

ACROSS
THE AISLE

P CHIDAMBARAM

The BJP government's commitment to federalism can be gauged by the manner in which Bills are passed in the Rajya Sabha. The Lok Sabha is the House of the People while the Rajya Sabha is the Council of States... As on August 2, the Lok Sabha has passed 28 Bills in this session and the Rajya Sabha has passed 26 Bills. Not one of them — repeat, not a single Bill — went through a process of consultation with the opposition parties

I USED the phrase 'cooperative federal polity' in my Budget speech on February 28, 1997. I do not claim that I was the first to use that phrase, but I am happy that 'cooperative federalism' has been used repeatedly in Budget speeches and on other occasions.

STATES ARE SOVEREIGN

What does 'cooperative federalism' mean? The phrase recognises and affirms that India is a federal State. There is a Central government and there are state governments. Each government has areas of legislation reserved to it. The Central government (through Parliament) cannot encroach upon the territory reserved for the state government, the state government (through the Legislature) cannot encroach upon the territory reserved for the Central government. There are also some areas where both governments may legislate. The division of legislative fields is the essence of federalism. Respecting the constitutional scheme is cooperative federalism.

Nevertheless, the Constitution of India contains exceptional provisions authorising Parliament to make a law on any unenumerated matter (Article 248); on any matter included in the State List if it is "necessary or expedient in the national interest" for a limited period (Article 249); and on any matter "while a Proclamation of Emergency is in operation" (Article 250).

Article 258(2) is an interesting provi-

sion. A law made by Parliament may confer powers and impose duties upon a state government or its officers, but the Centre shall pay the state such sum of money as may be agreed. This provision is a strong affirmation of states' sovereignty, rights and powers.

PUSHING BILLS
THROUGH

The BJP government is a government with a difference: it does not respect states' rights nor does it observe constitutional limitations or niceties.

The BJP government's commitment to federalism can be gauged by the manner in which Bills are passed in the Rajya Sabha. The Lok Sabha is the House of the People while the Rajya Sabha is the Council of States. The primary duty of the members of the Rajya Sabha is to protect and advance the interest of the states. As on August 2, the Lok Sabha has passed 28 Bills in this session and the Rajya Sabha has passed 26 Bills. Not one of them — repeat, not a single Bill — went through a process of consultation with the opposition parties. Not one Bill was referred to the Standing Committee or a Select Committee for detailed scrutiny. State governments were not consulted on any Bill, including Bills that were on subjects included in the Concurrent List (List III) of the Constitution and that affected the rights of states. Not one amendment proposed by the Opposition was accepted by the government.

A few examples would suffice. In Justice Puttaswamy, the Supreme Court explained the scope of Article 110 of the Constitution, and that judgment is binding on the government. The Rajya Sabha cannot amend a Money Bill or vote out the Bill; it can only make recommendations and return the Bill to the Lok Sabha, which may or may not accept the recommendations. The President cannot withhold assent to a Money Bill or return it to Parliament for reconsideration. Taking advantage of these limitations, but in brazen violation of Article 110, the government amended at least 10 non-financial laws through the Finance (No.2) Bill and thus avoided scrutiny by the Rajya Sabha or a direction by the President to reconsider.

The Right to Information Act, 2005, has been hailed universally as a seminal legislation. Section 15 of the Act authorises the state government to constitute the State Information Commission. The state government will select and appoint the State Information Commissioners. The initial term of office was five years. Hitherto, the power to prescribe the salaries, allowances and other terms and conditions of their service was vested in the state government (Section 16). Now, the power to prescribe the initial term and the salaries, allowances and other terms and conditions has been taken over by the Central government! We asked why? There was no answer.

The National Medical Commission Bill is the ultimate affront to the states. Every power of the state government to

provide for and regulate medical education has been taken away leaving each state with only a two-year term as a member of the commission, once in four years! It is as good as transferring the subject of medical education from List III to List I. Yet it passed in the Council of States without a protest from the states!

EVERY TRICK IN
THE BAG

How does the government manage to win the vote on Bills in the Rajya Sabha? Take the Muslim Women (Protection of Rights on Marriage) Bill, otherwise known as the triple talaq Bill. The government won the vote by 99 to 84 because 46 members of the Opposition were absent at the time of voting! No member of the BSP was present, six SP members were absent, the NCP had two out of four members, one Congress member resigned on that very day (and joined the BJP the next day) and four Congress members were absent. The AIADMK, JD(U), TRS and PDP which had spoken against the Bill vanished at the time of voting!

Divide, cajole, intimidate, threaten or close 'deals', the BJP has used every trick in its bag to pass laws that will reduce states to municipal administrations and add one more dimension to the sinister idea of Oneness — One Government for everything.

Website: pchidambaram.in
@Pchidambaram_IN

FIFTH COLUMN



TAVLEEN SINGH

Modi's
aura
shrinks

AFTER GIVING Narendra Modi a magnificent second chance to save India, the gods seem to have given up on him. There was a time not long ago when he was so bestowed with divine blessings that whatever he did seemed to work well for him. Even when he made reckless decisions like invalidating nearly all our currency overnight. But, since he was given his second chance just two months ago it is as if nothing he does is working well for him. Was it his Budget that began it all?

Perhaps. Everyone who wants India to become a country whose economy soars to new heights put all their hopes on this particular Budget. Personally, I have been hoping for the past five years that he would come up with at least one Budget that would be as dramatic and courageous as that one in the early Nineties that closed down the wicked licence raj. Not only has there never been such a Budget from Modi, but he seems to view with suspicion and malevolence the men who have created some of the finest companies in the world. So last week they were told that they could be fined and jailed if they defaulted on their corporate social responsibility. Forcing them to set aside funds for compulsory charity was one of Sonia Gandhi's worst ideas.

It should have been tossed in the garbage bin by Modi and he should instead have appealed to big business to help him serve India by contributing to his big plans like Swachh Bharat and the new Jal Shakti mission. There is still time. Stop threatening them with jail and they could become the most useful partners in the mission to give every Indian access to clean and reliable supplies of water by 2024.

Stop the campaign of tax terrorism that recently drove one of India's finest entrepreneurs to take his own life, and you could see a new mood among businessmen. The step most urgently needed is for the Prime Minister to stop treating businessmen as if they were pariahs. It is because of severely restricted access that ugly rumours are spreading about how the Prime Minister gives help to only a privileged handful. Talk of oligarchs has begun.

On the political front, the BJP's image of being a 'party with a difference' has been badly damaged. This is because of the way Kuldesh Singh Sengar was handled. He should have been expelled a year ago when the child who accuses him of rape tried to kill herself in front of the Chief Minister's residence in Lucknow. He should have been expelled before he managed, despite being in jail, to intimidate and probably kill the victim's family and possible witnesses. This is normal in rural and small-town India where violent thugs control law enforcement. What should not be normal is for said violent thugs to be honourable members of the BJP. The Prime Minister will find it hard to continue lecturing India about values and morality in his *Mann ki Baat* if he is seen to be sheltering rapists and other criminals in his fold.

This is just the domestic proof of the gods having retracted their grace from the man to whom they have given so much. Beyond our borders things do not look that good either. Imran Khan seems to have made a good enough impression on the leader of the free world for him to suddenly declare that Pakistan has changed. It now has a new leader, 'a great athlete', who will change it from being the 'subversive', 'deceitful' country it was before Imran.

So the United States will once more shower billions of dollars on the Islamic Republic next door. And, our hope that Pakistan will stop exporting jihadists to India because of being broke will die. We know that Donald Trump is not just impressed with Imran's athleticism and good looks. We know that it is because he needs his help to end America's unending, hopeless war in Afghanistan that Imran was so feted, but we also know that this renewed friendship hurts us directly. Imran is probably the first Pakistani Prime Minister to have got an American President to declare publicly that America is ready to mediate in Kashmir.

This brings me to another area in which the Prime Minister appears to have not had much luck or divine intervention. On account of reckless chatter in Delhi and large numbers of troops moving to the Valley, there are rumours in Srinagar that the special status of Kashmir is on the verge of being ended. They have reason for concern because this is something that the BJP believes should be done, but Modi would be wise not to do this so soon in his second term. If only because the gods no longer seem to be on his side.

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@tavleen_singh

Coercive federalism

INSIDE TRACK



COOMI KAPOOR

INDIRA'S EXAMPLE

FINANCE MINISTER Nirmala Sitharaman is getting the rap for the high tax in this year's Budget on the super rich. But Sitharaman may be merely a scapegoat for what was essentially a political decision. It is believed that the BJP top leadership pushed for the richest Indians to be taxed higher, even though Finance Ministry officials fought against the proposal, pointing out that this would send wrong signals to the business community and stall foreign and domestic investment. The leadership seems to have been inspired by Indira Gandhi, who, half a century ago, enforced bank nationalisation and abolished privy purses to demonstrate to the poor that the government would not spare the rich.

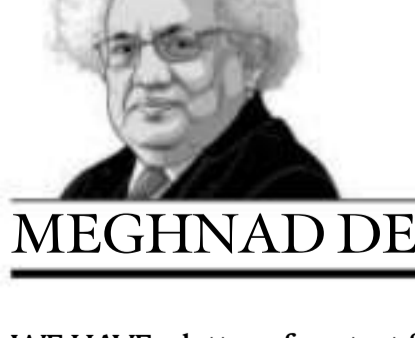
RAJASTHAN QUARTET

The government's success in getting through amendments to the RTI Act and passing the triple talaq Bill, despite the BJP's lack of a majority in the Rajya Sabha, is at least partly due to the tireless efforts of party general secretary Bhupendra Yadav, who is Amit Shah's right-hand man for floor coordination. Yadav was in constant touch not just with BJP MPs but with parliamentarians from other parties. Which was why he displayed supreme confidence several days before the Bills were taken up in the House. Yadav, a Rajya Sabha MP from Rajasthan, is one of four MPs from the state who played an important role in the smooth functioning of Parliament this session. The others in the Rajasthan quartet are: Lok Sabha Speaker Om Birla, BJP whip in the Upper House Narayan Lal Panchariya and MoS for Parliamentary Affairs Arjun Ram Meghwal.

KASHMIR ELECTIONS

The BJP is veering round to the view that to abrogate Article 35(A) of the Constitution, which allows the J&K Legislature to define permanent residents of the state, getting through an amendment in Parliament is not necessary. It can be done simply by an executive order by the Law Ministry, in conjunction with the Home Ministry. Even a Cabinet approval is not required. The legal opinion given to the Narendra Modi government is that the amendment itself is illegal since it was passed merely by a Presidential Order in 1954, when Jawaharlal Nehru was Prime

OUT OF MY MIND



MEGHNAD DESAI

WE HAVE a letter of protest from a group of distinguished Indians raising the problem of Hindu youths forcing Muslim youths to say *Jai Shri Ram* and beating them up. Another group objected that the issue was raised publicly at all as they thought it would create a bad impression of India abroad.

But whether foreigners take any notice

Minister. (A PIL has already been filed in the Supreme Court along these lines.) However, the government may delay taking any action on Article 35(A) until after the Jammu and Kashmir elections, which could be held simultaneously with the Maharashtra and Haryana Assembly polls.

MOVING ON

Usually key jobs in the President's secretariat are co-terminus with the President's tenure. But in the case of the low-key Ram Nath Kovind, his press secretary Ashok Malik and his joint secretary Bharat Lal quit Rashtrapati Bhavan last month after two years in the job. Both men were reportedly handpicked by the PMO to assist Kovind at the start of his tenure. Malik is keen to return to journalism and work at the Observer Research Foundation, while Lal has already joined as Additional Secretary in the Water Ministry, a ministry in which the PM takes special interest. Lal was Modi's point person in Delhi during his years as Gujarat Chief Minister.

OUT OF CLOSET

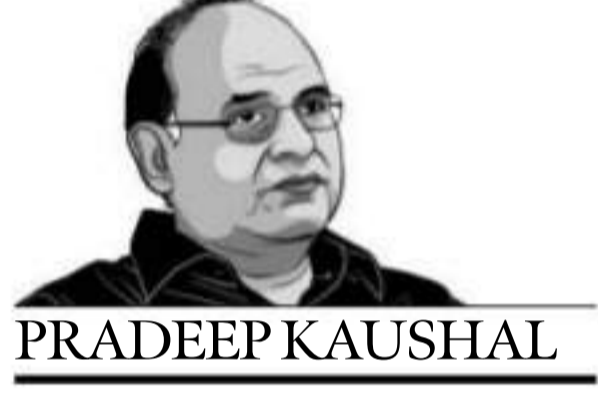
The absence of so many opposition MPs during the passing of the triple talaq Bill in the Rajya Sabha was because of a secret understanding between the BJP and party bosses of allies AIADMK and JD(U) that their MPs would walk out of the House. While the BJP came out in support, parties such as the BSP, TDP and TRS did a no-show. Some degree of arm-twisting was evident in the exercise with most politicians apprehensive of Central government agencies. But the absence of six of the 12 Samajwadi Party MPs and both the PDP MPs was not because of a call from their leaders but because the BJP reached out to individual MPs directly. In fact, except for the BJP, Congress and Trinamool Congress, parties do not generally issue whips since they do not want to reveal the cracks in their camp. Sanjay Singh from the Congress came out of the closet on voting day and others could follow suit. The absence of four Congress MPs was also puzzling.

PULLING NO PUNCHES

Mary Kom is an unattached nominated MP and hence under no obligation to follow any whip or support the government. Just before the triple talaq Bill was to be taken up in the Rajya Sabha, a senior Central minister spied the sportswoman, nominated by the Modi government, quietly leaving the House. He quickly stopped her and reminded her of the important role she had. Kom tried to excuse herself, explaining that she had a sports practice scheduled, but the minister was adamant and even made BJP office-bearers speak to her. In contrast, senior lawyer K T S Tuli, nominated by the UPA government, was not present during voting.

HISTORY HEADLINE

Gaya Lal, and Haryana art of defection



PRADEEP KAUSHAL

WHILE THE large-scale crossing over by MLAs resulted in state governments falling in Karnataka and Goa recently, they were still no match for what a Haryana legislator managed in 1967, back when shadows had just started appearing over Indian democracy's golden halo. In the process, Gaya Lal also lent the term 'Aya Ram, Gaya Ram' to the country's political lexicon.

The month was February, and there was political uncertainty in the air. The Congress had returned to power at the Centre with its lowest tally till then (283 out of 520), under the leadership of Indira Gandhi. The party had suffered setbacks in Assembly polls in several states, including Bihar, Uttar Pradesh, Rajasthan, Punjab, Haryana, West Bengal, Orissa (now Odisha), Madras (now Tamil Nadu) and Kerala. This had triggered a tussle for power between the Congress and an Opposition combine, consisting of the Jana Sangh, Swatantra Party, Samyukta Socialist Party, Praja Socialist Party, regional parties and defectors from the Congress. The Opposition coalition gave its state regimes an umbrella identity — the Samyukta Vidhayaik Dal (SVD) governments.

For Haryana, carved out of Punjab on November 1, 1966, it was its first Assembly election. While the Congress won, it was with a thin majority of 48 out of 81 seats. The Bharatiya Jana Sangh got 12 seats, Swatantra Party three and Republican Party two. The Independents formed the second-largest block, with 16 seats. One of them was Gaya Lal, winning from Hasanpur (SC) constituency.

Congress Chief Minister Bhagwat Dayal Sharma was sworn in on March 10, 1967. Within a week, his government fell after 12 Congress MLAs defected, forming a group that they dubbed the 'Haryana Congress'. The Independent legislators also forged a new party, 'United Front'. The process of switching sides continued, swelling the United Front ranks eventually to 48 MLAs.

Consequently, on March 24, Rao Birendra Singh (father of present Union Minister of State Rao Inderjit Singh), who had been elected from Pataudi on a Congress ticket, took over as CM under the SVD banner. His position was flimsy at best, threatened by both Bhagwat Dayal Sharma and Devi Lal,



Bhajan Lal with Indira Gandhi, after turning his Janata Party govt wholesale into a Congress govt, on Jan 22, 1980, taking along 37 MLAs. Express Archives

who was still in the Congress.

However, if there was one man who defined those days of uncertainty, it was Gaya Lal. Within nine hours, the MLA changed sides twice — in and out of the Congress — and within a fortnight, moved to the United Front.

Presenting him at a press conference in Chandigarh after having overthrown Sharma, a beaming Rao Birendra uttered those inimitable words "Gaya Ram is now Aya Ram". Then home minister Y B Chavan later used the phrase in Parliament to denote political turncoats.

But Rao lasted only a few months, demitting office on November 2. The Assembly was dissolved and the state placed under President's Rule, followed by elections in 1968.

Meanwhile, Gaya Lal marched on. After the United Front, his next stop was the Arya Sabha, led by Indervesh, Agnivesh and Adityavesh, in 1972. Two years later, he found his way into the Bharatiya Lok Dal, led by Charan Singh. Consequently, he got a Janata Party (formed by the merger of four parties, including the Bharatiya Lok Dal) ticket in 1977 and won. Gaya Lal's last election was in 1982, as an Independent. He lost.

By the time he died in 2009, Gaya Lal had paved the way for son Udai Bhan. In the 1987 Assembly elections, Bhan, a Lok Dal-BJP candidate, won, riding a wave in favour of the combine; he lost in 1991, as a Janata Party nominee; tasted defeat again in 1996, as an Independent; won a second time, in 2000, as an Independent; joined the Indian National Lok Dal; defected to the Congress in 2004 but lost;

and a year later, returned to the Assembly as a Congress candidate.

However, long before then, Haryana had moved on — to five-star defections, showing the way to the rest of the country. In 1979, facing competition from incumbent Janata Party CM Devi Lal, Bhajan Lal set off with dissident party MLAs on "Bharat Darshan". For over two weeks, the group, on a luxury bus and a fleet of cars, toured Alwar, Kota, Agra, Gwalior, Shivpuri, Bhopal, Kanpur, Kolkata and Mumbai, staying at heritage hotels and resorts, with Bhajan Lal picking up the entire tab. It paid off, and on June 29, 1979, he became the CM.

After Indira Gandhi returned to power at the Centre, Bhajan Lal converted his Janata Party government wholesale into a Congress government, on January 22, 1980, taking along 37 party MLAs.

At least Bhagwat Dayal Sharma, the first victim of Haryana's topsy-turvy politics, retained his good cheer through it. As the CM during the March 1967 phase of defections and counter-defections, while he was headed one day for the MLAs' hostel to try win over some potential turncoats, an aide came up running to tell him, "Sahib, Pandit Tuhi Ram has also left." "Pandit Tuhi Ram?" Sharma said, askance. "Phone lagao (connect me to him)." The aide indicated there was no hope; the news was on All-India Radio.

Known for his wit, Sharma quipped, "Just check, maybe Panditayin too has defected." Panditayin being his own wife Savitri Devi.

pradeep.kaushal@expressindia.com

Why the fear of debate

of internal Indian quarrels (they don't and why worry about it even if they do?), is the issue in itself not worth debating? We have been here before. After 2014: we had issues of vigilante attacks, love jihad, *ghar wapsi* etc. The Prime Minister was blamed for every incident. No one was interested in asking why such things happened but only in blaming the ruling party or rather the Prime Minister.

The issue of illegal violence and intimidation is important. But it is also important to ask about its causes. Modi cannot be the direct cause of every incident. After all, violent incidents happen under every government. The Nirbhaya case was not the fault of Dr Manmohan Singh during whose prime

ministership it happened, nor the problem of safety of women in public which became prominent at that time. Nor was the last major communal riot in Muzaffarnagar during the Samajwadi Party's rule in Uttar Pradesh the fault of Akhilesh Yadav. Nor of the UPA government which was in power at the Centre then.

If there are recurrent incidents of violence, it is necessary to examine their roots rather than just blame the party you do not like or even dismiss such complaints because you like the party in power. These are social problems which have to be tackled at the place where they occur and not in Delhi. Let me try, even at the risk of upsetting all sides.

A moment's thought would reveal that all these complaints of Hindu-Muslim confrontations are local to the Hindi belt — the BIMARU states. The peculiarity of the Hindi belt is a serious issue to investigate. It is frequently taken, not least by itself, as India itself. It was for decades the source of power of the Congress. It is the one area of India which has not had an anti-Brahmin movement or any social reform agitation as South India, Punjab, Gujarat or Maharashtra have had. It was left backward socially in terms of literacy, women's status, low status of OBCs during the Congress's 50-year rule. The Hindi belt has also the largest concentration of Muslims in India. The idea of secularism is said to be based on the *Ganga-Jamuni*

tehzeeb. Yet, the lack of social reform in the Muslim society is also to be laid at the door of the Congress. Just compare Muslims in South India with Muslims of the Hindi belt in terms of modernity.

The idea of Hindu nationalism is founded on a history of India based solely on the history of the Hindi belt — thousand years of Muslim domination etc, which did not affect South or Northeast at all.

There is plenty of political violence in West Bengal, religious quarrels in Punjab (within the Sikh community), dowry deaths and female foeticide in Punjab/Haryana but little of the communal violence which we see in the BIMARU states. It is worth asking why.