



WORDLY WISE
GOOD SCORES ARE VALUABLE BUT
CENTURIES STICK IN THE MIND.
— GEOFFREY BOYCOTT

The Indian EXPRESS

FOUNDED BY
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

Tabrez Ansari & I

Why the outcome of the lynching case must concern us all



HARSH MANDER

FREEDOM IS INDIVISIBLE. "The chains on any one of my people," Nelson Mandela reminded us, "were the chains on all of them, the chains on all of my people were the chains on me."

There are many things that trouble me about India today. One is our ever-mounting tolerance of the open and profound injustice done to "other people". A boy stabbed to death on a train does not trouble me because he is Muslim; a young girl brutally gang-raped does not stir my outrage because she is Dalit; an entire people locked down for over a month deserve it because they do not accept India to be their country; and nearly two million people excluded as citizens in Assam do not trouble me because they are "infiltrators" (even if they were born in and love this nation).

India's criminal justice system has always been biased against disadvantaged castes, women and Muslims. Few people who organised and participated in caste and communal massacres and rapes have ever been punished. But in recent years, this official bias has become more open, brazen and unapologetic. A Muslim charged with terror crimes can spend 14, even 23, years in jail, before he steps out, innocent. A Hindu charged with terror is likely to soon walk free, and might even be elected to Parliament. Criminal cases after the 2013 Muzaffarnagar riots collapse wholesale with barely a whimper of protest.

This open bias of the criminal justice system is most visible in mob lynching. Lynch mobs, who in most cases record their own crimes triumphantly on mobile phone cameras, roam as heroes. The victim, even after he dies, is tainted as a criminal. The most recent example of this is the decision of the Jharkhand police to write down the crime of the lynch mob that attacked Tabrez Ansari from murder to culpable homicide.

Orphaned as a boy, raised by his uncles, as a young teenager, Ansari migrated to Pune to build his life on his own. At 22, now an accomplished welder, he returned home to find a bride. His uncles married him off to a very impoverished Shaista. Her father, an al-

coholic, accepted Ansari because he sought no dowry. The two young people were to leave for Pune the morning after his lynching to start their new life; their train tickets were booked. But that was not to be. I feel a personal sense of grief and loss at his killing, especially following our visit of the Karwan e Mohabbat to his home.

Ansari was returning that night after seeking his aunt's blessings. A mob caught him, tied him to a pole, thrashed him savagely for six hours, and forced him to recite "Jai Shri Ram".

People phoned the police several times to rescue the boy, but they did not arrive until morning. They did not register a complaint against the lynch mob until after he died four days later. But they promptly registered criminal charges of robbery against Ansari. The police took him to a local health centre. Although his skull was cracked, and bones broken, the doctors handed him back to the police after cursory first aid. Police detained him in their lock-up. His family pleaded that they be allowed to take him to a hospital, promising to return him to the police after he was better, but they refused. The family secretly took a picture of him in the lock-up. He was clearly wounded critically. The police then presented him to a judge, who should have ordered his medical treatment. Instead, he sent Ansari to jail. The jail authorities should have insisted that he be sent to a competent hospital. They did not. The family saw him once through a screen in jail, as he moaned in agony, begging them to get him to a hospital. Four days after the lynching, Ansari died.

The grounds the police stated for watering down the charge of murder to culpable homicide was that it was "not a case of pre-meditated murder"; and that the second medical report concludes that Ansari died of cardiac arrest, not just a head injury. This ignores an earlier inquiry by senior officials of the Jharkhand government, which concluded that Ansari died due to the negligence of police officials and grave lapses by doctors.

There was no robbery in the village. The police charge-sheet tried to justify the mob crime by charging Ansari with the "intention" of stealing. They ignored evidence on video of this being a religious hate crime. Ansari's uncle, who went to the lynching site in the morning, records in his statement that he heard a member of the mob shout, "Beat him so much that he dies".

There was only one post-mortem. The second report stating that he died due to cardiac failure (signed by five doctors, none of who were trained in forensics), was based only on the first post-mortem report. The immediate cause of death after violence indeed could be heart-failure, but this opinion deliberately obscures the circumstances which led to organ failure. I spoke to J Amalorpavanathan, retired head of vascular surgery, Madras Medical College. He said the human skull bone is incredibly sturdy. Cracking it requires application of great force. "It is very clear", he said, based on the post-mortem report, "that this young person, who was otherwise healthy and normal, was beaten so severely that he cracked his skull and bled inside his brain. This resulted in his death. In short, he was beaten to death."

What does this add up to? That a mob attacked an unarmed young man murderously in a religious hate crime. The police, judge, doctors and jail officials all abetted his murder with shameful, willful neglect.

Why is it possible for state authorities to act in this way, over and over again? Because the rest of us don't care. This happened to a working-class Muslim orphan. How does it concern me?

We forget Martin Luther King's indescent words from Birmingham jail, "Injustice anywhere," he declared, "is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny."

My destiny is tied to that of Tabrez and Shaista Ansari. Until they are assured justice, I will never be free.

Mander is a human rights worker and writer

THOU SHALT NOT

Courts have expanded contours of free speech but their curious gag orders in J&K are shrinking it

IN AN ORDER released on Thursday, Jammu and Kashmir High Court has allowed two National Conference MPs to meet party leaders Farooq Abdullah, under house arrest, and Omar Abdullah, detained at Hari Niwas, in Srinagar, but barred them from speaking to the press about the meeting. This statement of fact carries within it a grave predicament, a slippery slope. The communication lockdown and detention of political leaders and an unknown number of others in and outside Kashmir since August 5, after the Centre abrogated Article 370, goes on. And the court, which is the custodian of the citizen's rights and freedoms and the centrepiece of the constitutional mosaic of checks and balances on executive power, seems not to be playing its part. Why must MPs who want to meet their leaders in Srinagar need the court's permission to do so? Why is the court playing the role of the giver of such permissions in individual cases, even as it drags its feet on pronouncing on the legality or validity of the detentions themselves? Under which law or power can the court impose a virtual gag order on these MPs — they can meet but cannot tell? If there is a danger of a breach of peace because of what the MPs might say, which has certainly not been proved, it can, surely, be addressed by existing law. A few days ago, a CJ-led bench of the Supreme Court, on a habeas corpus plea of CPM general secretary, Sitaram Yechury, had allowed him to visit his ailing party colleague and 4-time MLA, Mohammad Yousuf Tarigami, after hedging the permission similarly. Yechury was directed to meet Tarigami but to do only that — he was to talk to no one else and file an affidavit to the court about what transpired in Kashmir. In another case, notably, it was the Supreme Court which had come down hard on prior restraint and expanded the contours of free speech and expression.

There are serious questions about the court's conduct ever since the Centre moved to abrogate Article 370 and impose restrictions and curbs on the people in Kashmir over a month ago. The government has made its case — it has claimed that the detentions and lockdown are preventive in nature, for the people's own safety and good. But that claim is being challenged not just by its political opponents but also by other concerned citizens. In a constitutional system, the court is the appropriate forum for those questions to be asked, for executive action to be interrogated, and adjudicated. But if the court appears to be not only shirking the fundamental question, but also reinforcing that executive action with gag orders of its own, there is reason to worry.

These are critical times, when a government elected with an overwhelming majority is taking consequential steps and all unelected institutions are called upon to define their remit and role. In times like these, what the judiciary does, and what it doesn't do, is critical. The Supreme Court has posted the matter arising from Yechury's plea challenging Tarigami's detention for further hearing on September 16. It will be watched.

A PACKAGE FOR BSNL

Government needs to do a cost-benefit analysis, ask itself the tough questions about propping up loss-making enterprises

UNION MINISTER ARJUN Ram Meghwal has announced that the government is planning a financial package for cash-strapped BSNL. But it is unlikely that a cash infusion, or any other manner of assistance, can facilitate a sustainable turnaround in the fortunes of the beleaguered telco. Coming at a time when its own revenues are under pressure, the government must undertake a careful cost-benefit analysis to examine whether the money it spends to prop up these loss-making firms is better spent in areas with more pressing needs.

BSNL blames the fierce price war, as well as the lack of 4G spectrum, for its dire financial situation. But there is more to the story. Its expenditure on salaries — it has around 1.8 lakh employees — touched 75 per cent of revenues in 2018-19. For private telcos, it is a fraction of this amount. Stringent procurement guidelines have led to delays in purchasing equipment, hampering operations. Losses have surged, rising to Rs 14,202 crore in 2018-19. And though the non-availability of spectrum may have hurt its operations, revenue from data increasingly accounts for a greater share of total revenue, even if BSNL is allocated the 4G spectrum it desires, it will still need additional funds to ensure a smooth roll-out of services. The telco hopes to monetise assets such as land. It also expects to cut costs by cajoling 60,000 to 70,000 employees to opt for a voluntary retirement scheme. Even if a significant portion of its work force opts for VRS, however, it will still have over 1 lakh employees. While part of the funds from asset monetisation can be used to finance the VRS package, it is debatable whether the balance will be enough to fund its 4G operations. In a hyper competitive sector, where incumbents are bleeding, it is questionable whether BSNL has the continued ability to pump in money to challenge other telcos.

Prime Minister Narendra Modi has often underlined that government has no business being in business. Yet his government has still not framed a concrete strategy to shut down loss-making enterprises. The cost of keeping these firms alive is increasing, and it comes at the expense of investment in other sectors such as infrastructure, health and education.

DARK KNIGHT

In this moment, as in others, Geoffrey Boycott is at the centre of the storm

SIR GEOFFREY BOYCOTT. Even before he was conferred the knighthood this week, amid swirling controversy, it was easy to imagine 'sir' prefixed to his name. For, the legendary batsman-turned-commentator has always walked with a knightly strut — convinced in his convictions, narcissistic in his opinions, brutal in critiquing, generous in praising, inviting adulation and scorn in equal measure, an extremist who has never walked the middle path. Like his contemporary and Lancashire rival David Lloyd once remarked, "Either he loves you, or hates you. Nothing in between. No half measures." That's how his countrymen and the cricket fraternity see him too.

Ever the divisive figure — from the spring of his playing days to the autumnal retired life — he has never shirked controversies. Like the latest that pertains to his knighthood. Some reckon the recognition arrived nearly three decades late. An obdurate batsman with otherworldly limits of patience and courage, who famously came out of retirement at the age of 40 and showed his younger peers how to score runs against Dennis Lillee and Co, he undisputedly belongs to England's batting royalty. His commentary was vivid and full of life, even if his prejudices and self-absorption often surfaced. The Yorkshire twang was endearing, and some of his unique pronunciations linger on, like "Sosheen Tendulkar" or "Prince of Kolkutta". Or his "shtick of rhubarb", "wielded by his granny".

His sporting achievements make him a deserving knighthood candidate. But some of his avidly-catalogued off-field conduct less so. Boycott was fined £5,000 and given a three-month suspended sentence in 1998 after being convicted of beating his then-girlfriend in a hotel in France. Typically, Boycott shrugs off the outrage and protests at his knighthood: "I don't give a toss about it. In this moment, as in all others, Boycott is at the centre of the storm."



KHALED AHMED

ON 3 SEPTEMBER, the Lahore School of Economics (LSE) held a symposium on behavioural economics at The Pearl Intercontinental Hotel, discussing how the quality of Pakistan's manpower has affected the country's economy and its management. Expressly discussed was the inability of the state to collect taxes and the stubborn unwillingness of the citizens to file tax returns.

Pakistan has a population of 197 million, of which only 1.7 million pay income tax; India with a population of 1.3 billion has 70 million tax-filers. Pakistan's economy has suffered frequent breakdowns and has had to submit 22 times to the dictate of the IMF. Fadi Makki of Lebanon, who heads Nudge — a collective that tries to "apply behavioural insights to the policy challenges that Lebanon faces" — referred to a Scandinavian state where people had responded to such "nudges". But the Scandinavian example may not sit well with a case-hardened Pakistan. Clearly, what was missing was the Scandinavian bureaucrat whom the citizen took on trust.

Ijaz Nabi, an ex-World Bank economist and country director of Pakistan's International Growth Centre, laid out some of the "cultural" factors which made people opt out of the system. He acknowledged that wealthy Pakistanis did record charity — all of it religion-based — instead of coming inside the tax-net. But, the conduct of the taxmen inside the Federal Bureau of Revenue (FBR)

A QUESTION OF QUALITY

Standard of Pakistan's manpower is linked to the country's education model

tended to negate the insights offered earlier. The taxman blindly sends out audit ultimatum, then "settles" with the shopkeepers "out of court". The shopkeeper, who usually wins his court decree, actually decides to bribe the taxman to avoid the court fee and the expense of defence. Lesson: If you have to choose between the magistrate and the taxman, choose the latter. Now you have two institutions to "nudge": The taxman and the court.

One can also reduce the above behaviour study to the "quality of manpower" in Pakistan. We vaguely know that our expat community is less privileged than its Indian counterpart because of a difference in "quality": Pakistan began by being close to the United States, but today the academia in the US is dominated by brilliant Indian scholars, while Pakistani Americans struggle to insulate their identity against the values of the host country. Today, Indians in the US outnumber all immigrants, except the Hispanics. The "quality of manpower" question comes to the fore again when you see the pattern of employment of Indians and Pakistanis in the Gulf, from where the two countries receive most of their remittances. The Muslims had a 'quality' problem even under British Raj because the Hindu community, in contrast to Muslims, was heavily engaged in commerce — therefore, it was handling worldly knowledge contained in math and the sciences.

The Muslims had a "quality" problem even under the British Raj because the Hindu community, in contrast to Muslims, was heavily engaged in commerce — therefore, it was handling worldly knowledge contained in math and the sciences. In Lahore, before

1947, for instance, almost all the trading activity was conducted by Hindus and Sikhs; and math teachers were mostly Hindus.

Sir Syed Ahmad Khan, in his essays, also bemoaned the "poor quality" of the Muslim citizen and recommended that Muslims get "worldly" education instead of sending their children to madrasas. He finally set up Aligarh University and kept insisting that Muslims abandon their madrasa-only education. Today, he is no longer in the pantheon of the Pakistan Movement for this "deviation"; as also for his acceptance of bank-interest — forbidden by Islam, and a major reason behind the Muslims of India abstaining from commerce.

William Leitner, who founded the famous Government College Lahore in 1864, had written his big volume on the madrasas of Punjab but wanted Muslims to acquire worldly knowledge on the basis of "autonomous" observation — as promoted by European Enlightenment, in particular by Immanuel Kant, whose motto, *Sapere Aude* (Courage to Know), he adopted secretly to avoid Muslim wrath. He got Muhammad Husain Azad, the great writer of the new "functional" Urdu prose style, to teach "Ulum-e-Mufeeda" (useful knowledge). But today, in Pakistan, only the madrasas are functional; most state-sector schools are dysfunctional.

The writer is consulting editor, Newsweek Pakistan



SEPTEMBER 14, 1979, FORTY YEARS AGO

IOC STRIKE CONTINUES
WITH THE STRIKE by the Indian Oil Corporation workers entering the second day, the distribution of petroleum products was disrupted in most parts of the country. The situation aggravated with IOC employees from Maharashtra, Madhya Pradesh, Gujarat and Goa joining the countrywide strike. Several rounds of discussions between the petroleum minister, Bala Pajanon, and leaders of the striking workers proved abortive. A petroleum ministry spokesman told newsmen the supply position of petroleum was already bad. He said the Centre had alerted state governments to invoke the Essential Services Act to deal with the strik-

ing workers.

CONGRESS SYMBOL
THE CONGRESS LEADERSHIP today bowed to the sentiments of the rank and file by making the issue of going to the mid-term poll in association with the party allies under a common symbol negotiable with the partners, so that it could be implemented wherever "feasible." Y B Chavan, who replied briefly to the debate on the political resolution at the AICC session, accepted an amendment to the resolution to this effect. The amendment sought to add the word "if feasible" to that part of the resolution which opted for a common symbol.

INDIRA'S WARNING
THE CONGRESS-I PRESIDENT, Indira Gandhi, warned the government and others who were trying to downgrade her that anything they did to her would "rebound against them". Mrs Gandhi asked her party members to ignore the tirade against her. She said that she had not engaged in counter-tirade. Referring to the other Congress, Mrs Gandhi said the Congress-O committed suicide when it merged with the Janata Party. The same thing was happening to the Congress (S). She felt sorry that Jagjivan Ram was allowing himself to be used as a shield by the Janata Party. Without him, there was nothing in the Janata Party, she said.

15 THE IDEAS PAGE



CR Sasikumar

WHAT THE OTHERS SAY

No matter who advises this president (Donald Trump), chaos will reign. —NEW YORK TIMES

Why sedition law has lost meaning

Various Indian courts have repeatedly ruled against the constitutionality of this British-era legislation



PRASANNA S

IN A RECENT lecture, Justice Deepak Gupta, a sitting judge of the Supreme Court, noted how the provision in the Indian Penal Code providing for punishment for seditious speech is misused often than not. Justice Gupta wondered whether the time is ripe to have a look at the law.

Article 19(1)(a) of the Constitution guarantees freedom of speech and expression, subject only to Article 19(2) which saves any law that imposes "reasonable restrictions" on the limited grounds of interests of the sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public order, decency or morality or in relation to contempt of court, defamation etc.

Section 124A of the IPC defines sedition and makes every speech or expression that "brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India" a criminal offence punishable with a maximum sentence of life imprisonment. It is classified as "cognisable" — the investigation process (including the powers to arrest) can be triggered merely by filing an FIR, without a judicial authority having to take cognisance — and "non-bailable" — the accused cannot get bail as a matter of right, but is subject to the discretion of the sessions judge.

The illiberal sting in Section 124A is somewhat taken away by an explanation to the provision that clarifies that mere "disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section," and a long line of judicial decisions, including the five-judge constitutional bench decision of the Supreme Court in *Kedamath v. State of Bihar* (1962). The apex court in *Kedamath* read down Section 124A to mean that only those expressions that either intend to or have the tendency of causing violence are punishable under Section 124A. The court reiterated the *Kedamath* law in 2016 in *Common Cause v. Union of India*, directing all authorities to scrupulously follow the *Kedamath* dictum. The SC has, however, not had a chance to reopen the issue of constitutionality of Section 124A since 1962.

The court in *Kedamath* (1962) did not have the benefit of the jurisprudence of fundamental rights that was established by the 11-judge bench decision in *RC Cooper v. Union of India* (1969) and later, reaffirmed in *Indira Gandhi v. Raj Narain* (1975), *Maneka Gandhi v. Union of India* (1978), *IR Coelho v. State of Tamil Nadu* (2007) and, more recently in *Puttaswamy v. Union of India* (2017). Each of these decisions now establish that fundamental rights in the Constitution are not to be read as isolated silos or as water-tight compartments, but are to be read as if the content of each fundamental right animates the other. They tell us that the entire chapter on fundamen-

tal rights has also to be read "synoptically" (see *Indira Gandhi & IR Coelho*). The court in *Kedamath* merely tested the intent of the provision whether being covered under the exceptions to the freedom of speech under Article 19(2) of the Constitution; it did not, for instance, take into consideration the effect of the right to equality (Article 14) or due process (Article 21).

The conjoint reading of Articles 14, 19 and 21 (from *Maneka Gandhi*), has now evolved the jurisprudence of testing legislation curtailing fundamental rights on the anvil of substantive and procedural reasonableness, necessity and proportionality. The requirement of "necessity" in part comes from India having ratified in the International Covenant of Civil and Political Rights in 1976, which in its Article 19 requires speech-limiting state action to be backed by a law and to be necessary on the grounds of respect for rights and reputations of others, national security etc. Even otherwise, the court in 1962 was not, and could not, have been alive to the consideration of international law and international conventions in interpreting India's fundamental rights — a practice established only since *Jolly Varghese v. Bank of Cochin* (1980).

All these developments have now led to us understanding "necessity" in the context of state action limiting fundamental freedoms as the burden being on the state to establish that such a limiting measure is "necessary in a democratic society" (*Modern Dental College v. State of Madhya Pradesh*, 2016). A rough idea of "proportionality" has informed the understanding of "reasonableness" of restrictions in Article 19 since *Chintaman Rao v. State of M.P.* (1951). However, the understanding of necessity and proportionality under the Constitution to mean the burden being on the state to show that the rights-limiting measure to be the least restrictive of all available alternatives is of recent vintage (*Jin Union of India v. Ganayutham*, 1997 and more recently, *Modern Dental*, 2016).

The *Kedamath* court in 1962 also did not examine the provision for "chilling effect" on speech it causes — that is, probability of state action causing psychological barriers in the free exercise of the right to free speech. The doctrine of chilling effect gets established even in the US only in 1967, starting with Justice Brennan's dissenting opinion in *Walker v. Birmingham*. Indian judgments didn't use that expression until late 1980s.

The court in *Kedamath* also could not have examined Section 124A shedding the presumption as to its constitutionality. It is only as recently as in 2018 (*Navejohar v. Union of India*), that the court found that pre-constitutional legislations have no legal presumption of constitutionality. Incidentally, that was the case in which the court re-examined the constitutionality of Section 377 of the Indian Penal Code, which, among other things, criminalised consensual same-sex acts, despite an earlier judgment having examined and upheld the provision.

If there is a challenge to the provision today, the court will have to keep in mind all of these developments! The court may also need to examine the classification of the offence of sedition as cognisable and non-bailable and whether that aggravates the chilling effect.

The writer is a Delhi-based lawyer

LETTERS TO THE EDITOR

SAFETY MATTERS

THIS REFERS TO the editorial, 'Let's talk safety' (IE, September 13). The amendments to the Motor Vehicle Act are a positive step. They should be followed by measures to inculcate discipline among road users. Protests against the Act indicate that enforcing it will require behavioural changes. It will also require a sustained debate on the punitive measures prescribed in the Act.

Vihaan Gupta, Ujjain

ABOUT EQUALITY

THIS REFERS TO the article, 'Quota question' (IE, September 13). Debates must be encouraged on all topics, no matter how controversial. However, reservation policy is not against the principle of equality. It is about ensuring equality in society. Before we jump on to the conclusion that reservation must be economically based, we must look at the occupational structure in our society. Do we not find the priests in the temples belong to one group and the manual scavengers to another? There is no judge from the SC/ST communities in the Supreme Court.

Vinay Saroha, Delhi

OWN THE CRISIS

THIS REFERS TO the article, 'Poised for a turnaround' (IE, September 13). The authors contradict themselves in first, informing the reader that the economy is

LETTER OF THE WEEK

LESS MONEY

This refers to the article, 'The revival path' (IE, September 6). There seems to be a consensus amongst economists that the lack of demand is the main reason behind the economic slowdown. There are toll taxes on roads, bills for water, public transport fares have gone up, many trains run on flexi fare, education and health are privatised to a large extent and the Motor Vehicle Act imposes stringent penalties. So people have less money to spend.

Suchak D Patel, Ahmedabad

doing well as "global investors and multinational companies are putting their hard earned monies into India". They also add that most economic indicators show the economy is robust. However, in the concluding paragraph, we are informed "the government is cognisant of the urgency of the situation". Historically, citizens have always shown resilience and togetherness in times of crisis. If only the government could admit to the economic crisis.

Sanjay Vijayan, Greater Noida

Missing the worm's eye view

A debate on what ails the economy should acknowledge the problems of India Inc, and the 'shoot first think later' policy-speak



RAMA BIJAPURKAR

DEBATING SOLUTIONS WITHOUT acknowledging the problem isn't always helpful, nor is a bird's eye view macro analysis of the economy without a worm's eye view from the trenches of business. People say "5 per cent is 5 per cent and there's nothing to debate about it," but indeed there is.

There are two problem elephants in the room that should be acknowledged if we are to have an honest debate on what ails the economy and the ways to fix it. The elephants are the debilitating pain and weakness that large parts of India Inc are suffering from and the "shoot first think later" policy changes and policy-speak from the government.

India Inc is promoter-driven and much of it is promoter (or shareholder) managed, and there is little separation between ownership and management. For the first time, promoters are under siege. Many big boys have lost — or are about to lose — their companies these past few years. Google it, the "who's who" list will boggle one's mind, and this is happening in "jaante nahin main kaun hoon" India. Troubled companies have troubled revenue growth, so we need to read India Inc's revenue growth numbers alongside the "revenue (growth) at risk" — combined turnovers of companies in NCLT proceedings or being threatened by them. Harsh and persistent measures, being pushed by the regulator for the system to go after the large NPA base of Rs 10 lakh crores, cannot be without the collateral damage to corporate sentiment, leave alone animal spirits. Banks are also asking companies to de-leverage, given the banking regulator's toughness on defining and disclosing NPAs. Thinking about future invest-

ment in this atmosphere is tough. So let's not blame weak investment on the stubborn consumer, rather it's the other way around of stubbornly-low investment creating a weakened-income consumer.

At the same time, SEBI hasn't been playing nice either. Promoter-active (in management) listed companies dominate in India. SEBI activism about independent directors was benign compared to the new and proposed guidelines tightening the noose on disclosures of all kinds and disrupting a variety of time-honoured practices. For example, in 2020, it will not be possible for dad or uncle to be the non-executive chairman of the company while the son or nephew finds his feet as CEO or MD. The atmosphere is, dare we say, demotivating to many and seen as needless fixing of what ain't broke. Boosting consumption for Diwali isn't going to remove the fundamental pain.

The courts are being simultaneous spoilers too. Ask the real estate sector — rules, unchallenged for decades, of builder on top, are being disrupted and there are penalties for not adhering to promises. No surprises that real estate developers, used to growing via half-baked plans funded by customers money and easy loans, are not announcing new projects. And, being asked to pay back definitely dampens their animal spirits.

What choices do we have? Grit our teeth and go through the clean-up with all its collateral damage or hold the view that double digit GDP growth has many benefits and even if becoming cleaner is not one of them, why bother, who cares. This is a set of "rock and hard place" choices that is not being debated at all. Why not? A debate may throw up pragmatic prescriptions of cleaning up in a calibrated fashion, defining a glide path over five years.

This debate is not for the macro economists and stock market analysts alone. It is also about the values we want as a society (the question whose India and whose society should also be addressed). The war on black money has added to our GDP woes. The black and white economy have always been joined at the hip and no one will dis-

This debate is not for the macro economists and stock market analysts alone. It is also about the values we want as a society (question of whose India and whose society should also be addressed). The war on black money has added to our GDP woes. The black and white economy have always been joined at the hip and no one will dispute that — if the bad part is growing slower (perish the hope, it isn't declining), it is dragging down the good part also; blended profit margins in many cases do not look as attractive as they did earlier.

pute that — if the bad part is growing slower (perish the hope, it isn't declining), it is dragging down the good part also; blended profit margins in many cases do not look as attractive as they did earlier. Reviving the animal spirits in a forced declining profitability situation is hard. Again, do we accept the Deng Xiaoping-inspired "it doesn't matter if it is black money or white money as long as it is the driver of GDP" or should we think differently and cynically and say "it's never going to go away so let's use it for the larger good". Or do we say "in this era of technology we have a real chance to cut it to size" and go forward?

The second elephant in the room is government policy unpredictability; what a foreign board colleague of mine once called "shock and awe" regulation, and what many others call unguided missiles that have been fired first and then thought about later. So many weapons of mass distraction, all good but bad for expansion. Ask the auto industry. I saw a TV show with three CEOs of auto companies, with a combined turnover of well over Rs 100,000 crore, talking about the challenges of the sudden switch over required to meet the new emission norms and how everyone was focused on making it happen, gearing for zero pipeline stocks. Statements emanating from the Niti Aayog, later downplayed by the FM on an electric-only 2W and 3W world, the to-ing and fro-ing on the GST rates, FPI tax, angel tax, and on several other things over the last few years, has led us from policy paralysis to policy spooking. A public debate focusing on why this is happening and what the government can and must do to set policy predictability and stability as one of its key objectives will be helpful.

Discussion of these may not deliver double digit growth, but they will be a real step in that direction and they would be certainly better than telling businesses that their regulatory troubles are over because the economy needs a boost.

Bijapurkar is the author of *We Are Like That Only and A Never-before World: Tracking the evolution of Consumer India*

A brave body, a probing mind

Fit India should also mean the courage to ask tough questions



SWAMI AGNIVESH

PRIME MINISTER NARENDRA Modi is something of an enigma. He radiates energy. He is decisive. He is an expert in springing surprises. He does not dodge the non-stereotypical. Yet, there is every chance — going by what we have seen so far — that he may end up like all else before him. This prospect may not occur to the vast army of admirers and time-servers that surround him. But it is real all the same.

No other prime minister could think of Clean India campaign. And no other PM has dreamt up Fit India like Modi has done. Typical of him, he did not forget to connect, in his eloquent inaugural speech on the subject, fitness with valour (shaurya) of the martial kind. A person in high office needs to be understood not only by what he advocates, but also by what he holds back. That is precisely what is not being done in connection with Modi. There is a genuine fear that such a thing could sound heretical. Yet, there are times when heresy becomes more vital for truth than orthodoxy. The world has progressed more through heretics than through blind believers and sycophants.

Modi did speak of physical and martial bravery, which has its place in the life of a nation. He did not, however, speak about moral bravery, which is even more quintessentially human than the courage to wield the sword or exterminate enemies. Bravery of this sort has universally been held as the essence of the in-

telligence. Mere intelligence, even an astronomical amount of it, will not make a person or group of persons belong to the intelligentsia. The hallmark of the intelligentsia is moral courage. A country is better served by the intelligentsia of this kind than by the most advanced and well-trained army possible. The army may guard a country against external aggression, but it is irrelevant to the character and creative greatness of a people. This is not to argue that cowardice is a blessing. But we need to insist that bravery is a far wider concept, and that, if taken only in part, it could get distorted and prove counterproductive.

How can we create Fit India, the PM needs to ask, if we do not pay at least equal attention to developing an intellectual culture? Medical sciences aver that physical fitness is incomplete without mental and intellectual fitness. Mental unfitness is the main cause for tragic health conditions. We are familiar with the pathological conditions that come into being due to mental stress and intellectual trauma. We also know that lack of proper intellectual and imaginative development is the main reason why a society sinks into crime and corruption.

In the 1960s, Lyndon Baines Johnson, the 36th president of the USA, set for himself the task of re-inventing America as a "great society". He meant well. But he was mistaken about what it involved. Greatness is an attribute of the human spirit, not of the phys-

ical, material dimensions of acquisitions and achievements. It did not take long for President Johnson's dream to degenerate into the nightmare of a crime-ridden society, the convulsions of which continue to be felt in the mass shootings that are becoming frequent in that country. In its foreign policy, America continues with its muscle-flexing — even after the Vietnam fiasco and the Middle East tragedy.

For Modi to speak with clarity and consistency on Fit India in a holistic sense, he needs to clarify for himself his stand on freedom of thought and expression. Not even a high school student can miss the blatant contradiction between the fanfare about Fit India and the growing milieu of intolerance towards intellectual freedom and liberty of conscience. You cannot criminalise intellectuals as Urban Naxals or surround outstanding academics like Romila Thapar with the miasma of hostility and move an inch towards creating Fit India, unless fitness is assumed to be relevant to only the body. The monstrous mixture of a brave body and a cowardly mind is unlikely to be an asset to the New India that Modi believes he is destined to erect.

Underlying much of Modi's advocacies is the assumption that human beings are mere bodies". This view entertains the naïve idea that human beings can be made to be brave or cowardly at will, depending on what is ex-

pedient to the state. Intellectual brilliance, for instance, is laudable if it limits itself to landing a module on the moon, or to devising ways and means for pushing the GDP higher without hurting the interests of the corporates and the socio-economic elite. But intellectual vigour as a means for enriching national character or as a catalyst in strengthening national character is un-welcome and anti-national. This is indefensible.

If courage or bravery is a value, we should be willing to welcome it in all its manifestations — physical, mental and spiritual. It is the spiritual dimension of courage that is most under-valued today. Spiritual courage involves the duty to speak truth to power and to resist agents and structures of injustice. It would raise, for example, the obvious and pressing questions: "Are the people of Kashmir too included in this vision for Fit India? If so, why are they kept in a state of seemingly interminable all-round disability?"

The willingness to ask such inconvenient questions — no less than organising public drills to boost physical fitness — should be deemed fundamental to creating Fit India. Only then would Modi's agenda stand a reasonable chance of fulfillment, which I hope earnestly it does.

The writer is a Vedic scholar and social activist