubled between 2015 and 2016, from 115 to 231. The rate of suicide among prisoners also increased by 28%, from 77 suicides in 2015 to 102 in 2016. For context, the National Human Rights Commission in 2014 had stated that on average, a person is one-and-a-half times more likely to commit suicide in prison than outside, which is an indicator perhaps of the magnitude of mental health concerns

within prisons.

The NCRB has said that about 6,013 individuals with mental illness were in jail in 2016. It does not provide information on whether these prisoners were diagnosed with mental illness before entering prison, making it difficult to determine whether prison conditions worsened their plight.

The report states that there was only one mental health professional for every 21,650 prisoners in 2016, with only six States and one Union Territory having psychologists/psychiatrists. Odisha, Uttar Pradesh and Madhya Pradesh, the three States with the most prisoners with mental illness, did not have a single psychologist or psychiatrist.

All things considered, the report has important information which can be used to facilitate a dialogue on improving prison policies. But these conversations will be limited and the public’s right to know about the functioning of the criminal justice system thwarted if critical information is delayed inordinately or withheld without credible reason. The NCRB’s apparent reluctance to be prompt and open about its prison statistics does not bode well for the democratic discourse in India.

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## LETTERS TO THE EDITOR

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

### Minimally decent life

It has been proved time and again that mere recognition of a right and enacting it as a law does not translate into necessary action on the ground (Editorial page, “Basic needs, basic rights”, June 25). The basic duty of a democratic government, which is “of the people, by the people, and for the people”, is to meet the basic needs. If this basic duty, for which the democratic form of government exists, cannot be performed without it being reminded by means of a law, then the very purpose of electing that government becomes meaningless. Every political party in its election manifesto routinely promises all these basic needs. But once elected, its agenda appears

to be dictated by big businesses and political interests. Earlier, food security and the right to education were enacted as laws. But they have made little difference. In the absence of a real and firm commitment to address basic needs, mere recognition of a need as right and enacting it as a law will remain on paper. Instances such as Muzaffarpur will keep repeating themselves.

KOSARAJU CHANDRAMOULI, Hyderabad

■ The writer may have made a point with some of his arguments (Editorial page, “Basic needs, basic rights”, June 25), but making the Directive Principles of State Policy enforceable to some extent can address the issue in simpler ways. As a mature

democracy, people are expected to find a way out against all odds, as there are also constitutional and legal provisions in place. The government cannot be expected to do everything. It only ‘helps’ people to achieve what they want and what they ‘need’. Being unable to meet our needs is perhaps a reflection of our failures as a cooperative unit.

BITRA RAGHUVVEER, Mangalagiri, Andhra Pradesh

■ There have been numerous instances of government apathy and neglect as far as our basic needs and rights are concerned, especially when it concerns those in the lowest strata. Governments, State or Central, do not feel threatened or worried as they seem to have developed a system which revolves

around issues that can be stoked at periodical intervals and are enough to win the confidence of the masses. Above all is an illusory pride in achieving global standing in some areas which matters more than basic rights. The writer’s justifiable demand, that erring governments should be held responsible and accountable for their inabilities and incompetence, will not strike a chord as governments have a hold over the minds of most people.

G.B. SIVANANDAM, Coimbatore

### Defection and ethics

It is well-known that in India, politics and opportunism go hand in hand (Editorial, June 25). Scruples, ethics, principles, honesty and service to the electorate are fast-fading political traits. N.

Chandrababu Naidu did the same by toppling his father-in-law, N.T. Rama Rao, while K. Chandrashekar Rao, the Chief Minister of Telangana, appears determined to decimate the Opposition. Unfortunately, even the Speakers in Assemblies turn a Nelson’s eye to constitutional mandates. In the present case, the Chairman of the Rajya Sabha should have made an attempt to curb this unethical practice. Finally, money, numbers, and a warped vision to implement a political agenda determine the future of this country.

BHASKARA RAO SUDDAPALLI, Muscat, Sultanate of Oman

### A water vision

Many readers (“Letters to the Editor” column) seem to be looking at the water crisis in

peninsular India where most of the rivers in this part of India are rain-fed. But contrary to belief, the Gangetic regions and large parts of northern India are facing a water crisis. The government’s move to have a Jal Shakti Ministry should look at water management in a holistic manner. Steps to build the water pipeline infrastructure should also promote safeguarding precious freshwater. We cannot pass the next five to 10 years relying on the government’s promises on environmental protection. Citizen’s movements need to start picking up the leads. The participation of every citizen is vital.

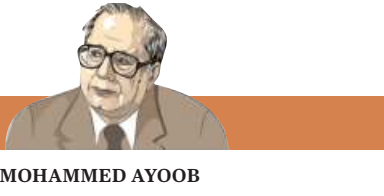
KIRTI WADHAWAN, Kanpur, Uttar Pradesh

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# The loss is not just Istanbul

Why Recep Tayyip Erdogan's grip on Turkey is weakening



MOHAMMED AYOOB

Turkish President Recep 'Tayyip' Erdogan has often said, "Whoever wins Istanbul wins Turkey." This must have come to haunt him last Sunday when Ekrem Imamoglu, the Opposition CHP (Republican People's Party) nominee, defeated Binali Yildirim, the AKP (Justice and Development Party) candidate, decisively in Istanbul's mayoral election. What must have added insult to injury was the fact that Mr. Imamoglu garnered close to 55% of the votes, thus increasing his vote share by seven percentage points compared to the March 31 result when he had barely managed to defeat Mr. Yildirim. Under pressure from Mr. Erdogan and his party, the High Election Board annulled the March 31 election result on flimsy technical grounds. It is clear that many AKP supporters switched to supporting Mr. Imamoglu this time, punishing Mr. Erdogan and his party for their high-handedness.

**The beginning of the end?**  
Does this mean the beginning of the end of Mr. Erdogan's semi-authoritarian rule in Turkey? If one accepts the fact that the Istanbul verdict is a bellwether for what could happen in the rest of the country when the national election is held, then it is good news for the Opposition. The verdict is very important because one-fifth of the Turkish population lives in Istanbul and the city contributes over 30% of the national wealth to the country's GDP. Moreover, Istanbul is not alone in sending the signal that large segments of the population are disenchanted with Mr. Erdogan and the AKP. The second and third largest cities in the country, Ankara and Izmir, also elected Opposition candidates in the March 31 election, as did several other urban concentrations. It is the Anatolian heartland with its conservative and religious orientation that has so far stood by the AKP. But even there Mr. Erdogan's popularity seems to be waning.

One of the main reasons for this is the very visible downturn in the economy and the precipitate fall of the Turkish currency over the past year. Some



REUTERS

of this is the result of Mr. Erdogan's continuing feud with the U.S. More important, the AKP government has grossly mismanaged the economy by spending unwisely on giant and prestigious projects like a new airport in Istanbul, which is slated to be the world's largest, and constructing bridges and gigantic mosques that have depleted resources and driven the government into debts of huge proportions. With the building boom turning into bust and inflation rising, the average voter has been hit hard. This has also begun to alienate the religiously observant bourgeoisie in the towns and cities of interior Anatolia who had formed the financial backbone of the AKP and the engine of growth during Mr. Erdogan's long tenure first as Prime Minister and then as President.

Simultaneously, Mr. Erdogan has alienated a section of his Islamist base by constantly quarrelling with Fethullah Gulen, the leader of the Gulen movement. Following the abortive military coup of July 2016, thousands of Gulen supporters, the most educated and skilled among the religiously observant population, are in jail and thousands of others have been sacked from their jobs. Several universities and schools run by the Gulen movement have been closed and this has affected the quality of education in the country.

**Alienating the Kurds**  
Mr. Erdogan's popularity has also diminished because his recently cultivated ultranationalism seems to have boomeranged. This ultranationalism was intended to placate his allies in the Nationalist Movement Party (MHP), which provides the AKP government crucial support in Parliament, but it

seems to have driven many moderates to side with the Opposition instead. This is particularly true of the Kurdish population – and Istanbul with about three million Kurds is the largest Kurdish city in the world – that has been alienated by Mr. Erdogan's stridently anti-Kurdish rhetoric and the resurgence of conflict between the state and the PKK (Kurdistan Workers' Party). Mr. Erdogan's military campaign against the Syrian Kurdish enclave has added to Kurdish disenchantment with him.

Ankara's ill-conceived involvement in the Syrian civil war has cost Turkey hugely. A massive inflow of refugees and an expanding defence budget have added to its economic woes. At the same time, the Turkish government has been engaged in a running feud with its principal NATO ally, the U.S., over trade issues, differences regarding the Syrian Kurds, and the Turkish decision to buy the S-400 anti-missile systems from Russia. The U.S. has threatened economic sanctions if Ankara acquires the S-400 systems. Turkey has been defiant on this issue, and the first S-400 deliveries are scheduled for July. Experts believe that these sanctions will kick in automatically under the CAATSA (Countering America's Adversaries Through Sanctions Act), a 2017 Congressional law penalising any country that has purchased military equipment from an American foe. The continuing spat with the U.S. threatens to negatively affect the Turkish economy further, with the lira plummeting to new lows following the U.S.'s threats of sanctions.

**Some good news**  
While all these factors point to a gradual but certain weakening of Mr. Erdogan's hold on power, it is too early to say that it will lead to him being unseating in the next election. Parliamentary and presidential elections are more than four years away and much can happen in between to reverse the Istanbul verdict, especially given the way Mr. Erdogan has concentrated power in his hands and misused it to muzzle the media and harass opponents of all hues. Nonetheless, the Istanbul election does indicate that the President's semi-authoritarian rule has not been successful in quashing the democratic spirit among Turkey's voters. This is good news.

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# An indecent settlement

Johnson & Johnson's paltry settlement for faulty hip transplants is problematic



PRASHANT REDDY T.

There have been no mass tort cases in India like the Acetabular Surface Replacement (ASR) hip implant case. In this, Johnson & Johnson has been accused of selling its faulty ASR hip implants to approximately 4,700 Indian patients between 2004 and 2010. The company announced a global recall of the ASR hip implants in 2010 after doctors in the U.K. and Australia reported an extremely high failure rate for the implant. The metal in the implant was apparently degenerating, causing damage to the bone and tissue, apart from leaching dangerous metals like cobalt and chromium into the blood stream of the patient. By 2013, J&J announced a \$4 billion settlement to cover the claims raised by 12,000 patients in the U.S.

Meanwhile, in India, individual patients filed cases against the company before consumer courts. There was no governmental response till 2017 when the Drug Controller General of India (DCGI) set up a committee of experts to probe the matter. This committee stated that J&J, as part of its global recall, had published advertisements in two English language newspapers informing patients that it was effecting a recall of the ASR hip implants and would pay for the revision surgery of those patients who required the implant replaced. Apparently 1,032 Indian patients contacted the company in response to these advertisements. And of these patients, the company paid for revision surgeries of 254 patients, while another 774 patients were kept on monitoring. The remaining 3,600 patients are likely not even aware of the issues with their hip implants because J&J did not contact each patient individually.

**The challenge before court**  
In 2018, an expert committee under Dr. R.K. Arya recommended that J&J be ordered to pay each patient a baseline compensation of ₹20 lakh and additional compensation based on the age of the patient and disability suffered by him. When the DCGI ordered J&J to pay compensation as per the formula laid down by the expert committee, its order was challenged before the Delhi High Court



PRASHANT MAKHE

on April 8, 2019 by J&J which argued, and rightly so, that only courts of law and not regulators like the DCGI could order payment of compensation.

In May, the company struck an entirely different chord, claiming that it was willing to pay ₹25 lakh to patients who had a revision surgery and approached the government's committee, provided that the payment was not construed as an acceptance of any liability. As per the court's order, this settlement offer would not affect the patient's right to claim further compensation subject to the fact that any possible future award of compensation from a court would have to be adjusted with the ₹25 lakh already paid. The order records that J&J was in effect extending this offer to merely 67 of the 289 patients who had approached the 'expert committee' of the Central government because only these 67 patients had been "verified" and had received revision surgeries.

**Problems with the settlement**  
There are several problems with this settlement. The first is that the patients who are the most important stakeholders are not party to this litigation. One of the fundamental tenets of law is that no order, not even one that is perceived to be a favourable order, should be passed by a court of law without hearing the parties who are going to be impacted by the order. The only way patient interests can be protected is to invite patients to be part of the process. This is not merely an issue of abstract theory but one of practical implications. For instance, if there was even one lawyer for the patients present in court, he or she would have informed the court that most patients have not approached the expert committee of the government because it was as clear

as day that the committee did not have any legal powers to award damages. Instead, most patients moved consumer courts seeking compensation. Thus, dealing with the claims of only the 289 who contacted the committee is pointless. The same lawyers would have also informed the court that as per the expert committee report, J&J has knowledge of at least 254 patients who have had revision surgery. Why then is J&J prepared to pay only 67 patients who had the revision surgery? Also, what of the remaining 3,600 patients who have not been informed of problems with the implant?

**The perfect smokescreen**  
The second problem with this payment of ₹25 lakh per patient is that there is no theory of damages supporting the payment of this amount. Normally damages are split under different heads such as loss of future earnings and solatium for hardship – all of which will be calculated on the basis of the age of the patient. A 40-year-old patient who has a much higher earning potential than a 60-year-old patient deserves to be compensated at a higher rate. J&J needs to explain the basis of treating all the patients equally. The expert committee had recommended ₹20 lakh as a baseline compensation to which more could be added as per a formula it proposed. Going by this formula, the compensation payable to these patients would depend on age and disability and would be far in excess of the ₹25 lakh proposed by J&J. The High Court needs to guarantee some transparency in this regard since there are pending cases before the consumer courts which will be dealing with similar questions.

The third tragedy with this settlement is that it provides the perfect smokescreen to both J&J and the DCGI who have so far had to deal with intense media scrutiny over their failure to take care of patient interests. By presenting to the media a deal that has the blessings of the Delhi High Court, both J&J and the DCGI will get away with the appearance of having taken care of patients even when it is clear that ₹25 lakh is a pittance of a compensation. The image of this settlement which costs J&J a paltry sum of ₹16.75 crore will end the public pressure on the company despite no justice being done to the patients.

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## SINGLE FILE

### Wayanad's hope

Rahul Gandhi has his task cut out in Wayanad, which is among the poorest performing districts in Kerala

P.K. AJITH KUMAR



On a hot afternoon in Jaipur recently, the driver of the cab in which I was travelling wanted to know where I was from. Kerala, I replied. Where in Kerala? Wayanad, I said. He smiled: Oh yes, Rahul Gandhi's constituency.

The hilly district in northern Kerala has suddenly become a familiar name across the country thanks to the Congress president contesting the parliamentary election from there. And what a wise decision it turned out to be.

Ever since making its debut as a Lok Sabha constituency in 2009, Wayanad has been one of the safest bets in Kerala for the Congress, due largely to the unwavering support enjoyed by the party's ally, the Indian Union Muslim League. The late M.I. Shanavas from the Congress had won both the previous Lok Sabha elections from Wayanad, after losing all the five he had contested elsewhere.

Given Mr. Gandhi's stature and the response to his campaign, he was expected to significantly improve Shanavas's victory margin of 20,870 in 2014. He lived up to the expectations by winning 4.31 lakh votes.

Earlier this month, Mr. Gandhi came to Wayanad to thank the voters, ensuring it continues to stay featured in national news.

There was a time when it hardly figured even in State news. I remember having to tell someone, when I was a student in Thiruvananthapuram, where exactly Wayanad was located. Most people then imagined Wayanad as a place full of forests and tribal settlements. This is sadly not true anymore. Wayanad continues to lag behind many districts on most indices. It has among the lowest per capita incomes in the State. It has poor infrastructure. It only ranks high on tourism, which has paved the way for the mushrooming of a large number of hotels and a real estate boom. But this has come at a heavy cost to the environment. Wayanad is nowhere near as green it used to be, nor is it as cold. There was a time when very few shops used to sell fans. Now people switch on air conditioners during the summer. Earlier, we would see much heavier showers during the monsoon. Lakshidi, the gateway to Wayanad district, once recorded among the highest average rainfall in the country. That has now become a distant memory.

What hasn't changed is the quality of medical care, which remains as poor as before. Even now, a seriously ill patient in Wayanad has to go to Kozhikode, some two and a half hours away. During his campaign, Mr. Gandhi had talked about setting up a new medical college. Given the Congress's poor show this election and reports about Amethi's disappointment with Mr. Gandhi's performance, Wayanad is hoping for more from its new MP.

P.K. Ajith Kumar is Senior Assistant Editor with The Hindu



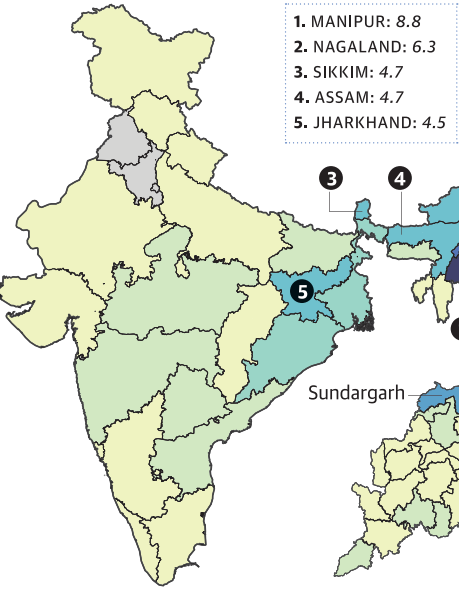
## DATA POINT

### Many tongues

In many northeastern and eastern States, at least three languages are spoken by a significant proportion of the tribal population, while in the rest of India the effective\* number of languages is fewer. Effectiveness depends on how widely a language is spoken in a State. **By Srravya C. & Vignesh Radhakrishnan**

#### State-wise split

As many as nine languages have a significant number of speakers among the tribal people in Manipur, while in Uttar Pradesh only one language is widely spoken



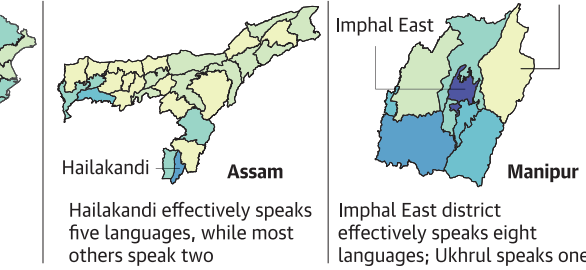
#### Languages galore in the Northeast

The table lists the States where five or more languages have a significant number of speakers among their tribal populations

State	Languages effectively spoken
Assam	Bodo, Assamese, Miri/Mishing, Karbi/Mikir, Garo
Jharkhand	Santali, Hindi, Ho, Kurukh/Oraon, Mundari
Manipur	Thado, Mao, Tangkhul, Kabui, Paite, Himar, Liangmei, Vaiphei, Kuki
Nagaland	Konyak, Ao, Lotha, Ngami, Chakru/Chokri
Sikkim	Nepali, Bhutia, Lepcha, Limbu, Sherpa

#### Variations at the district level

There is high variation in the effective number of languages spoken across districts in most States. For instance, there are effectively five languages spoken in Sundargarh, Odisha, while only one is effectively spoken in most other districts of the State



Source: Census 2011 \*To know how the effective number of languages is calculated using the Laakso and Taguepera method, see <https://bit.ly/2LhyFZA>

## FROM The Hindu. ARCHIVES

FIFTY YEARS AGO JUNE 26, 1969

### High yielding tapioca and sweet potato

The Central Government is expected to release nine high yielding tapioca hybrids and three sweet potato hybrids shortly. These hybrids have recorded two to three times more yield than the existing varieties. They were evolved at the Central Tuber Crops Research Institute, Trivandrum, and their release was recommended by a two-day workshop on tuber crops held here [New Delhi]. The Director of the Institute, Dr. M. L. Magoon, explained at the meeting the salient features, including production potentials, of the tapioca and sweet potato hybrids. The workshop felt that early release of these new varieties would bring about a major breakthrough in tuber crops production in the country. Noting the lack of attention to the problem of collection of valuable germ plasm of the different tuber crops, the workshop recommended that a co-ordinating unit be established to undertake intensive survey and collection from different parts of the country.

A HUNDRED YEARS AGO JUNE 26, 1919.

### Protest against Repression. Mr. Gandhi's Speech.

A public meeting was held on Tuesday night [June 24] in Bombay under the auspices of the Satyagraha Sabha at which resolutions were passed protesting against the Rowlatt Bills and praying the Viceroy and the Secretary of State to withdraw the legislation. Another resolution moved by Mrs. Avanthikabai Gokhale prayed for withdrawal of the deportation order against Mr. Horniman in view of the fact that the reason given by the Secretary of State in justification of the said order was found to be not capable of being substantiated. Mr. Gandhi in his concluding remarks said that if they could hold similar orderly meetings all over India the Government would have to cancel the orders against Mr. Horniman. If the people of India did their duty the Government would have to do their duty.

## CONCEPTUAL Bond vigilante

### FINANCE

This refers to any of the large bond market investors who aggressively sell government bonds in the open market as a mark of protest against the policies adopted by the government or the central bank of a country. The huge selling of government bonds can cause the price of these bonds to witness a sharp drop in price, thus leading to a significant rise in their yields. In other words, bond investors can cause a considerable rise in the borrowing rates of governments, thus exerting significant pressure on them. While some view bond vigilantes as harmful speculators, others see them as an essential force disciplining governments that spend beyond their means.

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