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RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

BJP's caste play

Caste politics is being reinvigorated by actors who traditionally opposed it



CHRISTOPHE JAFFRELOT AND HAIDER ABBAS RIZVI

ONLY DUE PROCESS

Case against P Chidambaram must proceed strictly according to the law, and must be seen to do so too

BEFORE THE SUPREME COURT could rule on the plea of former Union minister and Congress leader P Chidambaram against Delhi High Court's denial of anticipatory bail in the INX Media case on Friday, he was arrested by the CBI. The prosecution has argued that it is a money-laundering case of "monumental magnitude". And yet, the scenes that led up to the arrest, late Wednesday evening, were unseemly and unprecedented. Multiple CBI teams converged, some personnel even scaled the walls of the Rajya Sabha MP's Delhi residence, after he addressed the media at the Congress headquarters where he claimed that there was no case against him. The spectacle, captured live on TV, raises serious questions about the CBI's conduct: Was the high drama necessary, given that the agency was not dealing with a declared absconder or a heinous crime? The Congress has termed it a show of political vendetta. Indeed, while the allegations against Chidambaram will stand, or fall, in a court of law, the sequence of events so far has raised disquieting concerns. No person, however high the office he or she may hold, or may have held in the past, is above the law. Yet, due process needs to be followed, and it must be seen to be followed too, especially in a case as politically sensitive as this one.

The allegations against Chidambaram have to do with his tenure as Union finance minister in the Manmohan Singh government. The CBI registered an FIR in May 2017, alleging irregularities in the Foreign Investment Promotion Board (FIPB) clearance given to the INX group for receiving overseas funds of Rs 305 crore in 2007. In 2018, the ED registered a case of money laundering, and the CBI called Chidambaram for questioning. The former minister's lawyers have pointed out that he has cooperated with the investigating agencies. On Tuesday, Justice Sunil Gaur of Delhi High Court, however, while vacating the anticipatory bail order issued in July last year, observed that "custodial interrogation" of Chidambaram "is required for an effective investigation". In a sweeping order, he wrote that "grant of bail in cases like the instant one will send a wrong message to the society" and recommended to Parliament "to suitably amend the law to restrict the provisions of pre-arrest bail and make it inapplicable to economic offenders of high-profile cases like the instant one". In its zeal, the court seemed to have forgotten that bail is a fundamental right of every citizen, and that it can be denied only in exceptional circumstances. There are other questions, too — for instance, the person who has turned approver in the case against Chidambaram is herself an accused in a murder case.

It is important that the justice process proceeds lawfully and with utmost transparency, so that this case does not invite allegations of vendetta in a polarised political moment.

THE RESERVATION QUESTION is back in the Sangh Parivar. A few days ago, RSS chief Mohan Bhagwat called for a "conversation in a harmonious atmosphere between those in favour of quota and those against it": "Those who favour reservation should speak keeping in mind the interests of those who were against it, and similarly those who opposed it should do vice versa," he said. It seems that the conversation should take place first within the Sangh Parivar, where everybody does not seem to be on the same page on caste-based reservation.

Traditionally, the Sangh Parivar has opposed caste-based politics and criticised the use of *jativad* as an electoral tool in its two incarnations, reservation and vote banks. Hindu nationalists denounced the Mandal report and VP Singh's decision to implement it. In August 1990, *Organiser* protested: "The havoc politics of reservation is playing with the social fabric is unimaginable. It provides a premium for mediocrity, encourages brain-drain and sharpens caste-divide". Two decades later, the situation has changed on both fronts, not only reservation, but also elections.

In the last Lok Sabha elections, the BJP factored in caste as a major variable in its candidate-selection. Its standard strategy consisted in federating smaller castes against the larger ones, which were often more affluent. This was in tune with the party's policy regarding chief ministers' selection: The BJP appointed a non-Maratha CM in Maharashtra, a non-Patel CM in Gujarat, a non-Jat CM in Haryana. In the last general election, this strategy was applied to candidate selection in the OBCs and SCs. In UP, the BJP targeted the non-Yadav OBCs, who often belong to the poorer strata of society and usually resent Yadav domination, particularly the way they corner most of the quotas.

While the Yadavs are traditionally associated with the SP, the BJP successfully wooed the non-Yadavs. Whereas 27 per cent of SP candidates were Yadavs in 2019, Yadavs represented only 1.3 per cent of the candidates of the BJP which gave tickets to 7.7 per cent Kurmis and 16.7 per cent "other OBCs", who often came from small caste groups (data drawn from the Social Profile of the Indian National and Provincial Elected Representatives, created by Ashoka University and Sciences Po). This strategy translated into votes if one goes by the National Election

Survey of CSDS-Lokniti: While 60 per cent of Yadavs voted for the SP-BSP alliance, 72 per cent of "other OBCs" supported the BJP, showing that the OBCs were polarised along jati lines. In the same way, the BJP has become the rallying point of non-Jatav voters against the BSP. Once again, the BJP cashed in on the resentment of smaller Dalit groups, accusing the Jatavs of monopolising reservation. In UP, the BSP gave more than 20 per cent of its tickets to Jatavs, whereas the BJP nominated 5 per cent of Jatavs only, 7.7 per cent of Pasis and 9 per cent of "other SCs". Certainly, the BSP-SP got 75 per cent of the Jatav vote, but it received only 42 per cent of the "other SCs" vote, against 48 per cent which went to the BJP — the winner of 15 of 17 "SC seats".

After the election, the BJP has continued with the same strategy in UP by appointing a Kurmi as party chief and promoting small OBC groups at the expense of the Jatavs. The Yogi Adityanath government has included 17 small OBC castes (Kahar, Kashyap, Kewat, Nishad, Gond, Bhar, Prajapati, Rajbhar, Batham, Bind, Turha, Manjhi, Mallah, Kumhar, Dheevar, Dheemar and Machua) in the list of SCs. These castes, which represent about 15 per cent of the state's population, have been asking for this change. Now, they will have more opportunities as they will not have to compete any more with Yadavs and Kurmis. The Dalits, on the contrary, resent this move which is bound to intensify competition for quotas within the SC category. Not only did Mayawati object that only Parliament and the president had the power to do so, but the BJP minister for social justice and empowerment, Thawarchand Gehlot, said the same thing before the Rajya Sabha. Even if this decision is eventually declared unconstitutional, these jatis may be grateful to the BJP during the coming by-elections in UP.

The same reasoning applies to the policy of the BJP Chief Minister, Devendra Fadnavis, regarding the Marathas. In 2014, during the last Maharashtra election campaign, the BJP slammed the Congress government's decision to reserve 16 per cent of government jobs and seats in educational institutions for Marathas. After forming government, the party changed its mind. In November 2014 the Bombay High Court stayed the ordinance regarding reservations for the Marathas because, according to the court, they were not

backward. Immediately, Fadnavis declared: "We will appeal in SC on the HC ruling. We will take measures to ensure that the quota remains". Fadnavis first appointed a new "Backward Classes Commission", the Gaikwad Commission, which declared that "The Maratha class of citizens having been declared socially and educationally backward class of citizens are entitled to reservation benefits and advantages enshrined in Article 15(4) and 16(4) of the Constitution of India".

Following the Commission's recommendation, the Fadnavis government decided to grant a 16 per cent quota to Marathas in government jobs and educational institutions run by the state. This decision was approved unanimously by the legislature. The BJP innovated only on one ground: It had a law passed to create a new group called "Socially and Educationally Backward Class", made only of the Marathas, which was granted a 16 per cent quota outside existing reservations for SCs, STs and OBCs in order not to alienate the BJP voters from the non-dominant Dalits and OBCs that the party was wooing in Maharashtra like elsewhere.

This time, the Bombay HC upheld the decision of the Maharashtra government in spite of the fact that Marathas had not suddenly become more backward and the additional quota took reservation up to 68 per cent (well beyond the 50 per cent threshold the SC laid down decades ago). The judges — who simply reduced the 16 per cent quota to 12-13 per cent — had to consider "exceptional circumstances and an extraordinary situation". On July 12, the Supreme Court did not stay the HC order, simply sought the Maharashtra government's response on pleas challenging the quota. This move may help the Fadnavis government to show its goodwill to the Marathas till the state elections.

Thus, caste politics has been reinvigorated by two kinds of actors who, traditionally, opposed it. One, the BJP is implementing it at the time of candidate selection and in expanding caste-based reservations. Two, the judiciary is making it easier by relaxing aspects of past jurisprudence.

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PRIVACY RIGHTS, WRONGS

In hearing clutch of petitions concerning Aadhaar and social media, Supreme Court must be guided by its own ruling

THE SUPREME COURT has rightly agreed to hear together multiple public interest litigations pending in the Madras, Bombay and Madhya Pradesh high courts, calling for the linking of Aadhaar with social media accounts. There can be no room for conflicting rulings in a matter with international implications, which could inspire litigation or influence attitudes in other nations. Privacy is at stake here, and the Supreme Court is its most appropriate guardian, having clarified it and defined it as a "guaranteed fundamental right" in 2017. In its deliberations, the Court will no doubt be guided by that landmark judgement, which was celebrated, among others, by the Electronic Frontier Foundation, the pioneering digital civil liberties group.

As it stands now, the court is expected to strike a balance between the imperatives of privacy and security. Obviously, this is an impossible choice, since the right to privacy is fundamental and cannot be reduced under normal circumstances. By way of a parallel, the right to life is absolute until a death sentence is pronounced, and the right to liberty can be conditional only in a state of unrest or emergency. Logically, therefore, the question of striking a balance with an absolute right cannot arise under normal circumstances. It also involves a question of scale. Why is Aadhaar indispensable? Wouldn't the phone numbers associated with social media accounts suffice? They identify owners with complete accuracy, since sim cards are issued against identity documents. While the data security of Aadhaar remains so contested that it is not mandatory even for banking purposes, insistence on Aadhaar would simply invite more lawsuits.

Death threats, criminal intimidation, smearing and stalking are commonplace in social media, and the dark satanic mills of rumour and fake news have the capacity to spark violence and conflict. But a technical solution would be as effective as legal remedy, without trespassing upon privacy. For instance, artificial intelligence can identify dubious content by textual analysis and flag it like spam or malware. And this week, Twitter proactively swept away Chinese accounts spreading disinformation about the Hong Kong protests. The Supreme Court has been admired for standing up for privacy. Now, it should mandate a technical solution, because it cannot possibly consider encroaching upon the very value that it upheld and protected.

MAN VS TIME

Jagannath Mishra was the last stalwart from a time when Bihar could conceive of an upper-caste Congressman as CM

IN 1990, WHEN Jagannath Mishra's final stint as chief minister of Bihar concluded after just 95 days in office to make way for Lalu Prasad, it was seen as the end of a political era. Mishra, who died at 82 on Monday after a long ailment, was the last Congress chief minister of Bihar as well as the last Brahmin leader to have claimed the office. Bihar, along with Uttar Pradesh, had been, at least since the Sixties, the epicentre of the social and political churn in north India that resulted in the gradual decline of the "Congress system" and waning of upper-caste dominance. With the implementation of the Mandal Commission's recommendations in 1990 and the rise of subaltern leaders, it was thought that the era of upper caste dominance of politics in the Hindi belt was dead and buried.

Mishra was the last stalwart of the old order. "Dr Sahib" was a leader from the time when the Congress was to its supporters an "umbrella party" and to its opponents a dominant feudal force. In Bihar, the party was seen by many as a regressive force, particularly in terms of its treatment of OBCs and Dalits. The assertion of the OBCs, led by the likes of Lalu and Nitish Kumar, was about stitching a social coalition that was both ideologically coherent and numerically powerful. Muslims, Yadavs, OBCs as a whole and Dalits, became a politically dominant force that saw the rise to power of a discourse of dignity and social justice.

While Mishra, who was charged in the fodder scam, and the Congress, have been unable to resurrect their fortunes in Bihar, and the backward caste coalition has splintered, the BJP has emerged as a force in the state. Though the junior partner in the Nitish Kumar government, its influence has steadily grown. While the BJP has sought to expand its social base by offering posts to members from a cross-section of communities, many party and RSS leaders have questioned caste-based reservations. Thirty years after Jagannath Mishra was CM, the prospect of an upper-caste CM no longer seems as faraway.



TARADATT

THE RECENT TRANSFER of Subhash Chandra Garg as finance secretary heading the Department of Economic Affairs (DEA) led to speculation. Transfers/postings and superannuation define the life of a public servant. However, the displacement of the architect of a core aspect of the Union Budget (the proposal to raise \$10 billion from the sale of sovereign bonds overseas), during the Budget Session of Parliament, is definitely not routine.

Extraneous considerations in effecting transfers/postings, though hardly new to the bureaucracy, affect the administration in multiple ways. It is not that those holding key positions are any less competent than others, but merit simply seems incidental in such appointments. What else explains appointments and extensions of retired and retiring bureaucrats to key positions by amending laws and statutory rules?

It is increasingly difficult to find civil servants holding key positions on the strength of their transformative contributions in engineering and improving delivery systems or writing defining policy papers. The administrative reform and policy domains are considered shelters for incompetent officers, while those with even a discredited past can be found holding top posts due to their carefully-honed skills to be their masters' voice.

MUSICAL CHAIRS

Extraneous factors in transfers and postings hamper administration

In this context, though there exist numerous examples, let me cite two which illustrate how administrative sanctity is affected, from my time as joint secretary in the cabinet secretariat. In one instance, even after damaging inputs were brought to the notice of the prime minister and President, a person was appointed as chairman of the ST commission (2010). In another case, when a cadre and batchmate of the successor cabinet secretary was appointed as secretary to the PM (in 2011), a proposal was prompted by the PMO asking the Ministry of Home Affairs (MHA) to place the newly-appointed secretary at 10th position in the Warrant of Precedence, above the cabinet secretary.

The sole justification supporting the decision to elevate the new aspirant was that his predecessor had enjoyed that position. The approval granted by the cabinet secretary was also contrary to the apex court ruling that any change in rules or placements in the Warrant that interfered with the positions of the chief justices or judges of the Supreme Court and high courts, could be done only with prior concurrence of the CJ. In this case, the secretary to the prime minister was positioned at 23 after the secretary to the President and before other secretaries to the Government of India. His re-position-

ing at number 10 would decidedly affect the chief justice and other judges of high courts positioned hierarchically at 14 and 17.

The approval overstepped other proposals held long in abeyance. It disregarded the fact that the previous principal secretary to the PM had been conferred the status of minister of state by the prime minister and that his placement above the cabinet secretary was *ad personam* to him. Then too, approval had been taken by the incumbent cabinet secretary in the last fortnight of his tenure without seeking the concurrence of the CJ. The new secretary had neither been designated a principal secretary nor conferred a rank equivalent to minister of state.

I resubmitted the file to the cabinet secretary elaborating the rules and procedures. Most reluctantly, the proposal was returned to the MHA but was resubmitted by the home secretary with reiterations.

Some months later, when I was back home in Odisha, I read a news item that the cabinet secretary did not yield to pressure to change the Warrant to place secretary to Prime Minister above himself!

The writer is a retired IAS officer and the article, in part, is an extract from his forthcoming book, Highlander's Plain Speak

AUGUST 22, 1979, FORTY YEARS AGO

FRESH ELECTIONS

ENOUGH EVIDENCE IS available to suggest that the President, N Sanjiva Reddy, is toying with the idea of dissolving the Lok Sabha and ordering fresh elections to resolve the current political deadlock. Reddy would like to induct an interim government to run the affairs of the country till the elections. The controversial proposal for holding a mid-term poll under an interim government is meeting with stiff resistance from the Janata Party and Jagjivan Ram, who has staked his claim to form a government.

nied that it had stipulated any condition when it came to its support to Charan Singh at any stage. The CPP made it clear that none of its members had expressed any desire even to meet any one of the Janata (S) leaders until they were invited by the latter. P Venkatasubbaiah, secretary, in a statement expressed shock at the statements of the Prime Minister, Charan Singh, and the External Affairs minister, S N Mishra, to the effect that they did not like to be blackmailed by the conditions of the Congress-I party for the abolition of the special courts.

NO CONGRESS SUPPORT

THE CONGRESS PARLIAMENTARY Party de-

MAJORITY TEST

THE LEADER OF the Opposition, Jagjivan



WHAT THE OTHERS SAY

"Historically, the Americans have only woken up and rushed to the region when the two neighbours (India and Pakistan) have been on the brink."
—DAWN

A time for new leaders

Kashmir needs a new leadership emerging from the development narrative of the 21st century, not the separatist themes of the 20th century



RAM MADHAV

FOR THE SEPARATISTS in Kashmir, the winter chill has set in early. And it is likely to be a long haul. The heat and dust of separatism and terrorism, that had been the bread and butter of many of leaders in the Kashmir Valley, seems to have lost steam. These leaders, who had consistently been fed on the staple of separatism and special status, find the new reality unfathomable. But the people of the Valley are at least thinking about it, even if they are not openly supporting the Narendra Modi government's move to nullify Article 370 of the Indian Constitution.

Two weeks have passed since the passing of the presidential orders bifurcating the state of Jammu and Kashmir into two union territories and nullifying several clauses of Article 370. The popular response to these two decisions in the Valley has largely been subdued. No major violence has taken place nor has there been any terror attack. Initially, there were severe restrictions on the free movement of people, including round-the-clock curfew. But, most of the restrictions have been relaxed, either partially or fully. Vehicular movement on the streets of Srinagar and elsewhere is slowly returning. Curfew has been removed in most parts. Schools and markets are open. Life is limping back to normalcy after a few days of preventive restrictions.

For people like me, who have seen the worst form of terrorist and separatist violence in the past, including the aftermath of the neutralisation of Burhan Wani, sporadic incidents of violence in a few places in the Valley are not really that serious.

Critics attribute this absence of a public outburst in the Kashmir Valley to the deployment of security forces in large numbers or to the internet blackouts or to the round-the-clock curfew restrictions. But, then, none of this is new to the people of the Valley. Increased presence of the forces and internet blackouts have been a regular feature in the life of the terror-stricken areas of the Valley. Yet, in the past, people used to come out on the streets in large numbers, pelt stones and clash with the security forces, leading on some occasions to casualties. In fact, "one dead body a day" used to be the strategy of the separatist and terrorist establishment because each casualty would be used to foment more trouble and violence.

That is no longer the scenario in the Valley. Perhaps people have been taken aback by the turn of events. It has still not sunk in fully. The staple of separatism and special status, on which they were fed for decades, must still be causing consternation in their minds. Yet, they don't seem to be blindly buying into the other narrative anymore like in the past. They have paused and are thinking.

One reason could be the experience of the last five years. Globally, democratic pol-

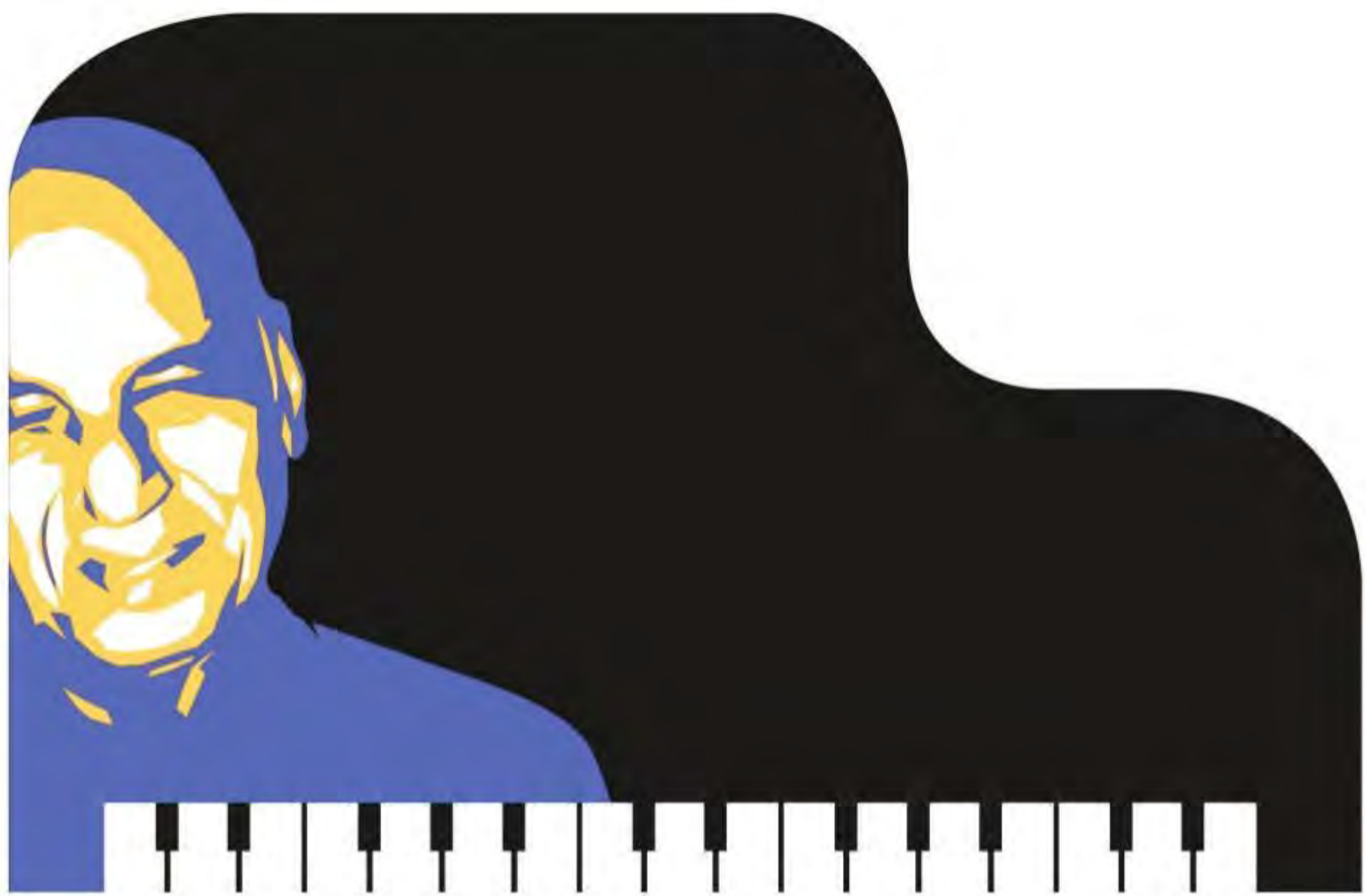
itics is changing. It is the era of strong and decisive leaders who know how to mould public discourse. The Modi era in India has seen a large-scale shift in public discourse—from the pessimism of the past to optimism about the future. The Valley is not insulated from that futuristic discourse. Through the development narrative, the Modi government has moved closer to the hearts and minds of the people in the Valley, like in the rest of the country. The merchants of separatism in the Valley's politics have missed this shift and are stuck in the old discourse, making themselves gradually irrelevant.

The formation of the first ever BJP government in the state, together with the PDP, has helped in building up this narrative in many ways. First, it has robbed the separatists and terrorists of their political mouthpiece. The PDP used to act like a political organ of the separatists in the Valley. Having aligned with the staunchly nationalist BJP, the PDP was forced to distance itself from that narrative, less out of conviction and more out of political expediency. Today, its efforts to return to that path are no longer viewed credibly. On the other hand, being in the government for three years has helped the BJP move closer to the people of the Valley. Various sections of the Kashmiri society had an opportunity to watch the party from close quarters. I have interacted with thousands of people from all walks of life, including separatists, in the last few years. It has certainly helped in winning over significant sections of the Valley's social leadership. Today, the calmness in the Valley is partly due to those sections of the social leadership, that include, students, youths and the non-PDP, non-NC political leadership, that have engaged with the BJP and Narendra Modi over the past few years.

It is a good sign. Once they stop and think, people realise the falseness of the narrative that they have been fed all these years by leaders from the Valley and across the border. The so-called special status has only benefited the leaders and their cohorts; its removal will bring the fruits of development to the doorsteps of ordinary citizens of the Valley. Having given conflict a chance for several decades and ending up impoverished, directionless and insecure, the people of the Valley should give a chance now to the new narrative being offered by Modi.

"The best argument against democracy is a five-minute conversation with an average voter," commented Winston Churchill. This is a significant reality in the Kashmir Valley. The misuse of power by a handful of leaders in the Valley has left the ordinary Kashmiri in misery. But then, the best argument for democracy is also to build confidence through humane development—the Modi way. For that, Kashmir needs a new leadership, built not on the separatist narrative of the 20th century but on the development narrative of the 21st century. It is here that the investment and focus of the central government should go. Failing in that will mean a return of not just the old leadership but the dreaded old narrative of separatism and conflict.

The writer is a national general secretary, BJP, and director, India Foundation



CR Sasikumar

My Khayyam

To share my memories of him is to share the poetry, cinema and music we made together



MUZZAFAR ALI

KHAYYAM IS NO more. He was the last of those who lived the melody, who was intoxicated, and could intoxicate others. When people like him depart, the vacuum they leave behind can only be filled by their legacy. A legacy that speaks to the human soul. I may not understand the scope of his art, what he contributed to his profession and the medium. But he certainly enriched me and my work with what we did together. There is more to him than what meets the eye, than *Umrao Jaan*. For me, there is *Anjuman*, *Gaman* and *Zooni*. My entire journey with Khayyam had Shahryar for company — my favourite poet from Aligarh, so very alien to the ways of Bollywood. He could understand me better than I understood myself, as was the case in "Seene mein jalan..." from *Gaman*. Sharing my Khayyam is, therefore, difficult without sharing my Shahryar and understanding my films is difficult without understanding their music and poetry. Today, both the poetry and music are lost.

Gaman had won several awards, including the best playback singer and music. Going back to Jaidev for *Umrao Jaan* seemed obvious. We worked together for a few months but Shahryar and I felt that it wasn't quite working out. So, I went to the maestro Naushad Ali. But, I realised that he would be difficult to negotiate with if I did-

n't like a melody.

We then went to Khayyam. His being the third choice weighed on my mind. He was not an easy man at all and what was needed most in this creative relationship was ease and understanding. In the final analysis, the music also had to come from my soul for it to speak through my images. I stood outside, waiting, having rung the bell, his melody "Sham e gham ki qasam..." from *Footpath* resonating in my mind.

The door opened, and there stood the gracious and talented Jagjit Kaur. We instantly took a liking to each other. I could read in her eyes the "subject to Khayyam sahib" look.

We were ushered in before the formidable man himself. Bollywood is full of people who look bigger than they are. And one had to be prepared to face the best and the worst of people at all times for your work.

The Khayyam I met was not the same Khayyam that I was afraid of confronting. He accepted Shahryar as a part of me, without my saying so. He was also open to reworking the melodies to suit my cinematic needs. He also acknowledged the nuances of Awadh and we took the help of Ustad Ghulam Mustafa Khan on certain classical renditions. The music of *Umrao Jaan* took nearly two years to create. Each song was crafted as if it was coming from the soul of a poetess. Rehearsals with Asha (Bhonsle) ji brought a new resonance and Khayyam sahib made her sing a scale lower than her usual Bollywood fare. She had read the novel and felt *Umrao* in her veins. We gave a significant gap between each song so that it would be a little different from the other. The songs were the trajectory of *Umrao's* life and had to be carefully crafted. Each time, a new world was born in

Each time, a new world was born in Khayyam's music room. The white chaandni stretched seamlessly through the room, which had images of Gurunanak Dev, Harmander Sahab and the Holy Kaaba to cast their blessings on what was happening there. The aroma of freshly-made coffee by Jagjit ji made the ambience welcoming for us. If the rhythmist was not present, she would sit with a hard-bound book to accompany Khayyam sahib who was on the harmonium. And as the bellows began to breathe, we waited with bated breath.

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As the melody emerged, Jagjit ji would look carefully at me to judge my reaction and then at her husband to see if he sensed the same, in a way, fearful of my disapproval. Out of Khayyam's deep confidence oozed out a melody that ripped the heart apart. "Ye kya jagah hai dosto...". You know the rest.

What you don't know is the music he created for a lesser-known — but in no way in less creative — film. In my film *Anjuman*, for which Shahryar wrote the lyrics, and Shabana Azmi sang, in which the last ghazal by Faiz Ahmed Faiz was sung by Khayyam and Jagjit Kaur at my insistence. I insisted because I knew in my heart that only they could do justice to the melody created for it.

Then came *Zooni*, my most ambitious project for which Shahryar created a series of poetic masterpieces for Khayyam to compose and for Asha ji to sing. The angst and joy in those songs became unforgettable for me as they echoed in the Valley, with Dimple Kapadia on screen. These unreleased melodies still haunt me as we wait for better days, when the film can become a reality. The ultimate tribute to my Khayyam.

The writer is a film director



SUBRATA MUKHERJEE

Don't fear the churn

Congress, with same top brass, cannot be the source of any political inspiration

THE EDITORIAL 'THE rewind' (IE, August 12), on the Congress party's decision to choose Sonia Gandhi as its interim president makes statements that are ultimately contradictory. First, it is critical of the choice of a "timid party", reflected in its inability to keep a pledge of the outgoing president that the new chief would not be from the Nehru-Gandhi family. Second, the editorial expresses hope that her induction as the working president "ensures a genuine transition by taking tough decisions". The editorial is silent on how this transition would take place.

Political parties rise and decline, and new formations emerge over time when important issues become political at a particular place and time. It is because of the need of this inherent elasticity that political parties need a democratic set up to bring about essential changes peacefully without the system either breaking down or collapsing. The Congress party lacks this capacity.

In a well-developed party system, political parties perform a wide variety of functions. They build channels of communication between the people and the decision-makers. They also act as channels of communication between the government and people. In not performing these basic functions of a political party, the Congress by clinging to a pre-modern dynastic mindset has proved to be grossly inadequate. This, it failed to do during the days of Indira Gandhi's stewardship of 17 years when no organisational elections were held and then, subsequently, all the non-

Nehru-Gandhi family party workers were eased out: Be it Narasimha Rao or Sitaram Kesari. Is there any other example of a political party where the top slot is reserved for a person from the first family; where the interim president replaces the outgoing president, her own son whom she anointed after holding office uninterrupted for 19 years? The Congress points to the presence of dynasts in other parties which is untrue — in no other party is the top slot kept reserved for a family member as it is in the Congress. One must not confuse dynasts with political families. The latter are there in all the parties, except the Left Front, but dynastic succession is unique to the Congress party and some regional satraps.

The Congress, since the days of Indira Gandhi, is a classic example of clientelism, with the loyalty to the family superseding that of the party. As a result, it has lost the ability to remain in contact with the people at the grassroots. In the 1950s, V R Gadgil, a Congress party functionary, used to comment that in every single village in India, two things were visible, a 15 paise postcard and a Congress worker. The first one is visible even today but the second one, even with a pair of binoculars, is hard to find. In the absence of an organisation as

such, the Congress plays machine politics, where power brokers exercise decisive advantage in nominating candidates. The candidates are imposed from the top and lack any grassroots experience or support. In which other political party does a president entrust his sister — a novice — with the task of revamping the organisation in a major part of a decisive state? In spite of its initial scepticism, the editorial expresses the hope that Sonia Gandhi "could step up to this moment and ensure a genuine transition by taking tough decisions". How can she, when Sonia is part of the problem?

A political party channels mass support in an institutional manner. It allows ordered accommodation of new groups and demands within the political process. The Congress party, in the last two decades when Sonia was at the helm, miserably failed to achieve this.

Sonia Gandhi had the golden opportunity to revamp the party after declining prime ministership in 2004. But, rather than allowing Pranab Mukherjee to lead the party, she chose Manmohan Singh, a non-political bureaucrat lacking any political base, to be the prime minister. Many grass roots leaders like Himanta Biswa Sarma and Jagan Reddy left

the party, floated their outfits and emerged as successful leaders of their state. Rahul himself never thought it necessary to hold an office under Manmohan Singh, thus easily lending himself to the BJP's criticism of "naamdar" versus "kaamdar".

The editorial acknowledges the lack of organisational structure in the Congress. But it holds the party's decision to fall back on Sonia as a "symptom" of the problem. But that actually is the problem itself. To contend, as the editorial does, that it reflects a "lack of talent" in the Congress is incorrect. Last year, the party won elections to state assemblies in Rajasthan, Madhya Pradesh and Chattisgarh. But to hold that the Nehru-Gandhi family seems to be the "only glue that can hold the party together" is absurd in a democratic set-up. It seems that the editorial willy nilly endorses the Congress leadership's fear of a churn.

This seems all the more glaring given that the BJP has seen so many new faces as its party presidents and as leaders in the two houses of Parliament. The CWC comprises people who have not gone through the electoral process, and yet are there to advise the party on how to win elections. Sonia's role is similar to that of Napoleon III, who survived because of the relative weakness of all social forces. To expect that such discredited leadership would be able to revamp the party or bring in crucial changes is itself illusory.

The writer retired as professor of political science in Delhi University

LETTERS TO THE EDITOR

UNJUST VIEW

THIS REFERS TO the article, 'Justice delayed' (IE, August 21). The learned writer, while relying heavily on an Economic Survey report, has dismissed the perennial problem of vacancies in the courts. The article is more pedagogic and less realistic. It is less objective and more subjective. It is completely divorced from ground realities. If the gist of the survey report is applied in a universal manner, it may as well mean the dismissal of vacancies of teachers in our schools and colleges, doctors in hospitals, and other services of public interest. What is lamentable is that the learned writer is himself a retired Supreme Court judge.

Ram Mathur, Ghaziabad

ON THE BACKFOOT

THIS REFERS TO the article, 'China and its quasi-colony' (IE, August 21). The UNSC close-door consultation on Jammu and Kashmir has been a diplomatic setback for China. This was evident from the press briefing of the Chinese envoy to the UN after the meeting, where the assertiveness in his tone is perhaps an attempt to avoid comparative scrutiny by the international media. After all, it was at China's behest that the meeting was scheduled in the first place. China should choose its friends wisely, and its enemies too. Befriending a rogue state like Pakistan will only bring it further embarrassment on the global stage.

Sudip Kumar Dey, Kolkata

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.

THE WINNER RECEIVES SELECT EXPRESS PUBLICATIONS

REAL DEMOCRACY

THIS REFERS TO the editorial, 'World and Valley' (IE, August 19). A majority of Kashmir's population is suffering because of its partition and people in the rest of India are celebrating "conquering" Kashmir. India's diplomatic moves can be appreciated but they are of no use if an internal conflict becomes inevitable. Retain the rights of the people of Kashmir, then take further steps. That is democracy.

Archana Santhosh, Bhatinda

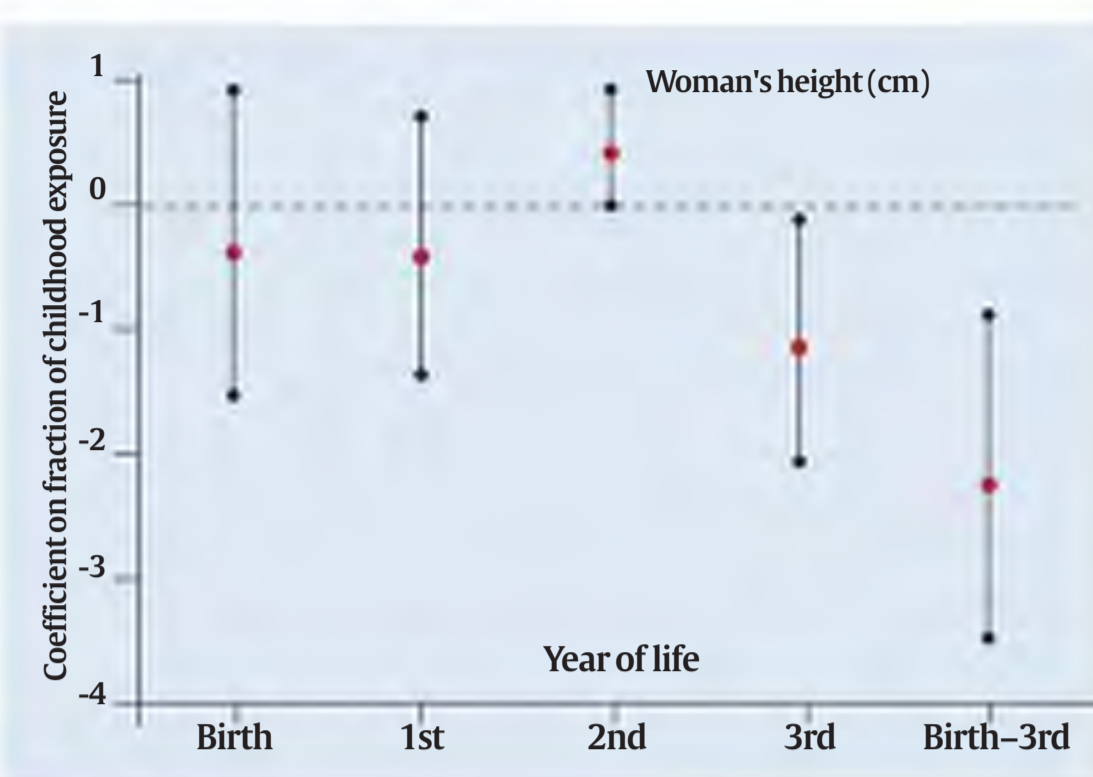


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If there are questions of current or contemporary relevance that you would like explained, please write to explained@indianexpress.com

TELLING NUMBERS

How nitrate exposure in infancy impacts Indian women's height



Point estimates and 99% confidence intervals for coefficients derived from five regressions that estimate nitrate exposure. The CI for the last line (birth to 3 years) does not cross zero-impact line.

In a new World Bank report that looks at the impact of water pollution worldwide, one aspect covered is the long-term impact of nitrate exposure experienced during infancy.

In India, the Green Revolution of the 1960s kick-started the use of synthetic fertilisers, the report notes.

The data set used was taken from over 1,330 monitoring stations from 1963-2017. The birth years of the sample range was from 1966-1999.

The report also found (using data from the Central Groundwater Board of India) that nitrate levels in groundwater aquifers exceeded permissible levels in more than 50 per cent of the districts across 19 states.

The report broadly covers two types of pollutants — the well known ones such as faecal contaminants and the new pollutants that include plastic, nutrients and pharmaceuticals.

THIS WORD MEANS

FLOCCINAUCINIHIPIPILIFICATION

Used by Monetary Policy Committee member Chetan Ghate now, by Shashi Tharoor earlier

In the minutes of the Monetary Policy Committee, which decides on India's monetary policy, released on Wednesday, one of the government-nominated members, Chetan Ghate, is quoted as stating: "Estimates of economic growth in India have unfortunately been subject to a fair degree of floccinaucinhihipilification."

2015 — when news GDP estimates were released, openly questioned the estimates. Subramanian went on to say that existing GDP growth rates overestimate growth by as much as 2.5 percentage points.

Ghate is not the first to use 'floccinaucinhihipilification' in recent times. The 29-letter word got widespread publicity in October 2018 when Congress leader Shashi Tharoor mentioned it in a tweet promoting his book on Prime Minister Narendra Modi.

The word has Latin roots — flocci, nauci, nihili, pili — all of which mean "at little value". Despite its length, 'floccinaucinhihipilification' is not among the longest words in the English language.

AN EXPERT EXPLAINS

How an Indian citizen is defined

Citizenship can be determined by place of birth or by bloodline. There are cutoff dates for the country, which are different for Assam where the NRC is being prepared. A look at how the laws have evolved



FAIZAN MUSTAFA

In the run-up to the publication of the final National Register of Citizens (NRC) in Assam, citizenship has become the most talked about topic in the country. The Assam government has been taking various steps in relation to those who will be left out of the NRC, while the Supreme Court last week rejected a plea to include those born in India between after March 24, 1971 and before July 1, 1987 unless they had ancestral links to India.

How is citizenship determined?

Citizenship signifies the relationship between individual and state. It begins and ends with state and law, and is thus about the state, not people. Citizenship is an idea of exclusion as it excludes non-citizens.

There are two well-known principles for grant of citizenship. While jus soli confers citizenship on the basis of place of birth, jus sanguinis gives recognition to blood ties. From the time of the Motilal Nehru Committee (1928), the Indian leadership was in favour of the enlightened concept of jus soli.

Citizenship is in the Union List under the Constitution and thus under the exclusive jurisdiction of Parliament. The Constitution does not define the term 'citizen' but gives, in Articles 5 to 11, details of various categories of persons who are entitled to citizenship.

Unlike other provisions of the Constitution, which came into being on January 26, 1950, these articles were enforced on November 26, 1949 itself, when the Constitution was adopted. However, Article 11 itself confers wide powers on Parliament by laying down that "nothing in the foregoing provisions shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all matters relating to citizenship".

The Citizenship Act, 1955 was passed and has been amended four times — in 1986, 2003, 2005, and 2015. The Act empowers the government to determine the citizenship of persons in whose case it is in doubt. However, over the decades, Parliament has narrowed down the wider and universal principles of citizenship based on the fact of birth.



At an NRC Seva Kendra in Chaygaon, Assam. Abhishek Saha

individual to prove that he is not a foreigner.

So who is, or is not, a citizen of India?

Article 5: It provided for citizenship on commencement of the Constitution. All those domiciled and born in India were given citizenship. Even those who were domiciled but not born in India, but either of whose parents was born in India, were considered citizens.

Article 6: Since Independence was preceded by Partition and migration, Article 6 laid down that anyone who migrated to India before July 19, 1949, would automatically become an Indian citizen if either of his parents or grandparents was born in India.

Article 7: Even those who had migrated to Pakistan after March 1, 1947 but subsequently returned on resettlement permits were included within the citizenship net. The law was more sympathetic to those who migrated from Pakistan and called them refugees than to those who, in a state of confusion, were stranded in Pakistan or went there but decided to return soon.

Article 8: Any Person of Indian Origin residing outside India who, or either of whose parents or grandparents, was born in India could register himself or herself as an Indian citizen with Indian Diplomatic Mission.

1986 amendment: Unlike the constitutional provision and the original Citizenship Act that gave citizenship on the principle of jus soli to everyone born in India, the 1986 amendment to Section 3 was less inclusive as it added the condition that those who were born in India on or after January 26, 1950 but before July 1, 1987, shall be Indian

citizen. Those born after July 1, 1987 and before December 4, 2003, in addition to one's own birth in India, can get citizenship only if either of his parents was an Indian citizen at the time of birth.

2003 amendment: The then NDA government made the above condition more stringent, keeping in view infiltration from Bangladesh. Now the law requires that for those born on or after December 4, 2004, in addition to the fact of their own birth, both parents should be Indian citizens or one parent must be Indian citizen and other should not be an illegal migrant.

Citizenship (Amendment) Bill: The amendment proposes to permit members of six communities — Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Pakistan, Bangladesh and Afghanistan — to continue to live in India if they entered India before December 14, 2014. It also reduces the requirement for citizenship from 11 years out of the preceding 14 years, to just 6 years.

What is different in Assam?

The Assam Movement against illegal immigration eventually led to the historic Assam Accord of 1985, signed by Movement leaders and the Rajiv Gandhi government. Accordingly, the 1986 amendment to the Citizenship Act created a special category of

citizens in relation to Assam. The newly inserted Section 6A laid down that all persons of Indian origin who entered Assam before January 1, 1966 and have been ordinary residents will be deemed Indian citizens. Those who came after 1 January, 1966 but before March 25, 1971, and have been ordinary residents, will get citizenship at the expiry of 10 years from their detection as foreigner.

Identification of foreigners was to be done under the Illegal Migrants (Determination by Tribunal) Act, (IMDT Act), 1983, which was applicable only in Assam while the Foreigners Act, 1946 was applicable in the rest of the country. The provisions of the IMDT Act made it difficult to deport illegal immigrants. On the petition of Sarbananda Sonowal (now Chief Minister), the Act was held unconstitutional and struck down by the Supreme Court in 2005. This was eventually replaced with the Foreigners (Tribunals of Assam) Order, 2006, which again was struck down in 2007 in Sonowal II.

In the IMDT case, the court considered classification based on geographical considerations to be a violation of the right to equality under Article 14. In fact, another such variation was already in place. While the cutoff date for Western Pakistan is July 19, 1949, for Eastern Pakistan the Nehru-Liaquat Pact had pushed it to 1950.

Constitutionality of Section 6A

A five-judge Bench of the Supreme Court is yet to examine the constitutionality of Section 6A under which the current NRC has been prepared. The Bench headed by Justice Madan B Lokur did hold its hearing on April 19, 2017, but it was dissolved on the retirement of Justice P C Pant in August 2017. The Supreme Court, in its order last week, refused to extend restrictive provisions of amendments to Assam in view of a different dispensation for them in Section 6A.

In Assam Sanmilita Mahasangha (2014) where the constitutionality of the 1986 amendment was challenged (the Mahasangha argues that the cutoff year for Assam should be 1951 instead of 1971), the court referred the matter to the Constitution Bench. While Section 6A was inserted in 1986 as a result of the Assam Accord, which has been discussed at length by the court, the court accepted the challenge to its constitutionality in 2014 and referred to the Constitution Bench 13 questions such as whether Section 6A is constitutional and valid though it prescribes a different cutoff date for Assam (1971) from the one prescribed in the Constitution for the rest of the country (1949). But then, this provision was about citizenship on commencement of the Constitution.

The author is a well-known expert in constitutional law

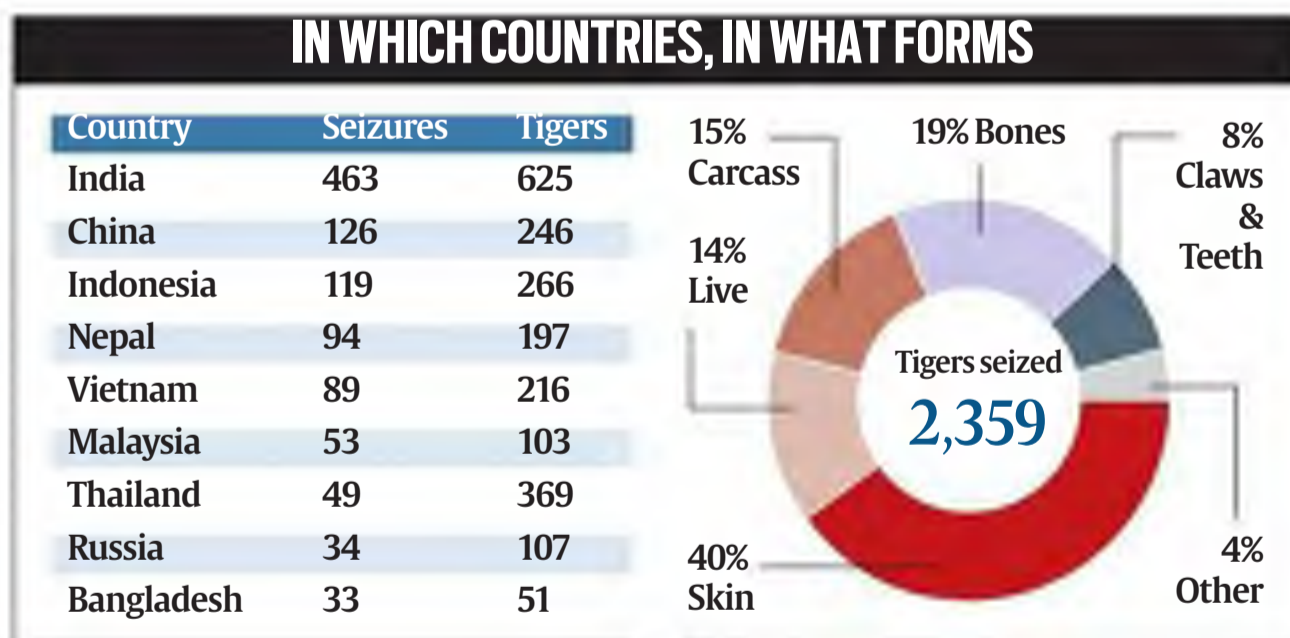
Tiger trade: report counts 2,359, shows where

EXPRESS NEWS SERVICE NEW DELHI, AUGUST 21

A NEW report has quantified the illegal global trade in tigers and tiger parts over a 19-year period between 2000 and 2018. India has the world's largest tiger population — 2,967 in the Tiger Census released last month — and the highest extent of tiger trade also happens in the country. The new report has been compiled by Traffic, a NGO working in conservation and currently in partnership with the World Wildlife Fund (WWF) and the International Union for Conservation of Nature, according to the Traffic website.

What it found, how

Overall, a conservative estimate of 2,359 tigers were seized from 2000 to 2018 across 32 countries and territories globally. These occurred from a total of 1,142 seizure incidents, the report said.



Apart from live tigers and whole carcasses, tiger parts were seized in various forms such as skin, bones or claws. The report explains how the number of tigers was estimated from

these diverse sets of seizures. For example, say three skulls and 74 claws have been seized. Given that one tiger has one skull and 18 claws, the skulls indicate at least three tigers and the 74 claws point to more than

four tigers, so that the total haul would have come from a minimum of five tigers. On average, 60 seizures were recorded annually, accounting for almost 124 tigers seized each year. The top three countries with the highest number of seizure incidents were India (463 or 40.5% of total seizures) and China (126 or 11.0%), closely followed by Indonesia (119 or 10.5%).

The India findings

While the latest census has put India's tiger population at 2,967, the Traffic report uses the 2016 WWF estimate of 2,226, with India home to more than 56% of the global wild tiger population. India is the country with the highest number of seizure incidents (463, or 40% of all seizures) as well as tigers seized (625). In terms of various body parts seized, India had the highest share among countries for tiger skins (38%), bones (28%) and claws and teeth (42%).

Why is age of marriage different for men and women? The law, the debate

APURVA VISHWANATH NEW DELHI, AUGUST 21

THIS WEEK, the Delhi High Court took up a plea that sought a uniform age of marriage for men and women. A bench comprising Chief Justice D N Patel and Justice C Hari Shankar issued a notice to the Centre and the Law Commission of India, seeking their response to the public interest litigation filed by advocate and BJP spokesperson Ashwini Kumar Upadhyaya.

Why a minimum age

The law prescribes a minimum age of marriage to essentially outlaw child marriages and prevent abuse of minors. Personal laws of various religions that deal with marriage have their own standards, often reflecting custom.

For Hindus, Section 5(iii) of the Hindu Marriage Act, 1955 sets 18 years as the minimum age for the bride and 21 years as the minimum age for the groom. Child marriages are not illegal but can be declared void at the request of the minor in the marriage.

In Islam, the marriage of a minor who has attained puberty is considered valid under personal law.

The Special Marriage Act, 1954 and the Prohibition of Child Marriage Act, 2006 also prescribe 18 and 21 years as the minimum age of consent for marriage for women and

men respectively.

How the law evolved

The Indian Penal Code enacted in 1860 criminalised any sexual intercourse with a girl below the age of 10. The provision of rape was amended in 1927 through the Age of Consent Bill, 1927, which made marriages with a girl under 12 invalid. The law had faced opposition from conservative leaders of the nationalist movement such as Bal Gangadhar Tilak and Madan Mohan Malaviya who saw the British intervention as an attack on Hindu customs.

In 1929, the Child Marriage Restraint Act set 16 and 18 years as the minimum age of marriage for women and men respectively. The law, popularly known as Sarda Act after its sponsor Harbilas Sarda, a judge and a member of Arya Samaj, was eventually

amended in 1978 to prescribe 18 and 21 years as the age of marriage for a woman and a man, respectively.

Two genders, two ages

The different legal standards for the age of men and women to marry has been a subject of debate. The laws are a codification of custom and religious practices that are rooted in patriarchy. In a consultation paper of reform in family law in 2018, the Law Commission argued that having different legal standards "contributes to the stereotype that wives must be younger than their husbands".

Women's rights activists too have argued that the law perpetuates the stereotype that women are more mature than men of the same age and therefore can be allowed to marry sooner. The international

treaty Committee on the Elimination of Discrimination against Women (CEDAW), also calls for the abolition of laws that assume women have a different physical or intellectual rate of growth than men.

The Law Commission paper recommended that the minimum age of marriage for both genders be set at 18. "The difference in age for husband and wife has no basis in law as spouses entering into a marriage are by all means equals and their partnership must also be of that between equals," the Commission noted.

The challenge in court

Upadhyaya, the petitioner in the Delhi High Court case, has challenged the law on the grounds of discrimination. He alleges that Articles 14 and 21 of the Constitution, which guarantee the right to equality and

the right to live with dignity, are violated by having different legal age for men and women to marry.

Two Supreme Court rulings could be significant to the context of this argument. In 2014, in National Legal Services Authority of India v Union of India, the Supreme Court while recognising transgenders as the third gender said that justice is delivered with the "assumption that humans have equal value and should, therefore, be treated as equal, as well as by equal laws."

In 2019, in Joseph Shine v Union of India, the Supreme Court decriminalised adultery and said that "a law that treats women differently based on gender stereotypes is an affront to women's dignity."

The Delhi High Court will hear the ongoing case next on October 30.