## WORDLY WISE

YOU CANNOT CONTINUE TO VICTIMIZE SOMEONE ELSE JUST BECAUSE YOU YOURSELF WERE A VICTIM ONCE — THERE HAS TO BE A LIMIT. — EDWARD W SAID

# **The Indian EXPRESS**

∽ FOUNDED BY ∽ RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

# **COMING APART**

Congress flails and flounders at a time when both government and Opposition need to find the way ahead in Kashmir

VEN THOUGH SCRAPPING the special status of Kashmir has long been an important feature of the BJP's core ideological agenda, the Narendra Modi government took everyone by surprise with its move to render Article 370 ineffective and bifurcate J&K into two Union Territories. Everyone seemed caught off guard and outmanoeuvred. But none more so than the Opposition, especially the Congress. It has seemed stunned and slow to react. And then it has spoken in different voices, with many of its prominent younger leaders like Jyotiraditya Scindia, Deepender Hooda and Milind Deora publicly backing the government, saying that the revocation of Article 370 is the national interest, even as seniors like Ghulam Nabi Azad accuse those who support it of being ignorant of history. Adhir Ranjan Chowdhury, who led its charge in Lok Sabha did it with spectacular ineptness and its chief whip in Rajya Sabha, Bhubaneswar Kalita, has resigned over the party's stand on the issue. But the question, really — and given that it is the leading party of the Opposition, scandalously — is: Just what is the Congress's position on the reading down of Article 370? The CWC resolution, which blames the manner more than the move itself, only mirrors the Congress fumbling, sharpens the edge of the question.

It is true that the government has struck at a particularly inopportune moment for the Congress, when it is already discomfited. Rahul Gandhi had stepped down as president after the party's embarrassing showing in the Lok Sabha elections, and the aftermath of his decision has exposed a reality hidden in plain sight: Remove the Gandhi at the helm, and you have a party that has forsaken all structures and processes, one that has no mechanisms of survival and movement left. A party, in other words, that finds it difficult to go on. This failure to preserve and nurture a sense of institutional self, this excessive dependence on its ruling family, is a tragic denouement for the grand old party that, at one time, offered the most vivacious and spacious of political platforms and helped win a nation its freedom. For that party to look so hollowed out today, for it to seem so unsure of itself and spooked by its political opponent, is a sad sight.

In its lowest point today, as in its erstwhile highs, the Congress predicament speaks of larger things. Today, its deshabille points to the fragmentation of the Opposition to the BJP. Despite its steep fall, it remains the salient if not primary pole in the non-BJP space. With the Congress floundering visibly, therefore, the smaller regional parties are evidently making their own calculations about the viability of opposing the BJP, and many are joining the bandwagon. The inability of the Opposition to hold its ground is bad news for a democracy that prides itself for its argumentative spirit, and its checks and balances, especially at a time when they will be needed to handle the fallout of the Centre's move in Kashmir.

# FOR LAW AND LORD

Catholic church's order to expel a nun who sought justice in a case of alleged rape is victimisation. It must retract it

HE CATHOLIC CLERGY in Kerala seems unwilling to reconcile with the nuns who protested in public against a bishop accused of rape. On Wednesday, Lucy Kalapura, a nun with the Franciscan Clarist Congregation (FCC), was served a dismissal order — ostensibly because she learned to drive, bought a car on loan and published a collection of her poems. The decision to dismiss Sister Kalapura was reportedly taken on May 11 by the FCC, which waited for approval from the Vatican before ordering her to leave the convent in 10 days. The FCC said the nun has been expelled because her lifestyle violated "the vows of obedience and poverty" which she refused to correct despite repeated warnings.

This explanation sounds absurd and especially so since the church has been threatening action against the five nuns who supported a nun who filed a police complaint last year, accusing Franco Mulakkal, the bishop of Jalandhar diocese, of raping her. The clergy has rallied behind Mulakkal, and tried to silence the complainant as well as other nuns who stood by her. In an unprecedented act, nuns, attached to different congregations, staged a public protest in Ernakulam, Kerala when the state police sat on the complaint. Mulakkal, who had accused the complainant of blackmail, was arrested only after public pressure mounted. The clergy seems to have been shaken up by this open challenge from within, that too by nuns, who are expected to function under the supervision of male priests. When the attempts to persuade the nuns to retreat from public forums failed, the clergy sought to transfer them to different, distant centres, which they have

Mulakkal, who continues to hold the office of bishop, has the right to claim innocence, of course. But the church should not show prejudice against the complainant, or the nuns who have stood with her. It must wait for due process to conclude and not take sides. The move to transfer, and now expel, the nuns who have spoken out against harassment, is a regressive step and a signal that it prefers to protect male privileges within the clergy at all costs. That a significant section of the laity has been sympathetic to the nuns is a sign that the church can't continue to privilege the voice of priests over nuns. In the past, nuns who have crossed the red lines drawn by the church have chosen to walk out voluntarily. Kalapura's apparent defiance indicates a welcome shift on the ground that the Church must take note of.

# AN OPAQUE BOUT

Selection of Mary Kom for the World Championship comes as a result of a process that is less transparent

Y ALL ACCOUNTS, Nikhat Zareen is no match for Mary Kom, the poster-woman of Indian boxing. Take away her six World Championship golds in the lighter categories, and Mary's Asiad and Olympic medals at 51kg still far outweigh Nikhat's exploits as a junior and youth boxer. With Tokyo less than a year away, Mary needs to re-acclimatise herself to the flyweight category. It makes sense, then, for her to go to the World Championships in October. What doesn't seem reasonable, however, is the selection process, which allowed her to do so while a challenger cried foul.

The Boxing Federation of India swears by its performance-based selection process. Only the categories too close to call are resolved via trials. But Mary's selection in the 51 kg division was neither performance-based nor fair to a young boxer like Nikhat. Mary skipped the Asian Championships in April "to prepare for bigger events", making way for Nikhat to defeat a two-time world champion and return with a bronze. Exploits in recent months have been virtually identical (Nikhat's silver in Thailand came in a much tougher field than Mary's gold in Indonesia). The unstated understanding is that the India Open semifinal between the two, which Mary won 4-1, was the clincher.

However, if the bout in May served as a retroactive trial, why did Sarita Devi line up against Simranjit Kaur in the 60kg trial on Thursday? It's true that Indian boxing has seen enough instances of young pretenders pulling upsets on selection day only to fizzle out overseas. It is also true that the federation's result-oriented process has seen more hits than misses. There were enough variables in the Mary-Nikhat case for a trial to be held. 'Transparency' is the mantra of the new administrators. But with no real justification for their decision, they've shown that they can be as opaque as their predecessors.

# Silence of the successful



In 2019, remembering 1992 — a different kind of government, a different kind of protest

Ramachandra Guha

THE BABRI MASJID was demolished by a crazed mob in broad daylight in 1992. Article 370 was abrogated at night by a secretive government in 2019. That said, there are some striking similarities between these two events, occurring 27 years apart. Both were justified as righting historical wrongs; both were triumphantly acclaimed by the Sangh Parivar and their supporters; both were quietly mourned by those affirming the constitutional values on which this Republic was founded.

When the Babri Masjid was demolished, I was living in New Delhi, in the home of Dharma Kumar, Professor of Economic History at the Delhi School of Economics. Her many students and friends — some active in public life today — will remember Dharma both for her personal charm and for her intellectual courage. She was a classical liberal, equally opposed to the extremities of the Marxist left as well as of the Hindutva right.

Dharma had grown up in Mumbai in the last years of the Raj, where she had sometimes attended Mahatma Gandhi's prayer meetings on Juhu beach. Now, seeing his ideals violated in a nation which claimed him as its founder, she set out to publicly defend them. She drafted a statement, which she had inserted as an advertisement on the front page of the most widely circulated newspaper in India. The statement read: "If you are a Hindu, read on. Do you believe that the demolition of the Babri Masjid restored Hindu pride, enhanced national honour, strengthened India? If so, consider the possibility that the act debased Hindu culture, shamed the nation across the world, increased the tensions between all communities and so weakened India".

Designed by an artist friend of Dharma's, the statement was printed on white type against a black background. Alongside appeared the names of 19 signatories. They included the scientist MS Swaminathan, the writer Vikram Seth, the former RBI Governor, IG Patel, the curator, Pupul Jayakar, the former Solicitor General, Ashok Desai, and the former Chief of Army Staff, K Sundarji. Although Dharma thought up and paid for the ad, and canvassed each signature, she did not — out of both propriety and modesty —

When I heard of the abrogation of Article 370, my mind went back to December 1992. The silencing of the millions of people in whose name this constitutional change was allegedly being enacted seemed — since it was done by a government and not a mob — an even greater violation of the republic's ideals. As I lay awake at night, I remembered Professor Dharma Kumar and what she had done. I was now in my sixties, as she had been in 1992. I had the same sort of position in our intellectual life as she had

then. I, too, had a wide

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put her own name on it.

Notably, the list of brave, civic-minded Indians who signed Dharma's appeal began with six widely admired industrialists. These were Bharat Ram, RP Goenka, Lalit Thapar, Nanubhai B Amin, Raj Thiagarajan, and Desh Bandhu Gupta. That they signed this statement made it far more credible for the readers of the paper in which it appeared. It could not now be dismised as the malignant handiwork of misguided jholawalas.

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My first thought was to emulate my teacher, to draft a statement appealing to my fellow citizens to abjure crude triumphalism, alerting them to the moral and political consequences of this awful act. This statement might have said: "If you are a patriotic Indian, read on. Do you believe that the abrogation of Article 370 overnight and without deliberation enhanced national honour and strengthened India? If so, consider the possibility that the act undermined the Constitution, degraded our democratic ethos, and increased rather than decreased tensions between Kashmir and the rest of India".

Had I drafted this statement, I could have raised the money to pay for it to be printed in the leading newspaper of the day. Would I have had Dharma's success in getting people of comparable stature to sign? The writers and artists would have been easy work. But which contemporary analogues of Lalit Thapar or RP Goenka would have joined in?

I personally know at least a dozen industrialists even more successful than the ones Dharma had contacted. I know them to be honest, of liberal values, and democratic to the core. While some may have had reser-

vations about the existence of Article 370, none would have approved of the arbitrary authoritarian manner in which it was removed. I could, I am sure, have drafted a statement which reflected their sentiments accurately and honestly. But, with perhaps only one exception, none would have put their names on it.

This is because — for all the other parallels I began this column with — in one critical respect, 2019 is not 1992. This is that the government now in power in New Delhi is far more vindictive and vengeful than the one that was in power when the Babri Masjid was demolished. When Bharat Ram and Lalit Thapar were approached by Dharma Kumar, they did not think that the fate of the tens of thousands of workers they employed would be put at risk by the mere act of their signing a statement. But were I to approach their counterparts today, even if they entirely approved of what I was trying to do, they would be too scared to sign on. They would have feared retribution, in the form of unannounced raids, cooked-up cases, arrests, and worse.

The comparison with the past is instructive, and with other democracies perhaps even more so. When President Trump imposed an arbitrary travel ban on citizens of six Muslim countries, the CEOs of his country's top companies rose in unison to oppose it. They could express their views openly – because they knew that the president and his cabinet did not have the power to set the FBI or the IRS upon them. These American entrepreneurs also knew that, for merely speaking their mind, they would not be abused by ruling party politicians and demonised in social media as enemies of the nation.

In India today, industrialists — even the most upright and patriotic — are far more fearful than they were in 1992. Like the people of the Kashmir Valley, they have been silenced by the state into submission; by different (but no less malevolent) means. That even the richest and most successful Indians cannot say in public what they truly think tells us all that we need to know about the state of our democracy in the year 2019.

The writer is a Bengaluru-based historian

# SHE SET AN EXAMPLE

We need more women leaders like Sushma Swaraj

JAYA JAITLY

EVER SINCE THE country heard the sad news of Sushma Swaraj's sudden passing, the highest words of praise have been heard repeatedly — dedicated politician, effective parliamentarian, excellent orator, competent administrator, compassionate foreign minister, a caring sister, a friend, a good wife and mother. There is almost nothing more to add. As we take in the enormity of the national loss and move on with a heavy heart, it strikes me that there is an important lesson for both men and women, who aspire to achieve something good out of politics, to learn from all these generous adjectives.

Sushma Swaraj pushed for the Women's Reservation Bill vigorously. But to me, she was a prime example of a capable and intelligent Indian woman working her way up to Parliament without the need for a law. The path in politics is strewn with thorns for all those not entitled women who want to serve the people of this country. Sushma had her share of problems in the beginning of her political journey as egos of leaders in the Janata Party got in the way of her aspirations. Yet she never demanded a smooth path, she found it herself. Most countries have a greater number of women in their legislatures than we do. This happens because their systems are structured so that patriarchal attitudes cannot stop them. Patriarchs do not suddenly become soft because there is reservation — they

Many of these feminists like to show they don't need men and do not believe in religion oriented practices. While that is their personal choice, Sushma showed us that to be an effective politician and a representative of our country's traditions and culture, one does not have to show another face — neglect one's family, hide one's own beliefs.

soften only when women toughen up. Feminists, who are the most vocal amo-

ngst those who call themselves progressive, liberal and secular, have often made snide comments about Sushma's outward conservatism — her big red bindi and sindoor, her public celebrations of Hindu festivals like Teej and Karva Chauth. Many of these feminists like to show they don't need men and do not believe in religion-oriented practices. While that is their personal choice, Sushma showed us that to be an effective politician and a representative of our country's traditions and culture, one does not have to show another face - neglect one's family, hide one's own beliefs. Family relationships and practices do not have to be compromised to do a job that requires a progressive outlook and a positive behaviour towards other human beings, irrespective of their politics and religious beliefs.

Sushma's political trajectory teaches us that a woman primarily needs confidence in herself, and hard work to hone her abilities, to serve the public good. While it helps to be a good orator, a party worker must keep the party's welfare above herself. A competent person can have many gifts, but it takes special dedication and commitment to learn Kannada in a month to communicate more effectively when fighting an ideologically and politically crucial election against Sonia Gandhi in Bellary. The contrast between an

Italian-born reading written speeches which betrayed a lack of familiarity with the language and an Indian demonstrating the ability in learning a new Indian language in a month was striking. It requires dedication and a firm belief in the cause.

All these aspects are qualities that are not exclusive to women. They must be part of any politician, and particularly among aspirational women. The premise that women should be confined to kitchens and their role is limited to bringing up children is disproved by Sushma Swaraj, who effectively demonstrated that women should not sacrifice one for the other, and men should not expect them to do so. Along with deep condolences to Sushma Swaraj's immediate family, one must salute Swaraj Kaushal, who did not compromise his work or his effectiveness in society to be a supportive and proud husband. The world must learn to accept what Sushma Swaraj has demonstrated — capable and sincere women in politics will only help with the task of addressing public needs, enable better governance, inject dignity and grace in the political discourse where male aggression is almost the norm, and through compassion, show people in difficulty that they are not alone.

> The writer is former president of the Samata Party

# INDIAN EXPRESS

# AUGUST 9, 1979, FORTY YEARS AGO

LAW VS ALLIANCE UNMINDFUL OF THE attack that has been launched against him by Congress-I MPs, the new law minister, Shyam Nath Kacker, made it clear that he intended to pursue the cases being tried in the special courts. He said there is no proposal to drop the trial of Indira Gandhi and others going on in the special courts. Kacker told H K Dua in an interview that his position is clear: "I will not compromise on this issue and I will advise my colleagues not to compromise." The law minister said that Prime Minister Charan Singh, had told him that the Congress-I support to the new government was unconditional. Kacker's

interpretation of unconditional support is

that there is no Congress-I rider that the government has to wind up the special courts.

PLAN CHANGES MAJOR CHANGES IN sectoral priorities are revealed in the final draft of the Sixth Plan (1978-83) submitted by the Planning Commission to the prime minister and the Union cabinet. The document, which was sent out last Monday, gives much higher priorities to water supply and transport and communications than were accorded in the earlier draft. The deputy chairman of the Planning Commission, DT Lakdawala, is expected to meet PM Charan Singh some time this week to explain the broad features of

the new draft. The revised document envisages a total public sector outlay of Rs 71,604 crore against Rs 69,380 crore stipulated in the earlier draft.

# CHARAN MET INDIRA

PM CHARAN SINGH secretly met Indira Gandhi, twice during the last five days to seek her cooperation in facing a mid-term poll, according to the Janata Party General Secretary Nanaji Deshmukh. Charan Singh, he said, took the help of "such political elements who were removed from the seat of power by the people in 1977 only to install himself in office. He deliberately did it with the sole motive of inflict a mid-term poll on the country."

THE INDIAN EXPRESS, FRIDAY, AUGUST 9, 2019

# 5 THE IDEAS PAGE

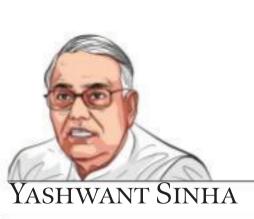
#### WHAT THE OTHERS SAY

"The Indian government's decision to revoke the semiautonomous status of Kashmir, accompanied by a huge security clampdown, is dangerous and wrong. Bloodshed is all but certain, and tension with Pakistan will soar."

—THE NEW YORK TIMES

# Once there was a commitment

The government may have given up on dialogue in Kashmir. But people of Kashmir must know that there are still people in this country for whom it is an article of faith

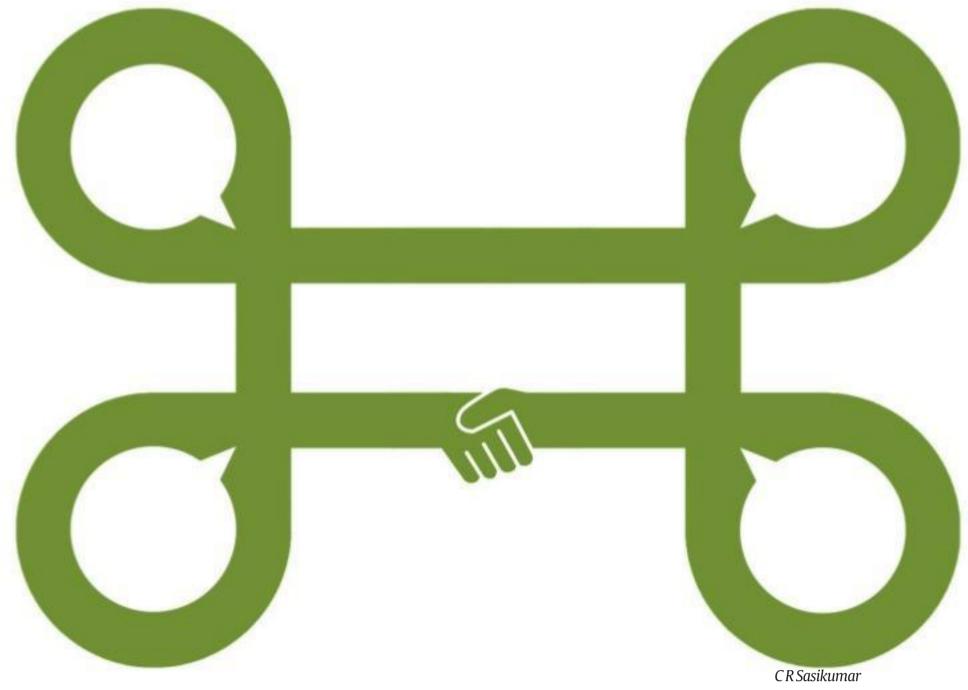


ARTICLE 370 HAS gone. So has Article 35A. The state of Jammu and Kashmir has ceased to exist. It has been downgraded and split into two union territories, Ladakh and Jammu and Kashmir. The first without a legislature and the second with a legislature; like the city states of Delhi and Puducherry. The decision of the government has been received with wild rejoicing in the the rest of the country while Jammu and Kashmir remains completely shut down and under the heel of the boots of the security forces.

I was approached by a few media persons when these momentous events were unfolding in Parliament on the fateful day of August 5. One of their favourite questions was: The BJP has been committed to abolition of Article 370 from its Jana Sangh days; you were in the BJP until recently, so how can you have reservations now? It was a fair question. I thought about it and this is my explanation. The BJP had no qualms in sacrificing this commitment, along with its stand on the common civil code and the construction of the Ram temple at Ayodhya when it had to form coalition governments with parties opposed to its stand on these three issues. So, there was no question of pursuing them when Atal Bihari Vajpayee was prime minster during 1998 and 2004. What is even more important is the fact that his J&K policy was far, far removed from the present narrow, sectarian and warped view of the BJP. His policy of Insaaniyat, Kashmiriyat and Jamhooriyat stood in direct contradiction to the commitment to abolish Article 370. His approach to have a dialogue with all stakeholders including the Hurriyat, to resolve the problems of the state and bring peace to it and the actual initiation of the dialogue with the Hurriyat leaders by no less a person than the deputy prime minster and home minister of his government, L K Advani, who is now applauding the abolition of Article 370, was proof enough of his new approach. The matter could progress no further because the Vajpayee government was voted out of office in 2004.

What was the policy of the Narendra Modi government in its first incarnation, even if we forget the Vajpayee government's policy? Modi formed the government in Delhi towards the end of May 2014. Assembly elections were held J&K in November/ December that year. It produced a fractured mandate. The PDP and National Conference were reluctant to come together and form a government. The BJP smelt an opportunity here and decided to form a coalition government with the PDP. Mufti Mohammad Sayeed was alive then. He was a tough negotiator and would not compromise on his core beliefs. There was nothing common between the two parties. In fact, they were poles apart in their ideology. Yet, they came together to form a government on the basis of a written agreement between the two parties on March 1, 2015. Some of the paragraphs of that agreement are worth reproducing here to show how shallow the commitment of the present rulers is to the abolition of Article 370. I may mention that Amit Shah, the current Union Home Minister, was the party president of the BJP then.

I can do no better than produce some of



the excerpts from that agreement to make my point, "The PDP and the BJP have entered into a 'Governance Alliance' based on an agreement and agenda which is an effort towards seeking a national reconciliation on J&K."

"In a situation, where socio-political aspirations and grievances of the people have wide ranging differences, economic development on its own can neither bring about peace nor prosperity."

"While recognising the different positions and appreciating the perceptions of the BIP and PDP have on the constitutional status of J&K considering the political and legislative realities, the present position will be maintained on all constitutional provisions pertaining to J&K including the special status in the Constitution of India."

"The earlier NDA government led by Atal Bihari Vajpayee initiated a dialogue process with all political groups, including the Hurriyat Conference, in the spirit of "Insaaniyat, Kashmiriyat aur Jamhooriyat". Following the same principles, the coalition government will facilitate and help initiate a dialogue with all stakeholders, which will include all political groups irrespective of their ideological views and predilections. This dialogue will seek to build a broad based consensus on resolution of all outstanding issues of J&K."

Where are these high-sounding words today? Where is the promise of dialogue? The BJP members loudly asked the Opposition: "Who are these stakeholders?" Why ask them? Ask the government which people/organisations they had in mind when they talked of dialogue with the stakeholders? Where was the commitment of our leaders to the abolition of Article 370 when they promised in the agreement to maintain the "present position" on the special status of J&K in the Constitution? Or is it a commitment which can be jettisoned when it is necessary to do so for the sake of power either at the Centre or in

Yet, I can understand the position of the party on Article 370, but Article 35A is a recent addition. Bifurcation of the state and reducing its parts to the status of union territories was

never part of BIP's agenda. You expect us to stand and applaud when you jettison your "core beliefs" and again stand up and applaud when you bring them back. Tails I win and heads you lose.

As far as the present government's commitment to the unity and integrity of the country is concerned, let me remind you that in August 2015, the Modi government concluded, with fanfare, a "framework agreement" with the National Socialist Council of Nagaland (NSCN-IM). Prime Minister Narendra Modi was present in the press conference in which this momentous agreement was announced. The Parliament and the people have not been taken into confidence about the contents of this agreement. But in May 2017, according to media reports, a spokesperson of NSCN-IM is reported to have said, "As of now, the Nagas have agreed to co-exist together under shared sovereignty."

What is this shared sovereignty? According to some sources, it could mean a separate constitution, a separate flag and many other separate institutions. The talks are still on; the details are fuzzy. But one thing is clear that with the Nagas, the government has no hesitation in discussing the concept of shared sovereignty. I am not against it; I am all for it. My only point is that if we can discuss that with the Nagas why are we coming down so hard on the Kashmiris? The reasons are not far to seek.

My heart goes out to the people of Kashmir today. I would want them to know that there are still at least some of us in India who believe in dialogue and reconciliation. For us, these words are not mere matters of convenience to be used when it suits us and to be discarded when it does not. For us, these are articles of faith. I have been trained in the school of Jayaprakash Narayan. For me, "will, not force is the basis of state", if I could borrow an expression from political scientist TH Green. And here it is the will of the people of Kashmir which must prevail.

The writer is a former Union external affairs and finance minister

# A solution that raises questions

Triple talaq needed to go. But the law criminalises men, while providing few safeguards for wronged wives



SAMEENA DALWAI

WHEN RAKHAMABAI, A 19-year-old Sutar woman from Bombay was dragged to the Colonial Court in 1884, she had very little legal recourse. When she refused to live with her husband upon puberty, he sought restitution of conjugal rights, a concept imported to Hindu law by the British. British courts and the police accepted that the husband is the lord and master of his wife. Instead of following the customary law applicable to lower-caste Hindus and getting a simple kadimod (a custom involving literal breaking of a straw signifying breaking of the marital bond) in front of the Sutar panchayat, Rakhamabai had to face criminal charges before British judges. Her trial became a major event in India and England. It was to decide the fate of Hindu marriage. The question before the court was whether Hindu women have a right to renounce a pre-puberty marriage solemnised by their guardians.

The concept of Hindu marriage was discussed by legal and religious luminaries and the court was told by the likes of Lokmanya Tilak that Hindu marriage — unlike Muslim marriage which was a contract — was a sacrament. Kanyadan was the "gift" of a virgin daughter to a suitable — from obviously, the same caste — bridegroom. Since the girl was just a "gift" in this transaction, her consent to the marriage was immaterial. The court accepted this and asked Rakhamabai to either go back to her husband or face imprisonment. The matter resolved only after the Sutar panchayat intervened and Rakhamabai paid heavy monetary compensation to the husband. She went off to America to become the first women doctor to practice gynaecology in India.

What if Rakhamabai was Muslim? The matter would have been much simpler. She could have just utilised the concept of "option of puberty" and repudiated her marriage, which had been solemnised when she was a minor. Islamic marriage is a contract between a husband and wife. With *meher* or dower as a monetary consideration that flows from husband to wife upon acceptance of the offer of marriage. Both parties have a right to break off the contract by paying compensation to the other party. Young Muslim brides in colonial India routinely used this religious and customary right — an option not available to a British or Hindu bride. With its possibility of divorce, entitlement of maintenance and property rights both within and after the dissolution of a marriage, Islamic law was considered favourable to women in colonial public discourse.

Now, some 100 years later, we have somehow come to believe that Islamic law is archaic and barbaric towards women. Based on this belief, the Triple Talaq Bill has been passed by Parliament, paving way for criminalising the act of oral instant talaq as a way of ending a marriage. The result being that the ruling party can rejoice that they

have saved Muslim women. We need to be reminded that saving Hindu women from Sati, child marriage and widow tonsuring was used by the British to justify colonial aggression in India. The plight of the women of a community is an easy sociopolitical gimmick employed to vilify a community. While teaching family law, I witness the

dismay of my students when they realise how unfair all personal laws are to women — be it Hindu, Muslim, Christian or Parsi. For example, to get rid of a violent husband, a Christian woman would have to prove cruelty and bigamy on the part of her husband. Or, for instance, that despite the requirement of monogamy in marriage prescribed by the Hindu Marriage Act, it is almost impossible for a Hindu wife to send her husband to jail for bigamy. Husbands have proved time and again in Court that the second wife is actually not so. Sometimes the first marriage itself is shown to be lacking "essential ceremonies" of homam and saptapadi, as a result of which it is invalid in the eyes of law. To obtain maintenance for women and children is an uphill task in courts, and though Hindu joint family property can now be inherited by daughters, their share is mostly given to their in-laws as dowry. Courts, at times, support the right of the family to control their daughters' behaviour, sexuality, and marriage choices regularly. Not dissimilar to the instantly displaced Muslim woman due to the oral talaq, deserted women — Hindu women who are neither married nor divorced but merely thrown out of their matrimonial homes — are found in every village.

History shows that dogmatic religious practices have been opposed by progressive forces in every community. Hameed Dalwai my paternal uncle, was the torchbearer of Muslim social reform. He led the first march against triple talag in 1967 through the streets of Bombay. Following Jyotiba Phule's Satyashodhak or truthseekers, he started Muslim Satyashodhak Samaj in 1970 in Pune. His organisation was also at the forefront of support for Shahbano against her husband's tyranny, especially when the Congress government changed the law to accommodate the antiquated clerics. So, it is assumed that Hameed Dalwai would be pleased to know that Parliament has outlawed and criminalised triple talaq. But he died at the age of 44 in 1977— much before the Babri Masjid demolition changed the country's atmosphere and Muslims became a hunted minority, before the Sachar Committee showed us that the economic condition of Indian Muslims has deteriorated more than that of Dalits, and much before the lynching of Muslims by mobs on suspicion of beef eating.

The 2017 triple talaq judgment of the Supreme Court was won for Muslim women by Muslim women themselves — women divorced by triple talaq with assistance from Muslim feminist organisations went to the Supreme Court. Their legal victory has been taken over by the BJP government and turned into legislation that criminalises men rather than one that provides the assurance of shelter and financial security to women in case their marriage breaks down. Must we rejoice?

The writer is associate professor at Jindal Global Law School



# Our notions of motherhood

heads you lose.

Bill to promote altruistic surrogacy gives short shrift to women's agency

Yet, I can understand the

Article 370, but Article 35A

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GARGI MISHRA

THE LOK SABHA passed the Surrogacy (Regulation) Bill 2019 on Tuesday. The Billl aims to regulate the practice of surrogacy in India and allow only "ethical altruistic surrogacy". The Bill was first introduced in the lower house in November 2016, then referred to the Parliamentary Standing Committee on Health and Family Welfare. It was introduced and passed by the Lok Sabha again in December 2018 without incorporating most of the recommendations of the Committee, but lapsed. The 2019 Bill is identical to the Bill of 2018.

It showcases the state's heavy reliance on criminal law for managing social issues, criminalisation of choice and prejudiced ideas of what constitutes a family. The Bill disallows single, divorced or widowed persons, unmarried couples and homosexual couples from pursuing surrogacy to have children. It stipulates that only a man and woman married for at least five years, where either or both are proven infertile, can avail of surrogacy. This is blatantly discriminatory and arbitrary.

India's jurisprudence recognises the reproductive autonomy of single persons, the rights of persons in live-in relationships and fundamental rights of transgenders. In Navtej Singh Johar vs Union of India, Supreme Court, having decriminalised consensual same-sex between consenting adults, held that the law cannot discriminate against same-sex partnerships and that it must "take positive steps to achieve equal protection". Single persons

epaper indianexpress.com

have the right to adopt children in India. The Bill is out of step with these developments.

The Bill and its immediate ancestors significantly diverge from earlier, more rational policy positions. Guidelines issued by Indian Council of Medical Research in 2002 and the draft Assisted Reproductive Technologies (Regulation) Bills 2010 and 2014 had permitted commercial surrogacy. The shift to altruistic-only surrogacy was made in the context of sensational news reports about cases of surrogate babies being abandoned and exploited surrogate mothers being kept in "surrogacy brothels" and rich foreigners using the bodies of poor Indian women to have children. In 2015, a public interest litigation, *Jayshree Wad* vs Union of India, was filed in the Supreme Court which cited these media reports and sought to end commercial surrogacy in India. Prompted by the court, the government declared in October 2015 that it did not support commercial surrogacy and would allow only infertile Indian couples to avail of altruistic surrogacy. The Surrogacy Bill of 2016 was a result of this change of intentions.

There is undoubtedly a danger of exploitation and abuse in commercial surrogacy. The cases that have come up establish that possibility. But formulating a law on the basis of exceptions is ultimately counterproductive. Exploitation takes place because of the unequal bargaining power between the surrogate mother and the surrogacy clinics, agents and intending parents. This can be ad-

dressed by a strong regulatory mechanism that introduces transparency and mandates fair work and pay for the surrogate mothers. Viewing commercial surrogacy as inherently exploitative and banning it only expands the potential for exploitation as it would force the business underground.

Further, criminalisation of commercial surrogacy is a refusal by the state to actually consider the exercise of agency that leads a woman to become a surrogate mother. Interviews with women who chose to provide gestational services for a fee have shown that it is a well-considered decision made in constrained economic conditions. A ban on commercial surrogacy stigmatises this choice and reinforces the notion of the vulnerable "poor" woman who does not understand the consequences of her decisions and needs the protection of a paternalistic State.

As per the Bill, the surrogate mother must be a "close relative" of the couple. This is premised on the mistaken belief that exploitation and vulnerability do not exist within the family. Knowing the reality of patriarchal families in India, the stigma of infertility, the pressure of producing children to maintain lineage and the low bargaining power of women, it can be expected that young mothers will be coerced into becoming surrogates for their relatives. The Bill moves the site of exploitation into the private and opaque sphere of the home and family.

One cannot but question the ethics of this.

The severance of commerce from pregnancy is also tied in to the notion of motherhood being something natural, sacrosanct and above considerations. To be paid for the reproductive labour evokes unease and claims of "dehumanisation" and "commodification" in certain opponents of commercial surrogacy.

The Bill mandates the commissioning couple to only pay for the medical expenses and an insurance cover of sixteen months for the surrogate mother. The Standing Committee had recommended a model of compensated surrogacy which would cover psychological counselling of the surrogate mother and/or her children, lost wages for the duration of pregnancy, child care support, dietary supplements and medication, maternity clothing and post-delivery care. The Bill should, at the very least, incorporate these provisions.

The Bill, as it stands, is a poor attempt at regulating reproductive technologies and preventing exploitation of women. Surrogacy is an important avenue for persons to have a child through a willing surrogate mother who can also benefit monetarily from the process. The Bill, that gives short shrift to women's agency, does little to extend this possibility.

> The writer is a gender rights lawyer based in Delhi

# LETTERS TO THE EDITOR

# New Kashmir

THIS REFERS TO the article, 'Now, win the peace' (IE, August 8). Articles 370 and 35A hindered the integration of J&K into India. One can now hope for a new J&K, which is a part of the nation, where you do not hear incidents of people throwing stones at security personnel. Srishti Raturi, via e-mail

# BAND AID

THIS REFERS TO the editorial, 'Cut to reform' (IE, August 8). RBI cutting rates are a band aid solution. The disposable income of the common person is not increasing to the extent that it can provide a leg up to consumption. Businesses have lost their animal spirits. Educated youths are compelled to compete for low-paying jobs. The government has ambitious aims to make the country a \$5-trillion economy. But where is the road map for this purpose?

**Deepak Singhal,** Noida

# WIN TRUST

THIS REFERS TO the article, 'Un-belonging' (IE, August 7). Being unsafe in your own house is a terrible feeling. One can imagine what the Kashmiris are going through. Even with Article 370, there was discontent among the people and removing the article is likely to aggravate their sense of alienation.

**Akshata Anil Rupnawar,** Pune

#### 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** 

# CREATE AWARENESS

THIS REFERS TO the editorial, 'Equality at last' (IE, August 7). The abolition of triple talaq is a good move. In several Muslim families, women fear this practice. It remains to be seen how the government enforces this piece of legislation. It should create awareness about the rights of divorced women.

Alisha Khan, Prayagraj

#ExpressExplained

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

Nitrogen

deposition

and emission

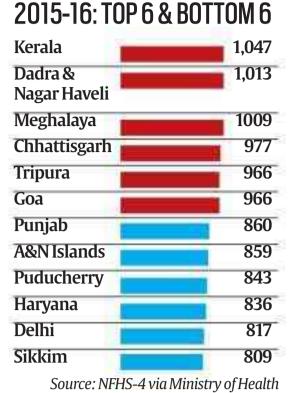
# TELLING NUMBERS

# Sex ratio at birth: Kerala on top, Northeast states show decline

THE SEX RATIO at birth (SRB) in the country, defined as the number of female births per 1,000 male births, improved from 914 to 919 between the third and fourth National Family Health Surveys (NFHS), carried out in 2005-06 and 2015-16 respectively. The highest improvement was in Punjab at 126 points, but its SRB remained among the lowest among the states at 860 in NFHS-4. The sharpest decline was in Sikkim, where the SRB dropped 175 points to reach 809, the lowest among all states in 2015-16.

These trends emerge out of statewise data tabled by the Ministry of Health and Family Welfare in reply to a question during the recently concluded Parliament session.

Next to Punjab, the highest improvement in SRB was in Kerala, by 122 points from 925 in 2005-06. Its 1,047 in 2015-16 was the highest SRB among all states.



Next to Sikkim, the five states with the highest declines included four more in the Northeast.

# **HIGHEST IMPROVEMENT**

State	NFHS-3 (2005-06)	NFHS 4 (2015-16)	Change
Punjab	734	860	+126
Kerala	925	1,047	+122
Meghalaya	907	1,009	+102
Haryana	762	836	+74
Tamil Nadu	897	954	+58
Maharashtra	867	924	+57

#### **SHARPEST DECLINE**

State	NFHS-3 (2005-16)	NFHS 4 (2015-16)	Change
Sikkim	984	809	-175
Jharkhand	1,091	919	-172
Arunachal	1,071	920	-151
Assam	1,033	929	-104
Mizoram	1,025	946	-79
Manipur	1,014	962	-51

Source: Ministry of Health & Family Welfare

# THIS WORD MEANS

# PREDICTIVE SHOPPING/ANTICIPATORY SHIPPING

Using algorithms to anticipate orders and deliver faster

AMAZON HAS over the past few years developed and patented a technology called 'anticipatory shipping', which enables it to package items for a certain geographical area even before a customer has placed an order. The precise delivery address can be added after the order has been placed, and customers in certain places can receive their order in under 30 minutes.

Amazon can 'anticipate' orders because it has an abundance of actionable data about its customers, and knows when a customer is likely to buy what. It can use this foresight to get into 'predictive' shopping, most probably with the consent of customers.

Amazon has held the patent for anticipatory shipping for several years, but with the latest advances in deep learning and AI, it is now in a position to roll out the technology with significant accuracy. E-commerce companies have been

doing this manually, especially for products bought repeatedly, say, diapers or toilet paper. They would reach out to customers days before a pack might be expected to run out, and offer to send more; or offer a subscription for delivery at predefined intervals. With predictive shopping, an e-commerce company uses al-

> gorithms that know, based on a customer's earlier purchases, the product that she will want at a particular point in time, and ships it to her.

Online companies are gradually reducing the distance between warehouses and customers to cut shipping time. Across the world, more hubs are being created to cater to more remote areas. Anticipatory shipping can help keep a product ready closer to a potential customer. In case she wants it, the package is already nearby.

**NANDAGOPAL RAJAN** 

# SIMPLY PUT

# How land relates to climate

A major new IPCC report has underlined the contribution of food production to climate change. As a source as well as a sink of carbon dioxide, land and its use, including agriculture, are key to climate conversations

 $CO_2$ 

**Condensation** 

**Evaporation** 

## **AMITABH SINHA**

PUNE, AUGUST 8

A NEW report by the Intergovernmental Panel on Climate Change (IPCC) released Thursday presents the most recent evidence on how land affects, and is affected by, climate change. What use land is put to — forestry, agriculture, industries, urbanisation — has an impact on greenhouse gas emissions. At the same time, activities like agriculture are directly impacted by global warming.

The Geneva-based IPCC is mandated by the United Nations to assess the science related to climate change. It produces periodic reports, called Assessment Reports, that provide a comprehensive account of the state of climate system.

Among the headline statements, the report says land-based activities like agriculture, forestry and "other land use" contribute almost a quarter of all greenhouse gas emissions in a year. This amounts to about 12 billion tonnes of carbon dioxide equivalent every year.

It says that the global food system, which would include activities such as cattle rearing, agriculture, food processing industries, energy and transportation, could account for as much as a third (21 to 37 per cent) of all greenhouse gas emissions.

The report, after assessing all different kinds of impacts due to land-use and changes in land-use, provides the possibilities of containing emissions from land in different future scenarios of land-use, without compromising on global food security.

## Land & climate change

Land use and changes in land use have always been an integral part of the conversation on climate change. That is because land acts as both the source as well as a sink of carbon. Activities like agriculture and cattle rearing, for example, are a major source of methane and nitrous oxide, both of which are hundreds of times more dangerous than carbon dioxide as a greenhouse gas.

At the same time, soil, trees, plantations, and forests absorb carbon dioxide for the natural process of photosynthesis, thus reducing the overall carbon dioxide content in the atmosphere. In fact, nearly 50 per cent of all carbon dioxide generated on earth is trapped by land and oceans, and the rest is released in the atmosphere. In a complex but constant natural interaction known as the carbon cycle, car-

**Unmanaged lands** Soil carbon and nutrients The exchange of carbon dioxide between land and atmosphere. Land use patterns — forestry, agriculture, industries impact greenhouse gas emissions. Global warming, in turn, impacts activities like agriculture. IPCC bon dioxide is continuously exchanged among land, ocean and atmosphere. The debate over the life spans of carbon dioxide in ocean, land

greenhouse gases is also contested. Because of the fact that land is both the source as well as a sink of carbon dioxide, largescale changes in land use, like deforestation or urbanisation, or even a change in cropping pattern, have a direct impact on the overall emissions of greenhouse gases in the atmosphere.

and atmosphere is not yet settled. The contri-

bution of livestock — cows, pigs, even chicken

generate emissions, mainly methane — to

The impact of land use changes on emissions is a separate point of discussion at the international climate change negotiations. And, activities like afforestation or restoration of forests are considered important strategies in the fight against climate change. India's action plan on climate change too has a crucial component on forests. India has promised that it would create an additional carbon sink of about 2.5 billion to 3 billion tonnes by 2032 by increasing its forest cover, and planting more trees.

# The IPCC report

Solar radiation

Long wave

radiation

This is the first time that the IPCC, whose job it is to assess already-published scientific literature to update public knowledge of climate change science, has focused its atten-

tion solely on the land sector. It is part of a series of special reports that IPCC is doing in the run-up to the sixth Assessment Report (AR6) that is due around 2022.

Agriculture

THE CARBON CYCLE

Carbonaceous

CH4 N2O4

Sensible

Last year, the IPCC had produced a special report on the feasibility of restricting global rise in temperature to within 1.5°C from preindustrial times. Later this year, it is scheduled to come out with a special report on ocean systems and cryosphere. These three reports were specifically sought by the governments to get a clearer picture of specific aspects of climate change. For the first time, a majority of the scientists who contributed to the report belonged to developing countries.

#### The assessment

The report says that the land sector had been contributing about 5.2 billion tonnes of carbon dioxide (not all greenhouse gases) every year between 2007 and 2016. During this same period, the land sector absorbed almost 11.2 billion tonnes of carbon dioxide every year. "The sum of (these two processes)... gives a total net land-atmosphere flux that removed about 6 billion tonnes of carbon dioxide per year during 2007 and 2016," it says.

About the impact of climate change on land systems, the report notes that 25 per cent of ice-free land was subject to degradation due

to human use. And that this process was being exacerbated by climate change. Global food security was already under threat because of warming, changing precipitation patterns and greater frequency of extreme weather events, and this could come under further risk.

Precipitation

The report points out that that nearly 25 per cent of all food produced globally was either lost or wasted. And even the decomposition of the waste releases emissions.

#### **Suggestions**

**Forestry** 

IPCC reports do not offer any policy prescriptions. They do not even recommend the best course of action. Instead, they just provide the possible pathway scenarios under different assumptions of responses offered by countries

It does mention that reduction in food wastage, sustainable agriculture practices, and shifting of dietary preferences to include more plant-based food could avoid a part emissions emanating from land systems without jeopardising food security. In fact, it would also have co-benefits in terms of human health.

2.3 and 9.6 billion tonnes of CO2 equivalent per year from agriculture and livestock activities by the year 2050. Similarly, it was possible to avoid up to 8 billion tonnes of CO2 equivalent every year by the year 2050 just through a change in people's dietary habits.

It says it was possible to avoid between



# **DECODING** Modi's Address On J&K

Words and ideas in the Prime Minister's speech

**IN HIS ADDRESS** to the nation two days after Parliament ratified his government's decision to end the special status of Jammu and Kashmir and split the state into two Union Territories, Prime Minister Narendra Modi sought to explain the reasons for the move, and to allay the misgivings of a section of the population.

**MODI SPOKE** directly to the people of India, including those in Jammu and Kashmir and Ladakh, and assured them that Article 370 of the Constitution had been removed for their benefit, to fulfill the aspirations of the people, and to lift roadblocks on the path to development and progress of the region.

**IN HIS SPEECH**, delivered in Hindi, the Prime Minister used the words Jammu-Kashmir and Ladakh 65 times and 28 times respectively, and referred to desh



(nation) 22 times. There were 18 mentions of *sarkar* (government), 10 mentions of log (people), and eight of vishwas (faith). Article 370 was mentioned on seven occasions. **SHRUTI NAIR** 

# Why Gujarat and MP are arguing over Narmada water and hydro power

# **ADITI RAJA**

VADODARA, AUGUST 8

OVER THE last two weeks, Madhya Pradesh and Gujarat have engaged in war of words over the sharing of Narmada river waters. Madhya Pradesh has threatened to restrict the flow of water into the Sardar Sarovar Dam, located in Gujarat. This was after Gujarat, in April, had requested the Narmada Control Authority for permission — which was granted — not to start generation at a power house until the dam fills to its full level.

## The power equation

The Sardar Sarovar Project includes two power houses, the River Bed Power House (RBPH; 1,200 MW) and the Canal Head Power House (250 MW). Power is shared among Madhya Pradesh, Maharashtra and Gujarat in a 57:27:16 ratio. The RBPH has been shut since 2017, when the gates were closed and the reservoir height was raised

to 138.63 m. Guiarat has sought that generation should not start until the water reaches the full reservoir level (FRL).

"The protocol is that once the dam crosses 131 m, we ought to release some water as it fills to its FRL. For this, we have to resume power generation in the RBPH, where the turbines release the water downstream into the river. If the inflow exceeds the capacity of the water released by the turbines after power generation, then too we have to open the gates. The dam cannot just be filled to 138.63 metres without balancing the outflow," said Rajeev Kumar Gupta, Managing Director, Sardar Sarovar Narmada Nigam Ltd (SSNNL).

On Thursday, the SSNNL issued a circular announcing an upcoming 6-cusec release, in keeping with the 131m protocol... The current level is 129.65 m

#### What Gujarat wants In April, the SSNNL approached the

Narmada Control Authority which granted its request not to start production until the water reaches 138.63 m. Gujarat has been facing a rain deficit in 2017 and 2018, when the reservoir reached levels of 130.75 m and 129 m. Engineers in Gujarat say reaching the FRL is necessary for testing whether the concrete can withstand the thrust at that level. The construction has lasted close to five decades with gaps of several years. Filling the reservoir is possible only when the RBPH is closed because the water used for generating hydro power cannot be reused — it is drained into the sea. The Garudeshwar Weir is still being constructed to store water released after generation of power at the RBPH. Once the weir is ready, the water can be stored and pumped back using reversible turbines during non-peak hours of the grid, officials say.

# Why MP objects

While MP Chief Minister Kamal Nath has indicated that the state will follow the Authority guidelines in letter and spirit, the government has raised an objection to its consent to Gujarat, terming it 'unilateral',

## SARDAR SAROVAR (NARMADA) PROJECT RAJASTHAN Narmada main canal Narmada river Ahmedabad **MADHYA PRADESH GUJARAT** Sarovar Dam **MAHARASHTRA**

and has refused to share its surplus water with Gujarat that would allow the reservoir to be filled. MP took that position after frequent power outages led to discontent, the

political power having just changed hands. The BJP attacked the government saying MP has returned to the "dark days" of the previous Congress rule of 1993-2003. The gov-