

**TELLING NUMBERS**

**Over 140 are killed every day on national highways, expressways**

Year	Number of accidents on NHs/expressways	Number of deaths on NHs/expressways
2015	1,42,268	51,204
2016	1,42,359	52,075
2017	1,41,466	53,181

Source: Reply to Lok Sabha question

UTTAR PRADESH and Madhya Pradesh, where the death toll from road accidents is among the highest in the country, were also among the 10-odd states where the number of people killed on the roads had, at last count, increased over the previous year.

UP, India's most populous state, saw 20,124 people killed on the roads in 2017, as compared to the 19,320 deaths in 2016. The corresponding numbers for MP, another large state, were 10,177 and 9,646, according to data provided to Lok Sabha by the Ministry of Road Transport and Highways last week.

Roads in Maharashtra, the second most populous state, however, seemed to be getting safer, the data show. The state saw 12,264 fatalities in 2017,

fewer than the 12,935 in 2016, and the 13,212 in 2015. The 2017 number for Tamil Nadu, 16,157, was the second highest (after UP) that year, but lower than the state's 2016 number of 17,218.

Across India, 51,204, 52,075, and 53,181 people were killed on National Highways (including expressways) in 2015, 2016, and 2017, as per information received from police departments of all States/UTs, the Ministry said in its reply. This works out to 140-145 deaths on India's National Highways and expressways every day during the three years for which the data was presented.

The number of accidents on NHs and expressways in those years were 1,42,268, 1,42,359, and 1,41,466 respectively.

**FACT CHECK, GROUND REALITY**

**CCD FOUNDER LEFT A PURPORTED SUICIDE NOTE. WHAT HAPPENS NOW?**

**MOHAMED THAYER**

MUMBAI, JULY 31

A LETTER purportedly written by V G Siddhartha to the board of directors of Cafe Coffee Day before he apparently took his life, accuses lenders of exerting "tremendous pressure" on him, and the Income-Tax Department of "a lot of harassment". While I-T said it had acted in accordance with the law and procedures, the Congress Wednesday attacked the government for unleashing "tax terror" on businesses.

Can the letter purportedly left behind by Siddhartha, if established to be genuine, be considered a "suicide note"?

**SUICIDE NOTE:** Any document where a person has specifically mentioned that he is planning to end his life, can be considered a suicide note. If the contents demonstrate that the person had been pushed to commit suicide by someone, police can conduct an inquiry to see if charges can be pressed under Section 306 of the Indian Penal Code.

**SECTION 306 IPC:** The section, 'Abetment of Suicide', says: "If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine".

Section 306 is applicable only if the deceased specifically holds a person responsible for the suicide. It is usually considered to be a difficult Section to prove in a court of law. In her suicide note, Dr Payal Tadv, the gynaecology department stu-

dent at Mumbai's Nair Hospital who hanged herself on May 22, named three seniors whose "torture" she said she could no longer bear. The three individuals have been arrested and charged with abetment to suicide.

**HOW SERIOUS:** The appearance of an individual's name in a suicide note does not automatically lead to the filing of an FIR. It must be established that the person was deliberately harassing the deceased. For example, the I-T officer whom Siddhartha has referred to in his letter cannot be held responsible if the officer is found to have been merely carrying out his duty as per the law.

The registering of an FIR under IPC Section 306 is not necessarily followed by prosecution. Police may register an FIR if members of the deceased's family insist, but may not file a chargesheet if their investigation shows there is not enough evidence to establish abetment. An FIR under Section 306 was registered after musician Karan Joseph killed himself in Mumbai in September 2017, but no one has been chargesheeted.

**PROCEDURE:** Normally, police initially register an Accidental Death Report (ADR). If there appears to be no foul play after the autopsy — meaning it was not a murder trying to be passed off as suicide — police can, under Section 174 of the Code of Criminal Procedure, conduct an inquiry without registering an FIR. If allegations in the suicide note, or those made by the family, *prima facie* appear to have merit, police register an FIR under Section 306 IPC.

**SIMPLY PUT QUESTION & ANSWER**

**New debate on defence funding**

The Centre has asked the 15th Finance Commission to examine whether a separate mechanism for funding of defence and internal security should be set up. What are the implications for the finances of the states?

**ISHAN BAKSHI**  
NEW DELHI, JULY 31

EARLIER THIS MONTH, the Union Cabinet amended the terms of reference (ToR) of the 15th Finance Commission (FC) to widen their scope. Through the change, the government has requested the FC to look into the possibility of a separate mechanism for the funding of defence and internal security. Critics of the decision have questioned the addition to the FC's ToR on the ground that it would undermine the federal structure of Indian polity.

**What is the FC and what is its mandate?**

The Finance Commission is a constitutional body that owes its existence to Article 280 of the Indian Constitution. Its mandate is to determine the distribution of tax revenues between the Centre and the states, and amongst the states themselves. The FC has a five-year term; the 15th FC was constituted in November 2017 and its recommendations will apply from 2020 to 2025. In the past, FCs have also dwelt on the distribution of central grants to states, as well as the flow of resources to the third tier of governance — the panchayats and the municipalities.

In a federal structure such as India's, powers and responsibilities are divided between the Centre and the states. While the Union collects a majority of the tax revenue, states have a greater responsibility for the delivery of public goods.

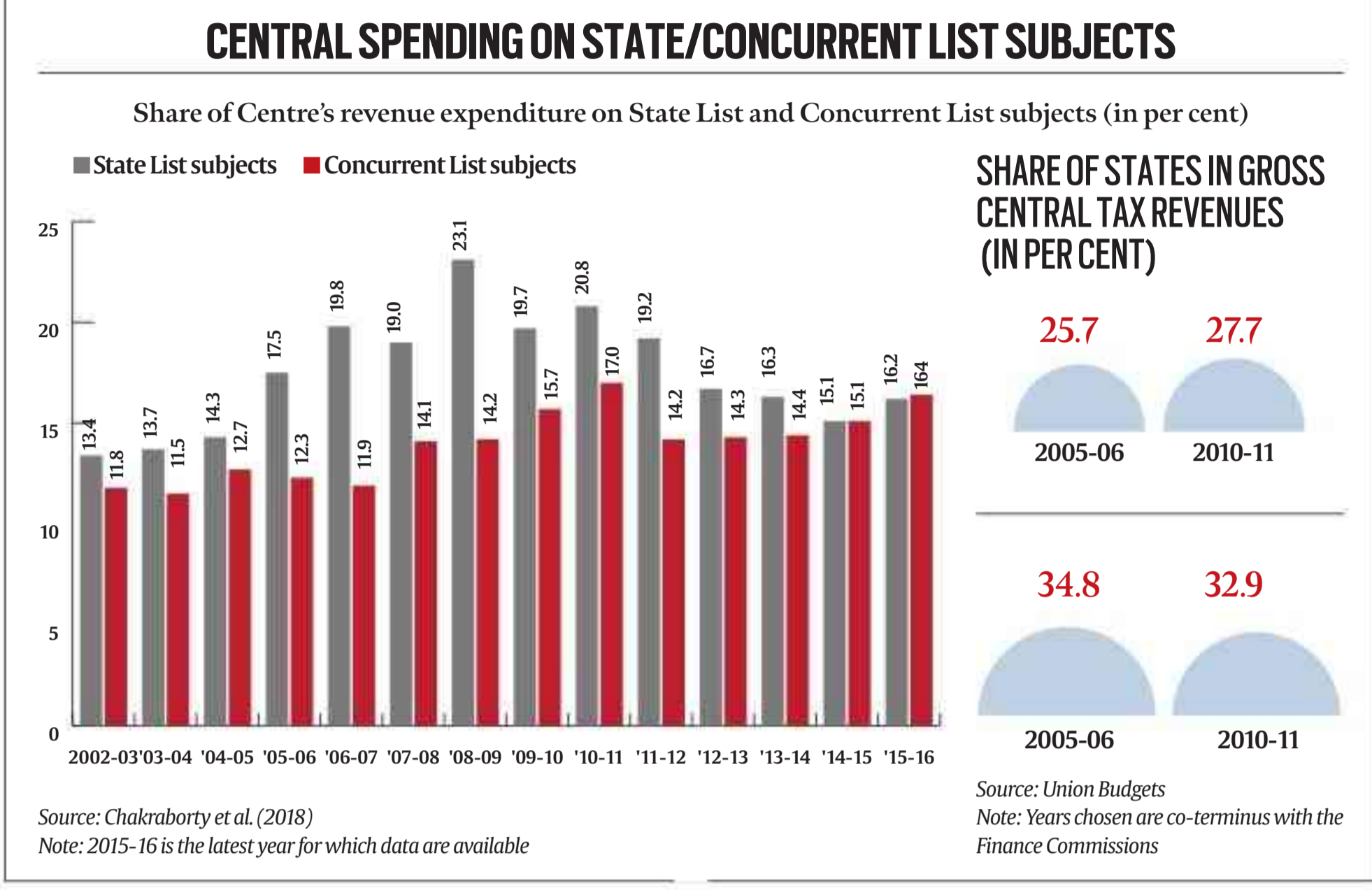
Thus, FCs aim to do two types of adjustments. One, to address the vertical imbalance between the taxation powers of the Centre and the expenditure priorities of the states.

Two, to allay the horizontal imbalances between the states themselves with the objective of ensuring balanced regional development.

**What is the role of the ToR, and why is the latest tweak being criticised?**

One of the reasons why FCs are reconstituted every five years is to ensure that they can take into account the changing dynamics of the political and fiscal landscape. Even though the ToRs are essentially in the nature of guidelines to the FC, yet a change in ToRs over the years has reflected the changing needs of India's overall development.

Any changes in ToRs can, and often do, have their critics. For instance, several



southern states had protested against the 15th FC ToR last year because of apprehensions that it would lead to a reduction in their share of tax revenues.

The latest addition to the 15th FC's ToR calls for the FC to examine the possibility of allocation of adequate, secure and non-lapsable funds for defence and internal security of India. In other words, the Centre has requested the FC to examine whether a separate mechanism for funding of defence and internal security ought to be set up, and how such a mechanism could be operationalised.

With capital spending on defence continuing to fall short of requirements, it is difficult to contest the basic premise that spending on defence needs to be bolstered.

However, sequestering funds for defence from the Centre's gross tax revenues means a reduction in the overall tax pool that is shared with states. This is likely to be protested by the states, several of whom are arguing for an increase in their share in taxes collected to 50 per cent from the current 42 per cent. This request by the Centre also raises questions over the fiscal space at its disposal to finance spending

on items in the Union list.

The Seventh Schedule of the Constitution lists the separate (Union List and State List) and joint (Concurrent List) responsibilities of the Centre and the states. Defence is in the Union List. The Centre's request to the FC for greater resources means that it has limited ability to ramp up expenditure on items in the Union list.

This is partly because the Centre's expenditure on items in the State and Concurrent Lists has been increasing over the years. Research has shown that the share of the Centre's revenue expenditure on items in the State List has broadly grown over the years; it went up from 13.4 per cent in 2002-03 to 23.1 per cent in 2008-09, before declining to 16.2 per cent in 2015-16.

Similarly, the Centre spent 16.4 per cent of its revenue expenditure on Concurrent List subjects in 2015-16, up from 11.8 per cent in 2002-03 (*see chart*). This increase in spending by the Centre on items in the State and the Concurrent Lists has led to a reduction in its spending on items in the Union List.

**Are states being squeezed out of funding?**

The added fiscal pressures of the Centre and the requirement of having to share tax revenues with states has left the Centre in a peculiar position.

To shore up its revenues, the Centre has, over the years, begun to rely more on cesses and surcharges. In the recent Union Budget, too, it increased the special additional excise duty and road and infrastructure cess on petrol and diesel by one rupee each.

But the revenue from cesses and surcharges is not part of the divisible tax pool that is shared with the states. It is kept by the Centre. This implies that states receive a lower share of the Centre's gross tax revenue collections.

For instance, the states' share in central taxes has been pegged at Rs 8.09 lakh crore in 2019-20. This works out to around 33 per cent of the gross tax revenues. In comparison, post the government accepting the recommendations of the 14th FC, states' share in central taxes rose to 42 per cent from the 32 per cent earlier.

**What the Bill to curb Ponzi schemes says**

**RUDRA MANI TRIPATHI**

NEW DELHI, JULY 31

ON July 29, Rajya Sabha passed The Banning of Unregulated Deposit Schemes Bill, 2019; it had been passed by Lok Sabha five days previously. The Bill aims to protect investors from fraudulent investment schemes, such as Ponzi schemes.

The Bill covers existing gaps in legislation that had been exploited by various parties to siphon large amounts of money away from small investors. In particular, it amends three laws, i.e., The Reserve Bank of India Act, 1934, The Securities and Exchange Board of India Act, 1992 and The Multi-State Co-operative Societies Act, 2002.

According to an analysis by PRS India, under the Bill, deposit-taking schemes are defined as 'unregulated' if they are undertaken for business purposes, and additionally, are not registered with one of the nine regula-

tory authorities mentioned in the Bill.

A common type of scam involving unregulated deposits is the Ponzi scheme, a type of investment fraud wherein one party promises high returns on an investment with little to no risk. The early investors in a Ponzi scheme are repaid by the scheme acquiring new investors, and so on. Once there are no longer enough people to secure a new round of investments, the scheme collapses and the investors lose their money. This was the classic pattern seen in the Saradha case in West Bengal, in which politicians of the ruling party had been accused.

The nine authorities charged with the oversight and regulation of deposit-taking schemes include the Reserve Bank of India (RBI), the Securities and Exchange Board of India (Sebi), the Ministry of Corporate Affairs (MCA), and state and Union Territory governments. Each authority oversees different types of deposit-taking schemes, with the RBI overseeing deposits taken by non-bank-

ing financial companies (NBFCs), and Sebi overseeing mutual funds. Any deposit-taking scheme must be registered with the relevant authority, based on the category it falls under, and only then is its operation legal.

The Bill provides for the appointment of a "competent authority", with a rank not below Secretary to the state or central government, with the power to provisionally attach the property of the deposit-taker, and all the deposits received by them. The Bill also allows the competent authority to summon and examine people to obtain evidence, and order records to be produced.

The Bill provides for the formation of designated courts in specific areas. The central government will additionally designate an authority to establish an online database with information on various deposit-takers. The database will be used to ascertain which deposit-takers are regulated, and which are not. Deposit-takers will be required to inform the authority in charge of the database about

their actions and the state of their business.

Three kinds of offences are delineated under this Bill: running unregulated deposit-taking schemes (which includes advertising, operating, and accepting money for such schemes), fraudulently defaulting on the deposits made under a regulated deposit-taking scheme, and prompting investors to invest in unregulated deposit schemes by knowingly falsifying facts.

The first kind of offence has been made punishable by two to seven years' imprisonment and a fine of Rs 3 lakh to Rs 10 lakh.

The second kind of offence is punishable by imprisonment for three to 10 years, and fines ranging from Rs 2 lakh to double the amount collected from depositors. Repeat offenders may be punished by a five- to 10-year stint in prison, and fined between Rs 10 lakh and Rs 5 crore.

(The writer is a student of Ashoka University and an intern with The Indian Express)

**What's at stake in India's biggest ever trial of tuberculosis vaccines**

**ANURADHA MASCARENHAS**

PUNE, JULY 31

ON JULY 15, the Indian Council of Medical Research (ICMR) launched India's first large-scale trial for two new tuberculosis (TB) vaccines. As per the 2018 annual report of the Central TB division of Ministry of Health and Family Welfare, the incidence of TB was nearly 2.8 million annually, and the incidence of multidrug-resistant TB was 1,47,000 per year. The total number of deaths because of TB (excluding HIV) was 4,23,000, and the incidence of HIV-TB was 87,000 per year. India contributes to 27 per cent of the global TB burden; the highest share globally. That is why, in 2017, the central government had committed itself to eliminating TB by 2025.

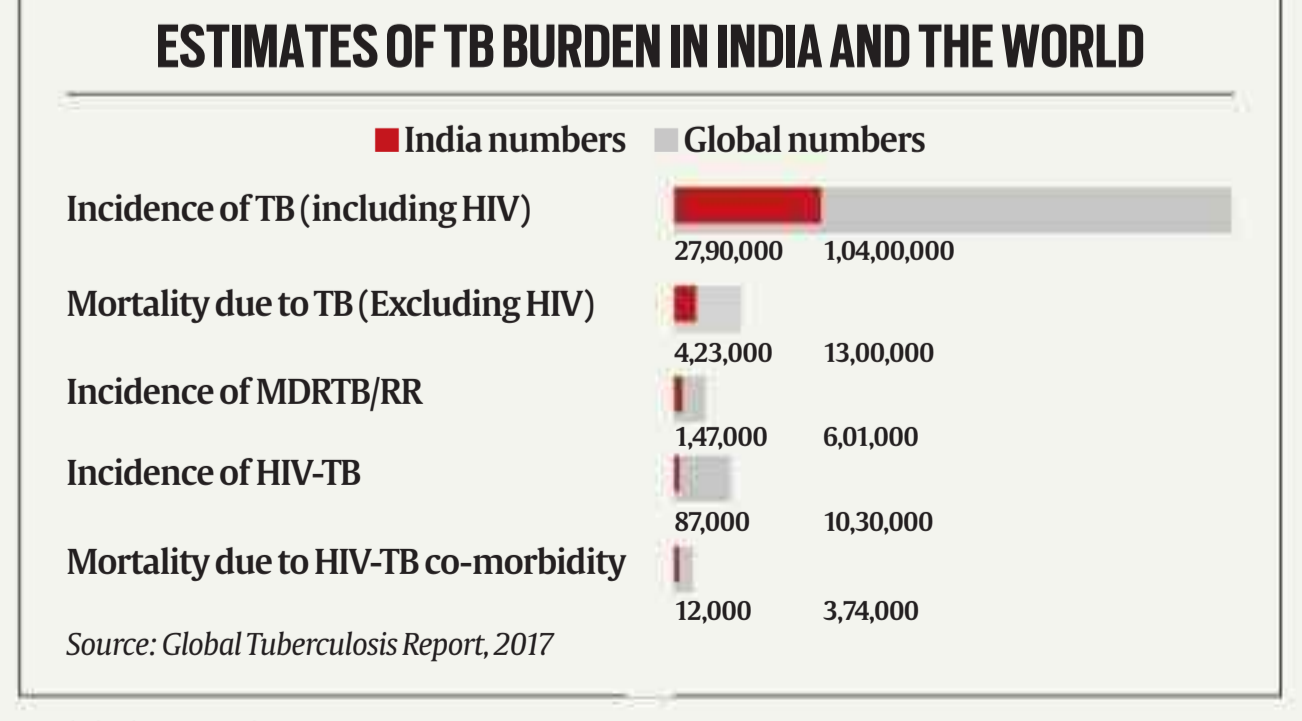
The new vaccines that are being put through the trials offer a chance to contain the accelerating spread of multi-drug resistant TB. Treating TB requires a multi-drug

course of treatment lasting six months; longer still for treating drug-resistant TB. Treatment failure and recurrence can have devastating consequences.

**Why new vaccines**

Scientists at the Indian Council of Medical Research have felt a critical need for new TB vaccines that are more effective than the Bacille Calmette-Guerin (BCG) vaccine. The BCG vaccine is used in the routine Expanded Programme of Immunisation (EPI) in countries across the world. It is generally given at birth or in the first year. The vaccine is over 100 years old, while it has been partially effective in protecting infants and young children, particularly from the most severe forms of TB, it provides poor protection against pulmonary disease in adolescents and adults.

It is for these reasons a need was felt to develop more effective preventive TB vaccines, Dr Balram Bhargava, Director General of ICMR, said.



**Which vaccines**

There are two vaccines being tested in the latest trial: Immuvac (also known as *Mycobacterium indicus pranii* or MIP), which is manufactured by Cadila

Pharmaceuticals in Ahmedabad, and VPM1002 manufactured by Serum Institute of India in Pune. There are seven main centres with six subsites where the trial will be conducted.

**What the latest trials entail**

Typically, vaccine trials have three phases. During Phase 1, small groups of people receive the trial vaccine. In Phase 2, the clinical study is expanded and the vaccine is given to people who have characteristics (such as age and physical health) similar to those for whom the new vaccine is intended. In Phase 3 the vaccine is given to several thousands of people and tested for efficacy and safety.

Even so, India's trials stand out. Dr Manjula Singh, co-investigator and coordinator of the vaccine trial said that nowhere has a Phase 3 trial involved trying out two TB vaccines in one go. This is the first time that such a large preventive TB vaccine trial has been taken up.

The trials in India will involve enrolling 12,000 healthy household contacts of newly diagnosed pulmonary TB patients. The candidates will be enrolled from across six states — Delhi, Maharashtra, Telangana, Odisha, Karnataka and Tamil Nadu.



## The Indian EXPRESS

FOUNDED BY

RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

# Reading 1919 in 2019



PRATAP BHANU MEHTA

What does it mean to be in politics? Weber asked this question — its answer lies in questions that find an echo today

## SHORTCHANGED BY LAW

Triple talaq bill was passed without legislative scrutiny it required. Both government and Opposition must take blame

**N**EARLY TWO YEARS after the Supreme Court declared instant triple talaq or talaq-e-biddat as unconstitutional, Parliament has passed the Muslim Women (Protection of Rights on Marriage) Bill, outlawing the practice. In its nearly year-and-a-half long sojourn in Parliament, searching questions have been asked of the Bill's provisions. As a result of these deliberations, the legislation passed by the Rajya Sabha on Tuesday is somewhat different from the one introduced in the lower House in December 2017. The question, however, is: Has the government allayed all the major apprehensions about the Bill? Last year, it did introduce amendments to dilute the Bill's most contentious section — the criminality provision. "An offence punishable under this Act shall be cognisable, if information relating to the commission of the offence is given to an officer in charge of a police station by the married Muslim woman upon whom talaq is pronounced or any person related to her by blood or marriage," reads Clause 7 of the Bill — a climbdown from the original clause, which allowed anyone to file a complaint. Yet, the question remains: Why deem what is essentially a civil wrong as a criminal act? The government has failed to give a convincing response to the Opposition's criticism that a three-year prison term for a husband who pronounces triple talaq would end up doing the estranged wife more harm than good.

The government has deployed the argument of women's empowerment to counter every objection to the Bill. The imperative of gender justice is, indeed, compelling. It is also true that the Supreme Court judgment had recognised the discriminatory nature of triple talaq. However, the 3-2 verdict also spoke of the complexity of the issue and its fraught political milieu. In laying out the intertwined aspects — gender equality, freedom of religion and personal laws — the five-judge bench had put forth a language of reform without being oblivious of or disrespectful to the apprehensions and insecurities of the minority community. Evidently, however, the government did not take its cue from this landmark verdict. It did not make any attempt to strike a conversation with the minority community or put to rest fears that the bill is another ruse for majoritarian assertion — not even after Prime Minister Narendra Modi began his second stint in office by announcing "sabka vishwas" as his government's credo. In fact, in the current Monsoon Session of Parliament, the government used the weight of its numbers to ride roughshod over the Opposition's demand that the Bill be sent to a select committee.

The Opposition's conduct has also left much to be desired. After failing to offer substantive criticism when the Bill was first moved, it did close ranks. But developments on Tuesday indicate that it has lost its appetite for a fight — as many as 23 Opposition members were not present in the House. The triple talaq law required thorough legislative scrutiny. Both the government and the Opposition failed to provide it.

## GST RED FLAGS

Government must address issues raised by Comptroller and Auditor General, review indirect tax regime

**T**HE SHIFT TO the goods and services tax (GST) regime marked a significant step towards the creation of a common national market. But the transition to this new indirect tax regime has been marred by implementation glitches. The compliance burden has not significantly eased, nor have revenue collections met expectations. These and many more issues have been dealt with in great detail by the Comptroller and Auditor General of India (CAG) in its audit report on indirect taxes. This careful report warrants a comprehensive review of the country's new indirect tax regime.

The audit report affirms the shortfall in government revenues post the shift to GST. It estimates that the Centre's revenues from goods and services (excluding central excise on petroleum and tobacco) fell by 10 per cent in 2017-18, as compared to the revenue of taxes subsumed under GST in 2016-17. It was hoped that over time, as the system stabilises, compliance levels would rise. But, as the audit finds out, there has been no improvement in filing of GSTR-3B returns. This needs further investigation. The avoidable physical interface with tax officials continues, as invoice matching — which is essentially matching sales and purchases of buyers and sellers — is still not operational, suggesting that the hope of an IT-based interface remains a distant dream. This has also left the system prone to input tax credit (ITC) frauds. The report has also flagged issues with regard to settlement of claims. It notes that the manner in which the government devolved Rs 67,998 crore under integrated GST to states was "against the provisions of Constitution of India." It has highlighted the issues of transitional credit (the carry forward of credit from the old tax regime to GST) which could have impacted central GST collections. But the issues don't end here. The IT audit of the goods and services tax network (GSTN) also points towards several shortcomings, not only in the GST registration but also in the payment module. Inexplicably, even the CAG's access to data, during its audit, was curtailed.

Part of the problem can be traced to the lack of co-ordination between stakeholders. There was also a failure to test the systems before rolling them out. While these system-related issues need to be addressed quickly, tinkering at the margins is unlikely to address the deeper, structural issues raised by the audit report. As the report points out, there are "serious systemic deficiencies that need to be addressed".

## STUFF AND NONSENSE

The world is mad at Richard Branson for rubbishing the material basis of happiness while being a tycoon

**T**HE BEATLES SANG "money can't buy me love" and hit the top of the charts in 1964. Thirty-five years later, Paul McCartney had admitted to an interviewer that it should have read "can buy me love". The world awaits a similar correction from Richard Branson, who is being pilloried for blogging: "I truly believe that 'stuff' really does not bring happiness." The lightning conductors for joy, he declares, are "family, friends, good health and the satisfaction that comes from making a positive difference." It is a statement guaranteed to irritate people who are short on some of these attributes, and short on money, too.

Such pious homilies are generally deployed by religions and cults, to prevent the flock from feeling totally cheated by life. But to be fair, Branson is not suggesting that we must be glad in rags. He has been offering free happiness advice for a while, and has generally said that money is not a valid metric for success. He inverts traditional logic to suggest that happiness is the springboard for finding success and making money, and that nothing can be achieved without a sense of fun.

For a nation that once controlled half the world, the English are surprisingly fascinated by money, and the lack thereof. British reality TV programming generally has something running on the theme. The most recent show is *Rich House, Poor House*, in which economically unlike people swap homes for a while. The best-known is *Famous, Rich and Homeless*, where the prosperous rough it out. The idea is to highlight what the poor are deprived of, but these programmes invite the charge of being patronising. Which is exactly the charge that Branson has attracted, by devaluing the importance of money while swimming in the "stuff".

**E**XACTLY ONE HUNDRED years ago, Max Weber published what curiously still remains one of the few ruminations that touch on the subject: 'Politics as a Vocation'. Though published in July 1919, the lecture was delivered in January to Free Students Union at the University of Munich, against the backdrop of immense political upheaval: Germany's defeat in World War I, the spectre of Bolshevism, political assassinations and deep scepticism about parliamentary democracy. This was a companion piece to Weber's famous essay, 'Science as a Vocation'. Both essays had a common thread: What does it mean to invest a vocation with meaning in an age characterised by disenchantment and rationalisation? What does it mean to take "politics" or "science" both as a profession and as something deeper, a calling? What ethical commitments and character traits do they draw upon?

The lecture is a typical Weber performance that manages to combine clarity, ambivalence and disillusionment all at once. He begins by telling his audience that the lecture "will necessarily disappoint you." But the sense in which he is about to "disappoint" has various dimensions. Those coming to look for instructions were going to be disappointed. Instead of instruction, what Weber offers is thinking: Thinking about how politics functions as a human activity. In formal terms, it is an autonomous domain in its own right that cannot be reduced either to pure ethics or purely the necessity of economic interest.

Its specificity comes from the fact that it can never avoid the question of power and violence. In the course of delineating the specific nature of politics, and the circumstances under which it functions, Weber invents many of the categories of modern political sociology, including the definition of the state as the institution that strives to monopolise the means of legitimate violence. He, then, in typical fashion, delineates the various forms of political authority: Traditional, rational, legal and charismatic; the ambiguities of politics in an era of parties and patronage; the infirmities of parliamentarianism and so on. This consideration of the circumstances under which politics operates was meant to be a bath of sociological cold wa-

ter over the hot romanticism of politics.

But Weber was offering a disappointment also in a deeper sense, one that gives the lecture its unique pathos. For one, Weber seeks to use Karl Lowith's description, "tear down all veils from desirable objects." He stands against revolution, a form of politics blind to the immorality of means, and to the self-defeating nature of the political project. He stands against pacifism for making war more likely. Both the revolutionary and the pacifist have a hyper moralism in common. The revolutionary is guilty of two aspects of moralism: That the ends can justify any means, and he operates on the delusion that the world can and ought to exactly mirror one ideal. The pacifist is a hyper moralist in the reverse direction: A moralism that pays no heed to consequences. Then there are the typical tensions Weber has to navigate. Weber is a thoroughgoing value pluralist, who nevertheless has to explain how we can, in a world of diverse values, act as if ours actually mattered.

Weber is frustrated with social democrats, assorted parliamentarians and centrists, for their indecision and pettiness. He is a thorough nationalist, one of the early ones to see it as an ideology that confers meaning in a disenchanted world in a way that is unrivalled. But he also sees how delusional nationalism can become. He is an ambivalent liberal, who sees how anaemic it can become in some circumstances, to almost invite charismatic disruption. He sees the psychological attractions of demagoguery; but is also the most prescient about its dangers. "The mere 'power politician', a type whom an energetically promoted cult is seeking to glorify here in Germany as elsewhere, may give the impression of strength, but in fact his actions merely lead into emptiness and absurdity." He describes the ideal politician as combining passion, responsibility and judgement; yet, at the same time, no one recognises the internal tensions between the three qualities more acutely than Weber.

But there is an even deeper "disappointment" in the essay. For his immediate audience, of course, he offers no consolation, "not the flowering of summer but a polar night of icy darkness and hardness." The power of the essay a hundred years later is in conveying

the sense in which the ordinary political agent can feel a sense of suffocation. Politics can often oscillate between the routine power grabs of patronage politics on the one hand, or the romantic delusions on the other. It can oscillate between the expectation that it attends to routine and mundane tasks; on the other hand, it also should provide the thrill and vicariousness that lift us out of our ordinary existence. It is exactly a world that makes moderation, responsibility and judgement so rare and fragile.

The world Weber described was, in some respects, not too far from the world we inhabit: What is the form of political action available, when constitutional forms are decimated, when the application of brute force becomes the norm, when the purpose of politics is a periodic diversion, to keep us in thrall of vicarious excitement? To what "ends" do we attach ourselves? To what forms of organising power do we hitch our star, when even so many organisations like parties are dead? What forms of collective action are possible when unity in the face of big challenges either flounders on the shoals of an impossible goal of unanimity, or is subverted by reducing politics to mere short-term interest?

Weber will not answer these questions. His tragedy was that of someone who has such a will not to be deceived that they literally leave their own actions without a foundation. Perhaps the answer may lie in another unlikely mode of political action that was beginning to take shape in 1919, just as Weber was pouring out his disillusionment. Gandhi was beginning to articulate the politics of exemplarity. His sense of politics was not Weber's by a long stretch. But he did grasp one thing: Perhaps in times of crisis the question to ask is not what ideology, what party, what collective action? The question to ask is: What makes political action an exemplar that is credible in the eyes of others?

But that is a discussion for another occasion. Weber's disappointment was supremely clarifying in one respect: The heroism and dignity of politics will lie exactly in the fact that we don't know all the answers. Till we try.

The writer is contributing editor, The Indian Express



SHAZIA ILMI

## TAKING DOWN PATRIARCHY

The Narendra Modi government has finally succeeded in abolishing triple talaq

**T**HE CONSTITUTION OF India, inspired by the lofty ideals of the wise women and men who made it, clearly mentions that there will be no discrimination on the basis of gender. The Fundamental Duties highlight the need to renounce practices that are derogatory to the dignity of women.

Yet, for 72 long years since we began to breathe the air of freedom, the practice of triple talaq remained in our system, an ugly aberration and a living testimony to the power of fundamentalism over rationality. By and large, previous governments accepted this as a part of faith and refused to correct this wrong. Recently, the Supreme Court of India made important observations on triple talaq as well.

It took a determined push by Prime Minister Narendra Modi to ensure that this archaic practice is finally abolished in India. PM Modi is perhaps amongst the only leaders in the last several decades to publicly talk about ending triple talaq. He did so during his years as Gujarat chief minister but this stand became stronger after he assumed office: He used his 2018 Red Fort address to assure Muslim women that this practice would become history.

The manner in which Modi has ensured this practice is abolished provides a lesson

or two in political will, statesmanship and bipartisanship. Many leaders espouse many causes but during the journey from ideation to implementation, there lie huge gaps.

The potential setbacks Modi faced since he actively began talking about ending triple talaq were many. Critics saw his utterances only as election-related. Initial attempts to clear the Bill in the Rajya Sabha were not successful and the conservative Muslim elements had a field day in branding Modi as "anti-Muslim". Yet, he did not lose will and persisted till the very end: This was a personal commitment and he would not accept inability as a way out.

For Modi to use so much of his political capital for a community perceived to be hostile to him manifests a welcome spirit of statesmanship. After all, vote bank politics can be a deadly pill. The manner in which Rajiv Gandhi dandered to conservative elements during the Shah Bano judgement is a masterclass of political cowardice and social indifference. He had a great opportunity to turn a wrong into a right but instead, he was more bothered about a handful of votes.

It must not be forgotten that all this while, the Modi government and the PM himself, have been talking about ending triple talaq

knowing fully well that the numbers in the Rajya Sabha are not in their favour. On previous occasions, the Bill could not even be introduced in the Rajya Sabha. However, the vote in the Upper House on July 30 gives valuable lessons in floor management and consensus building. Parties not with the NDA were roped in as well and the Bill was passed.

The bankrupt politics of the Opposition, especially the Congress, came to the fore once again during the Rajya Sabha debate. Frivolous issues were invented to defend a medieval practice. From preventing the Bill from being introduced to filibustering, their antics stand exposed. They too, like the BJP today, had a strong majority in Parliament: But while they used it to defend patriarchy, the BJP went the extra mile to fight for gender justice.

When the history of our times is written, it will be said that just before India's 73rd Independence Day, the Narendra Modi government, powered by the zeal of the prime minister, gave real freedom to Muslim women who were subjugated to exploitation and terror for no fault of theirs. May this struggle inspire us to overcome many social evils and move towards a more progressive and gender sensitive society.

The writer is a spokesperson of the BJP

## AUGUST 1, 1979, FORTY YEARS AGO

### CWC MEET

**T**HE CONGRESS WORKING Committee will meet on August 2 to discuss the proposal for calling a meeting of the pre-split AICC soon. It will also discuss the proposal for the merger of the Congress and the Janata (S). The first proposal has come from Devaraj Urs, the chief minister of Karnataka. He met Swaran Singh, Congress president. The second proposal was publicly announced by Raj Narain, Janata (S) chairman, in Karnataka Bhavan on July 28. Answering questions at the Press Club of India in Delhi yesterday, Urs said the Congress-Janata (S) merger proposal should be considered "very seriously".

### CRITIQUING AIR

**A**LL INDIA RADIO'S newsmen are in the dock. Their performance during the current political crisis is being subjected to a close scrutiny by the new Information and Broadcasting minister, Purshottam Kaushik. One of the first things Kaushik did on his first day in office was to call for an "analysis" of the coverage of political events by AIR's news services division in the last few days. Incidentally, submission of this "analysis" to the new minister was the last thing I P Tewari had to do as the director of news. He retired today. Kaushik gave a piece of his mind while addressing officers of the ministry today, emphasising that AIR should satisfy itself about

the veracity of news before putting it out.

### MNF PLAN EXPOSED

**T**HE OUTLAWED MIZO National Front had planned to carry out a blitzkrieg on Aizawl, and other district headquarter towns on or around Independence day. The plot has come to light through the interrogation of the half-a-dozen men of the "special task force" of the Mizo National Army, who were captured at Melthum about 10 km from Aizawl and two other rebel hideouts on the outskirts of the capital. The special task force had also been assigned the job of liquidating some VIPs, including the Lt Governor, N P Mathur, and chief minister, Brigadier Sailo.



# Power, not justice

Criminalising triple divorce violates the first principles of criminal jurisprudence, will be counterproductive



FAIZAN MUSTAFA

THE MUCH TALKED about Triple Talaq Bill (TTB) has finally been passed by both Houses of Parliament. The Union law minister justified it as an issue of gender justice and admitted that there have been just 473 cases of triple divorce in the last two years. This admission proves two things: One, the incidence of triple divorce is negligible and the issue was blown out of proportion for political reasons and two, the penal provision in the ordinance had no deterrent effect. That Muslim countries too penalise triple divorce was the third justification for the law but this is factually incorrect — there is a distinction between an act being declared “invalid” and being made an “offence”. The Supreme Court declared triple divorce as invalid and did not ask the government to make it a penal offence.

In fact, the day the Lok Sabha passed this regressive law, newspapers reported that the former Malaysian king, who recently abandoned the throne, announced that he has given triple divorce to his Russian wife. Triple divorce has not gone out of use in the Muslim world. Can we say that since Indian law punishes murders and rapes, no murder or rape is committed in India?

Muslim countries serve as poor examples for gender-just laws. Unlike Muslim men, in almost all Muslim countries, women cannot marry Christians or Jews. In some, they have a duty to “obey their husband” and need his permission to work or go outside the home. Their testimony has half the value of that of men. In some countries, a rapist can escape punishment if he marries the victim. Even on the issue of custody of children and maintenance, laws in Muslim countries are regressive as mothers can get the custody of a son only till he attains the age of 10 and a daughter till she attains the age of 12. And she loses custody on her remarriage. They punish adultery and apostasy with death.

Every punishment which does not arise from absolute necessity, according to Montesquieu, is tyrannical. In fact, criminal law should be used only as a “last resort” (ultima ratio) and only for the “most reprehensible wrongs”. The TTB is an instance of the unnecessary invocation of criminal sanctions.

Consider three current debates in our criminal justice system: One, we have decriminalised breaches of matrimonial faith in the form of adultery. Two, we decriminalised homosexuality though it has been punishable for centuries in all religions and legal systems. Three, we are not able to criminalise “marital rape” despite our revulsion to it. If something is a “sin”, let God punish the sinner. A civilised legal system should not enforce religious morality. The Wolfenden Committee Report (1957) in England clearly said that “unless a deliberate attempt is to be made by society, acting through the agency of the law, to equate the sphere of crime with that of sin, there must remain a realm of private morality and immorality which is, in brief and crude terms, not the law’s business.”

The fact that triple divorce is a “sin” under Islamic law was admitted even by the Narendra Modi government in its affidavit in the *Shayara Bano* case. Yet, we are set to penalise this breach of religious morality through the instrumentality of criminal law. BJP MPs did argue during the debate on the



Suvajit Dey

TTB that since triple talaq is sinful, it can be penalised. Are we going in the direction of religious theocracy?

From another angle, too, triple divorce is a unique case where the law is dictating to the orthodox Hanafi Muslim woman to continue in a relationship she considers sinful. If she thinks that as per her sect, her marriage has come to an end, forcing the continuance of sexual relations is nothing but tyranny unleashed by the law, which seriously undermines individual choice and autonomy. On the one hand, we have the bogey of so-called “love jihad” deployed to curtail the freedom to marry a person of one’s choice and on the other hand, Muslim women are forced to continue with same abusive husband who has given them instant triple divorce. We cannot say that the issue of women’s entry into the Sabarimala temple is a question of faith and triple divorce is an issue of gender justice. This is hypocrisy of the highest order. Moreover, instant triple divorce should not be a crime when it is pronounced at the request of the wife. We should not curtail this right of Muslim women.

Unfortunately, “crimes” originate in government policy and, therefore, criminal law reflects the idea of “power” rather than “justice”. This was evident in the recent amendments to the Unlawful Activities (Prevention) Act. The state in its discretion deems certain acts as crimes as per its own electoral or other needs. The state may decide to criminalise and decriminalise almost anything.

A crime consists of wrongdoing which directly and to a serious degree threatens the security or well being of society, and because it is not safe to redress it only by compensation to the injured party. The purpose of criminal law is to forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to individual or public interests. Since the Supreme Court has set aside triple divorce, it can no longer dissolve marriages and thus causes no harm at all. It no longer threatens the security and well-being of the society. Mukhtar Abbas

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Naqvi, in his speech in the Lok Sabha, said that government has now made it a bailable offence. He is wrong. A bailable offence is one where bail is a right and cannot be denied. Under the TTB, bail is at the discretion of the judge and thus, it is non-bailable. Moreover, we have restricted even this judicial discretion by laying down that it can be exercised by the judge only after hearing the wife on whom talaq has been pronounced.

Criminal law should not be used if it may not be effective in controlling the act in question. The triple divorce law is bound to fail, especially in cases of oral triple divorce given by husbands when no one other than the couple was present, as discharging the burden of proof will be a Himalayan task for the prosecution. We are doing a huge disservice to Muslim women as no husband on his return from jail is likely to retain the wife on whose complaint he had gone to prison. The Bill will lead to more divorces and abandonment. The remedy to tackle triple divorce is thus worse than the disease. Ideally, the marriage contract must lay down that a husband can give divorce only with the consent of the wife and if he gives three unilateral divorces in one go, the dowry amount will be increased to five times. In case of non-payment, a prison term would be justifiable as under civil law, non-payment of debt does lead to imprisonment.

A punishment, to be just, should have only that degree of severity which is sufficient to deter others. Punishments invariably exceed the crime and this, in the ultimate analysis, harms the state. Three years’ imprisonment in the new Bill is excessive and is disproportionate. The Indian Penal Code provides far lesser sentences for graver crimes. The TTB obliterates the distinction between “minor” and “major” crimes.

Criminal law’s promise of safety is matched by its power to destroy. Let us hope the Bill will not be misused.

The writer is vice-chancellor, NALSAR University of Law, Hyderabad. Views are personal

## WHAT THE OTHERS SAY

“The tactics employed by the state to neutralise the capacity of Pakistan-based militant groups to wreak mayhem are becoming more finely tuned and comprehensive.” —DAWN

# A familiar despair

Karnataka drama carries a sense of déjà vu — people are betrayed again by the politicians



SHASHI DESHPANDE

WATCHING THE end of the drama in the Karnataka Assembly, I had a sense of déjà vu. Hadn’t we seen this same picture last year, the same flashing V-for-victory signs by some, the same slinking out in silence by others? Now, yet again, one set of actors have exited the stage and another troupe is preparing to step in. But the same play goes on. Will it make any difference to the voters?

Since this battle between the ruling parties and the Opposition began, and the “rebels” retreated to a place where they could not be reached, it has been clear that this is a coup, a well-planned and well-executed coup, perhaps part of a Great Plan. The coup has accomplished what it set out to do: The fall of the Congress-JDS coalition government. Karnataka is no stranger to the toppling of governments. In fact, only three chief ministers have completed their five years in office. Each time this tussle for power happens, all parties bandy the word “democracy”, they speak of the will of the people. Each time there are “rebels” who are pawns in the game of toppling, pawns who are in it for what they can get. In fact, the word “rebel” is a total misnomer. Rebels fight for a cause, they suffer for their cause. Whereas, these “rebels” safely ensconced themselves in a luxury hotel with the local government acting as their guardian angel. No army of medieval times living in a heavily guarded fortress could have been more secure. And when they came to Bengaluru to hand in their resignations, they came on a chartered flight. Who paid for all these things? Perhaps the more fitting word for these men is “turncoats”.

In the last few days, the people of Karnataka have witnessed the most undignified spectacle of thoroughly unprincipled behaviour by all politicians. This is not new. Each time it happens we think, this is the worst, they can’t go lower than this. But they do. Horse trading is another word being much used. Horse traders, I am sure, were more honourable men; they were open about their profession, they did not claim that what they were doing was for the good of the people. And it is unfair to bring horses into this ugly game: Horses are beautiful, noble animals. They don’t cheat, they run their hearts out for the men and women who ride them.

In his brilliant short story, ‘A Piece of the Wall’, Kannada writer Bolwar Mahammad Kunhi has a poor old woman worshipping the then-chief minister Devaraj Urs as a god, because it was during his tenure that she got a piece of land. God he certainly was not, but he was responsible for a number of reforms, including land reforms which

benefited the poor. There have been chief ministers like K Hanumanthiah, S Nijalingappa, Veerendra Patil and Ramakrishna Hegde who brought dignity to the post of chief minister. After Hegde, S M Krishna’s government was the only one which gave the people a sense of a government that worked. Since then, it has only been a tussle for power, either within the ruling party, or with the Opposition party. The last few years have been the most dismal. Almost nothing has been done. While the government was fire-fighting, the opposition gloating, and the rebels in their safe space, the people of Bengaluru went to work as usual, braving the terrible chaotic traffic, negotiating through pot-hole-pitted roads. It is no longer a city in which it is a pleasure to live. Garbage piles up on roads, five-star hospitals and posh residential schools are mushrooming. And the middle-class and the poor struggle to give their children a reasonably-priced education, or to get good medical care without bankrupting themselves. And this is Bengaluru, the capital of Karnataka, the richest city in the state. What can one say about the rest of the state? Recently, a meeting was held in the city’s Freedom Park, to express total disgust at the politicians in the state, where a novel, if rather crude way of showing contempt for politicians was adopted. Yet, amazingly, politicians seem to be totally oblivious to voters’ feelings. H D Kumaraswamy, after he was defeated, spoke of continuing to work for the poor, Yediyurappa called it a victory for democracy. Whom are they fooling? Dystopia, we now know, is not tomorrow, or in the distant future; it is now, here, today.

This is a shameful time for the people of Karnataka. We, the voters, are ashamed. After all, we voted these people into power. But what choice did we have? The main problem is: How do we punish those who changed sides for money? How do we make sure the brazenly corrupt find no place in politics? How do we channel our anger, our despair into something that will make an impact on the system, since politicians have shown themselves to be as thick-skinned as buffaloes? All that people ask for is good honest governance. This seems to have become the lowest priority in a politician’s agenda. How do we fight them? Or have we become so blasé, so cynical, that we accept things the way they are?

In *After Blenheim*, a poem by Robert Southey, an old man tells his grandson that a famous battle was fought on the ground where they now live. Why was the battle fought? I don’t know, he tells the child, but they say it was a famous victory.

Victory, or what kind of victory, we have to wait and see. The drama is not yet over; there is still another act, or perhaps more than one to follow. If it is a victory, it will be an infamous, rather than a famous one. But for us, the voters, the question remains: Whom do we vote for in the next elections?

Deshpande is a Bengaluru-based writer

## LETTERS TO THE EDITOR

### UNNAO QUESTIONS

THIS REFERS TO the editorial, ‘Unnao indictment’ (IE, July 19). The Yogi Adityanath government in Uttar Pradesh, which was expected to go beyond electoral politics, looks to be a replica of other governments on the issue of law and order. Why did Yogi Adityanath not take cognisance of the seriousness of the issue when the victim tried to immolate herself? Why did the BJP not find it fit to expel the MLA after his highly questionable conduct and merely suspended him? The UP government must realise that if it is serious about slogans like “Beti Padhao, Beti Bachao” — put forth by its own party at the Centre — it should take upon itself to create an atmosphere where women can live with dignity.

Anupama Goswami, Mumbai

### ERUDITE ORATOR

THIS REFERS TO the article, ‘A true liberal’ (IE, July 30). The late Jaipal Reddy, besides being a prominent and long-term parliamentarian, was an erudite orator. He had knowledge of diverse subjects and his speeches would always enrich the quality of the debate in Parliament.

B K Kamboj, Gurugram

### DOPING BAN

THIS REFERS TO the report, ‘Podium protests’ (IE, July 30). Chinese swimmer Sun Yang was allowed to compete in the FINA World Championships although he was served a suspension for doping in 2014. Should someone who has once doped be banned for life from competing? Recent research suggests that an athlete who consumes muscle-building substances, such as steroids and testosterone, could retain

### 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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the benefits of their use throughout his/her career. In the mid-’90s, Anders Eriksson of Umea University, Sweden, established that the effects of muscle-building steroids are long-lasting or even irreversible.

Subhamay Ray, Kolkata

### GETTING HOT

THIS REFERS TO the editorial, ‘Cool down’ (IE, July 30). The editorial is smart and funny. But the ability of Indians to adapt to heatwaves could only be a boon in the short term. We should be focussing on controlling global warming and climate change. Because I’m afraid that after some time, even *dhotis* and *gamchas* will not serve any purpose.

Divyam Khandelwal, Jaipur

# Aiming for the moon

Instead of counselling fiscal prudence, let’s ask for more funds for space projects



ABHISHEK KULKARNI

SPACE IS the final frontier for mankind’s thirst of exploration and adventure. For all the anti-adventurists and killjoys, there are some obvious real-world applications in agriculture, telecom, weather forecasting, defence, medicine, natural resources and rare elements. Humans could become a space-faring species in another 30 years, perhaps even before if Elon Musk gets his way.

After the Apollo missions were completed, the world somehow lost interest in lunar missions. Scientists and space enthusiasts were still hopeful but public support faded away. For the next 50 years or so, a large number of the rocket launches made by the space organisations of the world were to put satellites in lower earth orbits, basically for communications and, let’s face it, for snooping on other countries. A relatively smaller number of missions were academically motivated.

The remarkable feats achieved by ISRO on July 22 and in other previous missions have made all Indians proud. Mostly because of two reasons: First, the critical parts of this mission — cryogenics, the orbiter, lander and the rover — are all indigenously developed. And second, the estimated cost of this project is Rs 978 crore only. I know putting “only” after that figure will surely raise eyebrows but

do a Google search and compare it with what other space agencies have spent to achieve similar successes. Fun fact: The last Avengers movie was made at a cost of Rs 2,443 crore. It is in this context that I disagree with your editorial, ‘Another giant leap’ (IE, July 23) which counsels fiscal prudence on space missions.

Chandrayaan 2 was scheduled as early as 2011-12 in collaboration with Roskosmos. Failure in their Mars mission and following delays in the delivery of the lander forced the Russians to back out from the agreement signed on November 12, 2007. This led ISRO to develop the mission entirely in-house, which they did in a very short time. On July 15, the snag during the final countdown and the temporary cancellation of the launch may have given a reason to the international media and other space agencies to second-guess India’s capabilities. But within a week, with a successful launch and that too with a very narrow launch window, ISRO made a statement, not with just words but with action.

### DEAR EDITOR, I DISAGREE

A fortnightly column in which we invite readers to tell us why, when they differ with the editorial positions or news coverage of ‘The Indian Express’

Another example of the genius of our scientists was emphasised when they had to test the in-house made rover on a moon-like surface. The moon’s surface is covered with craters, rocks and dust and its soil is of a different texture as compared to the earth’s. Importing lunar soil-like substance from the US was costly, hence ISRO decided to get “anorthosite” rocks from a couple of Tamil Nadu vil-

lages. They then crushed these rocks to the desired specifications and sent it to a test facility at Bengaluru, which resulted in huge savings. Scientists from NIT Tiruchirappalli, Periyar University, Salem and IISc Bengaluru worked on this project.

The remarkable part, however, is not the lower costs of these missions but the efficiency and the rate of success of these missions.

Though Chandrayaan 2 has been splendidly covered by *The Indian Express*, the conclusion of the editorial is somewhat discouraging from a scientist’s point of view. Government spending on flagship pro-

grammes has increased several times during the past couple of decades, while their return on investment both monetarily and in terms of standard of living is sub-par. On the other hand, there are certain expenditures for which the real motivation is the misguided notion of patriotism. For example, the Statue of Unity has an estimated cost of Rs 2,966 crore and the proposed Shivaji statue is estimated to cost Rs 3,600 crore. I am not against the commemoration of our national heroes, but can we not make their memorials less extravagant and give rest of the money to institutions like ISRO, DRDO and NDMA?

In India, where most government institutions eventually end up spending more than what was initially proposed, ISRO is an exception. Immediately after this success, rather than pivoting the zeitgeist towards supporting the organisation through more funding and resources, we are cautioning the agency to set its priorities right and have asked it to show fiscal prudence. That does not seem fair.

So yes, Dear Editor, I disagree with the conclusion of your editorial.

The writer is an Aurangabad, Maharashtra-based engineer and a space research enthusiast