

TELLING NUMBERS

How Indian Americans rated President Trump's policies

ON MONDAY, the White House announced that US President Donald Trump will join Indian Prime Minister Narendra Modi at an Indian diaspora event in Houston, Texas. The PM is expected to address 50,000 Indian Americans at the "Howdy Modi" event on September 22.

"A special gesture by @POTUS, signifying the special friendship between India and USA! Delighted that President @realDonaldTrump will join the community programme in Houston on the 22nd. Looking forward to joining the Indian origin community in welcoming him at the programme," Modi posted on Twitter.

President Trump's decision is being seen by many as an attempt to win over the influential and affluent Indian American voters for the upcoming US Presidential election next year. As the data, detailed alongside, from the 2018 Asian American Voter Survey

show, Indian Americans (referred to as the "Asian Indians" in the survey) were more disapproving of Trump's presidency than the average Asian American (which includes Koreans, Vietnamese, Chinese etc.). On several key policy issues, too, Asian Indians identified with either the Democratic Party or its positions. For instance, on the need for stricter gun laws or providing healthcare for all immigrants, a higher percentage of Asian Indians "agree" than the average Asian American. This trend also applied to issues central to Trump's agenda. For instance, on restricting green cards for immigrants using government assistance, 54% of Asian Indians disagreed, which was higher than the average figure — 50% — for Asian Americans.

It must be noted, however, that this data pertains to a 2018 survey, and views and opinions may have undergone changes since then.

AS OF 2018, INDIAN AMERICANS FAVOURED THE DEMOCRATIC PARTY AND ITS STAND ON KEY ISSUES

ISSUE	ASIAN AMERICANS (%)	ASIAN INDIANS (%)
TRUMP'S JOB APPROVAL		
Approve	38	28
Disapprove	58	66
Don't know	4	4
REPUBLICAN PARTY FAVOURABILITY		
Unfavourable	52	54
Favourable	34	36
No opinion	14	10
DEMOCRATIC PARTY FAVOURABILITY		
Unfavourable	28	20
Favourable	58	70
No opinion	14	8
PARTY PREFERENCE FOR THE 2018 SENATE RACE		
Republican	28	30
Democrat	52	62
Some other/Don't know	20	8
PARTY PREFERENCE FOR THE 2018 HOUSE OF REPRESENTATIVES RACE		
Republican	30	22
Democrat	50	66
Some other/Don't know	20	12
PREFERRED SIZE OF GOVERNMENT		
Smaller	24	24
Bigger	44	48
HEALTHCARE FOR ALL IMMIGRANTS REGARDLESS OF LEGAL STATUS		
Disagree	32	26
Agree	46	64
Neither/Don't know	22	10
STRICTER GUN LAWS NEEDED		
Disagree	12	10
Agree	78	84
Neither/Don't know	10	6
RAISE STATE MINIMUM WAGES		
Disagree	18	10
Agree	64	80
Neither/Don't know	18	10
RESTRICT GREEN CARDS FOR IMMIGRANTS USING GOVT ASSISTANCE		
Disagree	50	54
Agree	26	26
Neither/Don't know	22	20

SOURCE: Asian American Voter Survey 2018

AN EXPERT EXPLAINS

Civil code: the debate, the status

Recent observations by the Supreme Court have put the spotlight back on the debate over a Uniform Civil Code. What would such a Code seek to achieve, and what have been the arguments for and against it?



FAIZAN MUSTAFA

LAST WEEK, while hearing a matter relating to properties of a Goan, the Supreme Court described Goa as a "shining example" with a Uniform Civil Code, observed that the founders of the Constitution had "hoped and expected" a Uniform Civil Code for India but there has been no attempt at framing one.

What is a Uniform Civil Code?

A Uniform Civil Code is one that would provide for one law for the entire country, applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc. Article 44 of the Constitution lays down that the state shall endeavour to secure a Uniform Civil Code for the citizens throughout the territory of India.

Article 44 is one of the directive principles. These, as defined in Article 37, are not justiciable (not enforceable by any court) but the principles laid down therein are fundamental in governance. Fundamental rights are enforceable in a court of law. While Article 44 uses the words "state shall endeavour", other Articles in the 'Directive Principles' chapter use words such as "in particular strive"; "shall in particular direct its policy"; "shall be obligation of the state" etc. Article 43 mentions "state shall endeavour by suitable legislation" while the phrase "by suitable legislation" is absent in Article 44. All this implies that the duty of the state is greater in other directive principles than in Article 44.

What are more important — fundamental rights or directive principles?

There is no doubt that fundamental rights are more important. The Supreme Court held in *Minerva Mills* (1980): "Indian Constitution is founded on the bed-rock of the balance between Parts III (Fundamental Rights) and IV (Directive Principles). To give absolute primacy to one over the other is to disturb the harmony of the Constitution". Article 31C inserted by the 42nd Amendment in 1976, however, lays down that if a law is made to implement any directive principle, it cannot be challenged on the ground of being violative of the fundamental rights under Articles 14 and 19.

Does India not already have a uniform

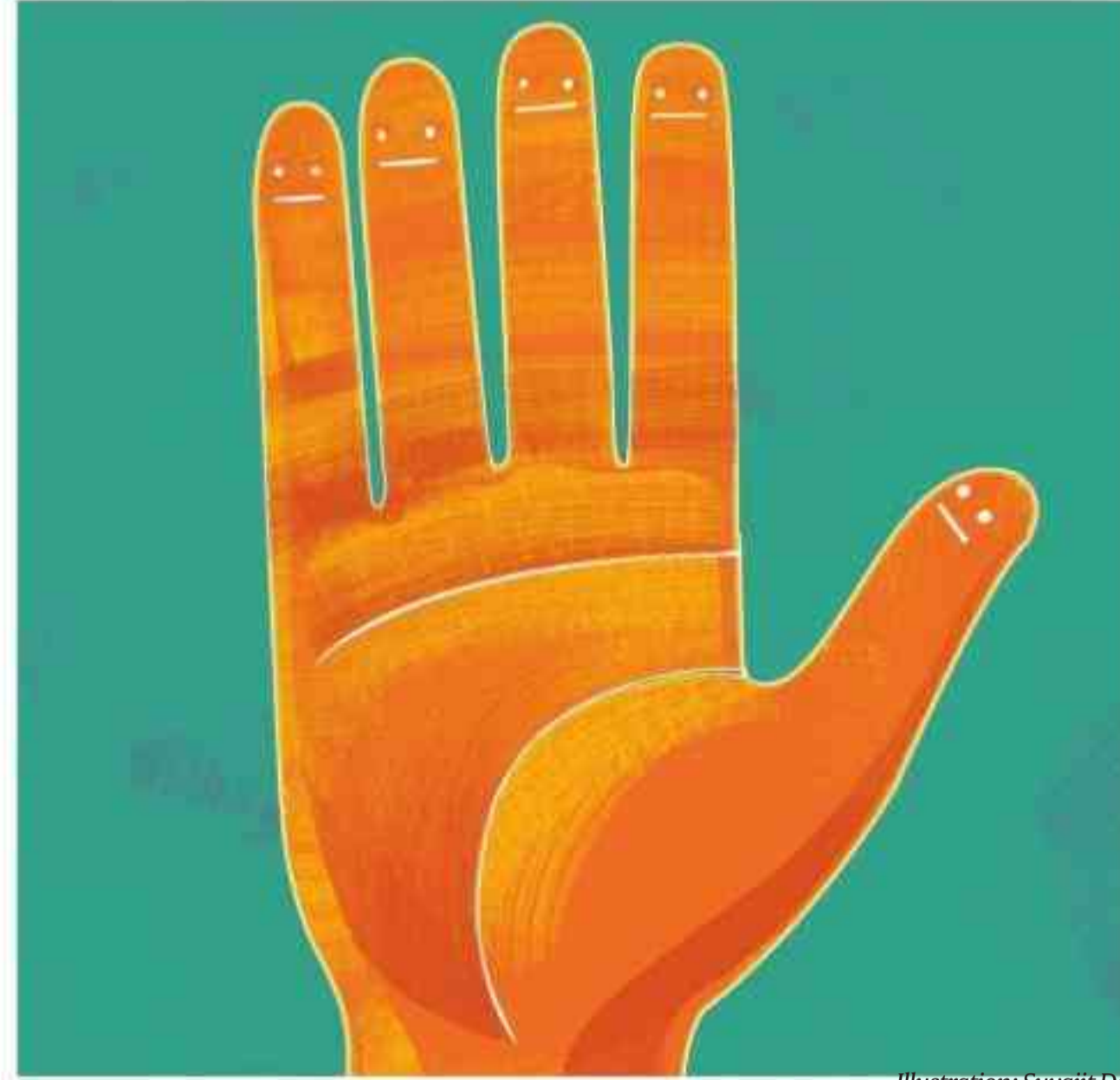


Illustration: Suvajit Dey

code in civil matters?

Indian laws do follow a uniform code in most civil matters - Indian Contract Act, Civil Procedure Code, Sale of Goods Act, Transfer of Property Act, Partnership Act, Evidence Act etc. States, however, have made hundreds of amendments and therefore in certain matters, there is diversity even under these secular civil laws. Recently, several states refused to be governed by the uniform Motor Vehicles Act, 2019.

If the framers of the Constitution had intended to have a Uniform Civil Code, they would have given exclusive jurisdiction to Parliament in respect of personal laws, by including this subject in the Union List. But "personal laws" are mentioned in the Concurrent List. Last year, the Law Commission concluded that a Uniform Civil Code is neither feasible nor desirable.

Is there one common personal law for any religious community governing all its members?

All Hindus of the country are not governed by one law, nor are all Muslims or all Christians. Not only British legal traditions, even those of the Portuguese and the French remain operative in some parts.

In Jammu and Kashmir until August 5, 2019, local Hindu law statutes differed from

central enactments. The Shariat Act of 1937 was extended to J&K a few years ago but has now been repealed. Muslims of Kashmir were thus governed by a customary law, which in many ways was at variance with Muslim Personal Law in the rest of the country and was, in fact, closer to Hindu law. Even on registration of marriage among Muslims, laws differ from place to place. It was compulsory in J&K (1981 Act), and is optional in Bengal, Bihar (both under 1876 Act), Assam (1935 Act) and Odisha (1949 Act).

In the Northeast, there are more than 200 tribes with their own varied customary laws. The Constitution itself protects local customs in Nagaland. Similar protections are enjoyed by Meghalaya and Mizoram. Even reformed Hindu law, in spite of codification, protects customary practices.

How does the idea of a Uniform Civil Code relate to the fundamental right to religion?

Article 25 lays down an individual's fundamental right to religion; Article 26(b) upholds the right of each religious denomination or any section thereof to "manage its own affairs in matters of religion"; Article 29 defines the right to conserve distinctive culture. An individual's freedom of religion un-

der Article 25 is subject to "public order, health, morality" and other provisions relating to fundamental rights, but a group's freedom under Article 26 has not been subjected to other fundamental rights

In the Constituent Assembly, there was division on the issue of putting Uniform Civil Code in the fundamental rights chapter. The matter was settled by a vote. By a 5:4 majority, the fundamental rights sub-committee headed by Sardar Vallabhbhai Patel held that the provision was outside the scope of fundamental rights and therefore the Uniform Civil Code was made less important than freedom of religion.

What was the view of Muslim members in the Constituent Assembly?

Some members sought to immunise Muslim Personal Law from state regulation. Mohammed Ismail, who thrice tried unsuccessfully to get Muslim Personal Law exempted from Article 44, said a secular state should not interfere with the personal law of people. B Pocker Saheb said he had received representations against a common civil code from various organisations, including Hindu organisations. Hussain Imam questioned whether there could ever be uniformity of personal laws in a diverse country like India.

B R Ambedkar said "no government can use its provisions in a way that would force the Muslims to revolt". Alladi Krishnaswami, who was in favour of a Uniform Civil Code, conceded that it would be unwise to enact Uniform Civil Code ignoring strong opposition from any community. Gender justice was not mentioned in these debates.

How did the debate on a common code for Hindus play out?

In June 1948, Rajendra Prasad, President of the Constituent Assembly, warned Jawaharlal Nehru that to introduce "basic changes" in personal law was to impose "progressive ideas" of a "microscopic minority" on the Hindu community as a whole. Others opposed to reforms in Hindu law included Sardar Patel, Pattabhi Sitaramayya, M A Ayyangar, M M Malaviya and Kailash Nath Katju.

When the debate on the Hindu Code Bill took place in December 1949, 23 of 28 speakers opposed it. On September 15, 1951, President Prasad threatened to use his powers of returning the Bill to Parliament or vetoing it. Ambedkar eventually had to resign. Nehru agreed to trifurcation of the Code into separate Acts and diluted several provisions.

Faizan Mustafa is a well-known expert in constitutional law

Joining the dots in the great game in Yemen

EXPRESS NEWS SERVICE
NEW DELHI, SEPTEMBER 17

THE OVER four-year-old war that has devastated Yemen and triggered a catastrophic humanitarian crisis in one of the world's poorest countries, saw a dramatic new turn over the weekend after a spectacular aerial attack took out two major oil production facilities deep inside Saudi Arabia and sent global crude prices soaring.

The War in Yemen

In February 2012, the Arab Spring's Yemeni Revolution of Dignity ended President Ali Abdullah Saleh's 34-year rule. The transfer of power to longtime Vice-President Abdrabbuh Mansour Hadi was followed by massive internal strife, jihadist attacks, unemployment, and food insecurity.

A two-decade old insurgency of the Shia Zaidis — called Houthis after their leader Hussein Badreddin al-Houthi, whom Saleh's army had killed in 2004 — flared up, and Yemen's northern Saada province and adja-



cent areas passed into Houthi control. The capital, Sanaa, fell in the beginning of 2015 — and as the Houthis, backed by Saleh and Yemeni forces loyal to him pressed on, Hadi fled first to Aden and, in March that year, to Saudi Arabia.

With the establishment of the Houthi government in Sanaa, Riyadh and its Sunni Arab allies waded into the war. Saudi Arabia's intense bombing campaign against the Houthis and the loyalists of Saleh was provided logistic and intelligence support by the

United States, United Kingdom, and France.

Saudi Arabia vs Iran

As in many military and non-military conflicts in the region, Saudi was provoked by its intense insecurity about the Sunni kingdom's great rival, Shia Iran. Saudi Arabia and the US consider the Houthis to be a proxy of Iran, armed and funded by the regime in Tehran. Yemen's coastline along the Gulf of Aden and its unique location on the mouth of the Red Sea, the gateway to the Suez, gives it enormous strategic value.

The US and Saudi have an old and deep relationship; indeed, the Americans started to associate themselves with the military action before Trump became President. The Trump administration, which now faces some pressure in Congress to end America's involvement in the war, sees Crown Prince Mohammed bin Salman's assault on Yemen as part of the continuing larger effort by the two allies to beat and bleed Iran.

What happens now

American officials have cited intelligence

assessments and satellite pictures in support of claims that the attacks that penetrated Saudi air defences were carried out using sophisticated drones and cruise missiles that could not have originated from Yemen. But the Houthis have claimed responsibility while Iran has denied involvement — and the US "evidence" does not provide conclusive proof to the contrary.

Tensions in the Gulf are already high, and the crisis suggests Trump's policy of "maximum pressure" against Iran could backfire in unforeseen ways. For all his talk of being "locked and loaded", it is unclear if the President has the stomach to actually strike at Iran — the war is not very popular in the US, and the relentless Saudi bombing of Yemeni civilian areas is seen worldwide as being both pointless and morally indefensible.

Yemen is in the middle of what has been called the world's worst man-made humanitarian disaster. International groups believe some 70,000 people have been killed since January 2016, and that about 80% of Yemenis — about 24 million people — desperately need humanitarian aid.

Vokkaligas, politics and symbolism: Why Kempegowda's statue matters

JOHNSON T A
BENGALURU, SEPTEMBER 17

THE NAME of the founding father of Bengaluru — Kempegowda or Nada Prabhu Kempegowda — is hard to miss in the city. The city's airport is known as the Kempegowda International Airport, the main bus stand is the Kempegowda Bus Stand, a main arterial road in the old city is the K G Road or the Kempegowda Road.

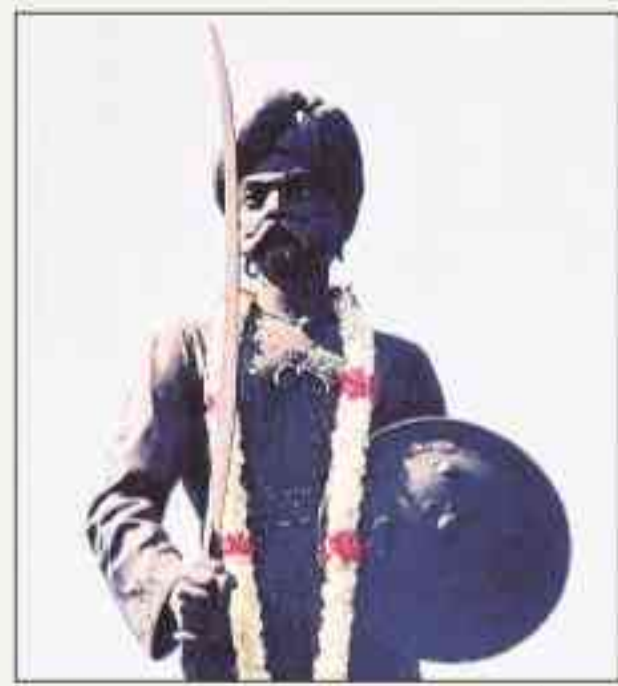
In history lessons in schools, Kempegowda is the man who marked with towers the four corners of a Bengaluru he imagined. The chieftain from the Vijayanagar empire in the 16th century, who conceived the idea of a new city of Bengaluru while he was out hunting with a minister, is a political icon for the dominant agricultural Vokkaliga community in

south Karnataka.

Whoing Vokkaligas

Last week, Chief Minister B S Yediyurappa announced plans to construct a 101-foot-tall bronze statue of Kempegowda at the Bengaluru airport at the cost of Rs 100 crore. The move is widely seen as an attempt by the BJP to gain leverage with the Vokkaliga community, which has shown little inclination to support the BJP until the recent Lok Sabha polls.

Yediyurappa also garlanded an existing statue of Kempegowda on the premises of the Bengaluru City Corporation on September 4 and lit a Kempegowda torch. "To make Bengaluru founder Kempegowda immortal our government has decided to release Rs 100 crore. The BJP has also decided to install a mammoth statue of Kempegowda at the Bengaluru airport," he said.



Wikipedia

Bengaluru airport, main bus stand, key road named after Kempegowda

The announcement of these plans came a day after the Vokkaliga community held a big protest in Bengaluru over the alleged targeting of its members — Congress leader D K Shivakumar, the Café Coffee Day founder V G Siddharth and former Chief Minister H D Kumaraswamy — by investigative arms of the BJP-led central government.

Over 20,000 people marched and staged a rally that was backed by the opposition Congress and Janata Dal (S). The rally came at a time when the BJP was making plans to poach several Vokkaliga community leaders from southern Karnataka as part of a strong push to make inroads in the old Mysuru region — the Vokkaliga heartland.

The BJP, which has never won a clear majority of over 113 seats in the 224-member Karnataka Assembly thanks to lack of traction in southern Karnataka and the Vokkaliga heartland in particular, has been

sensing a new opportunity after the Lok Sabha polls where it virtually swept Karnataka.

The waning fortunes of the JD(S), the party of former PM H D Deve Gowda, with which the Vokkaliga community has firmly allied in the past, too has given the BJP hope.

Politics of symbolism

Yediyurappa has conceived the idea of immortalising Kempegowda on the lines of his declaration to celebrate (including by announcing holidays) the birth anniversaries of several community icons in Karnataka during his first tenure as Chief Minister during 2008-2011.

During that tenure, the birth anniversaries of Lingayat spiritual leader Basavanna, backward caste Kuruba community spiritual leader Kanakadasa and Scheduled Tribes icon Maharishi Valmiki

were declared holidays and *jayantis*.

Incidentally, the birth anniversary of Kempegowda was declared a celebration in 2017 by the Congress government, led by then Chief Minister Siddaramaiah, at the instance of Vokkaliga Congress leader D K Shivakumar, whose father's name is also Kempegowda.

The Siddaramaiah government had also declared the birth anniversary of the erstwhile Muslim king of Mysuru, Tipu Sultan, a holiday and an occasion for state celebration, but the move has been resisted by some sections of the society including the right-wing groups allied with the BJP.

Although Yediyurappa and other BJP leaders have participated in Tipu Jayanti celebrations in the past, one of the first decisions taken by him after he became the chief minister again in July was to cancel state celebrations of the birth anniversary of Tipu Sultan.



The Indian EXPRESS

FOUNDED BY
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

Austerity for growth

The government must not give in to the temptation of a stimulus. It does not have the fiscal space



DUVVURI SUBBARAO

DEAR FINANCE MINISTER,

Like I did when I took over as governor of the Reserve Bank of India (RBI), you are going through baptism by fire. It would have been nice to direct your fresh mind, formidable energy and enthusiasm towards drawing up a roadmap to a \$5-trillion economy. Instead, barely did you settle into the corner office in North Block you were saddled with what is possibly the biggest economic challenge since the taper tantrum of 2013. Growth has sunk to a six-year low and you are called upon to reverse the slump in the face of heightened global uncertainty, flagging exports, sluggish investments and a stressed financial sector.

You have already announced a slew of measures to front-load expenditures and comfort investor sentiment. The RBI has cut rates and is pumping in massive liquidity. I gather from your statements that you are considering further measures. This letter is not about what you should do next but about what you should not. You should not launch a fiscal stimulus. A lot of people must be advising you that if there was ever a time to open the money spigots, now is it. My unsolicited advice to you is that don't succumb to the temptation. Here is why.

You simply don't have the fiscal space. Everyone, including you, knows that the actual fiscal deficit is higher than what is shown in the budget. Tax receipts during the past two years have been short of budget estimates. In order to show that the fiscal deficit target has been met, despite the revenue shortfall, the government resorted to massive window-dressing of expenditures, including withholding payments to public enterprises.

It's completely irrational to not admit the true fiscal deficit. We are fooling no one, least of all potential investors who base their decisions on our macro sustainability. We can persist with our denial, but that's hardly go-

ing to protect us from the ruthless penalties for fiscal irresponsibility.

Analysts who have poured over the numbers are telling us that the prospects of achieving this year's budgeted fiscal deficit are even more dire. At first glance, the tax revenue growth you projected in the July budget seemed reasonable. That comfort, though, was short-lived. When compared with the actual tax collections of last year, the data was released subsequently, this year's projections are decidedly unrealistic.

Amidst all the challenges you are facing, a bit of luck has been the generous dividend from the RBI to the extent of 0.3 per cent of GDP beyond what you had budgeted for. That will fill the fiscal hole to some extent. But that is a one-off. What will you do next year when RBI transfers revert to trend, as I expect they will?

Let me also tell you another thing you should worry about, not that a conscientious person like you needs being reminded. You should worry about the growing revenue deficit. For some reason, the revenue deficit has gone off the radar, and that's not a good thing. Borrowing to meet current expenditures is never sustainable. If on top of this worrying state of public finances, you opt for a fiscal stimulus, the damage will extend far beyond your current term. And the economy will pay a heavy price.

I am sufficiently clued into the debate to know what arguments the supporters of stimulus might be making to you. Let me address them.

First, they will be telling you that the egregious impact of fiscal excess is felt through higher inflation, higher interest rates that will crowd out private investment and a higher current account deficit. All of these, they will contend, are within comfort range, giving you room for a stimulus. Such complacency is completely unwarranted. I don't have the

space to detail all the past episodes, but you are surely aware that every time we have indulged in fiscal excess, believing that "this time is different", we ended up in a crisis or a near-crisis.

Second, the stimulus supporters will argue that India's debt-to-GDP ratio is low in comparison to its peers. Data doesn't bear this out. In any case, experience as well as research shows that international comparisons of debt to GDP ratios, without reference to other parameters, are misleading.

The third argument fiscal doves will make is that it is wooden-headed to remain committed to fiscal responsibility when the economy is in a serious downturn. Fiscal adjustment should be done over a cycle, saving in good times for spending in bad times. This is an appealing argument in theory but will not work in practice, especially in a boisterous democracy like ours. Which finance minister will take the pain of saving to give his successor the pleasure of spending? Yes, fiscal adjustment over a cycle is a good idea, but it will have to wait till our fisc gets robust. For now, being wooden-headed is not just good, but imperative.

The more savvy of the doves will also invoke the IMF finding that in the midst of the eurozone sovereign debt crisis of 2011-12, fiscal austerity was militating against growth. But that finding does not apply universally across space and time. It may have been fiscal austerity vs growth for them, but for us, it has been and still is, fiscal austerity for growth. Fifteen years ago, C Rangarajan and I published an article with a similar thrust as this one. That the message is still relevant is an indication of our unchanging challenges.

You have a tough job, madam. My best wishes for your success.

The writer is former governor of the Reserve Bank of India

THE FIRES OF ARABIA

Any escalation in tensions in the Gulf would be costly. India should join efforts to nudge the region towards engagement

THE UNPRECEDENTED DRONE attacks over the weekend on major Saudi hydrocarbon facilities have led to a spike in the world oil prices. The attacks, claimed by Yemen's Houthi rebels, have knocked out more than half of Saudi crude output and five per cent of the global oil supplies. Oil industry experts say the damage is serious and Saudi Arabia will not be able to quickly make up for the shortfall in production amounting to 5.7 million barrels a day. Given the expanded global oil production in recent years and the emergence of new major exporters like the US, the world could possibly absorb the new oil shock without too much pain. That hope, however, must be tempered by two factors: One, the drone attacks have exposed the massive vulnerability of Saudi oil production and two, the Houthis have promised to attack again if Saudi Arabia continues its four-year old war against them.

The other is the danger of escalation in the tension between Riyadh and Tehran that has enveloped the region in proxy wars. If Saudi Arabia has supported the government in Yemen in the tragic civil war, Iran has been the main backer of the Houthi rebels. While denying any complicity in the attack, Tehran has backed the Houthi right to self-defence against Saudi Arabia. The US decision to blame Iran after the attack appeared to push the region to the brink of a new war. But President Donald Trump seemed to be backing away from an immediate military retaliation against Iran. In the last few weeks, Trump has toyed with the idea of meeting Hassan Rouhani, the president of Iran, on the margins of the UN General Assembly session that convenes next week in New York. If there is evidence of Iranian involvement, Trump might yet choose to turn up the heat on Iran.

The recent developments offer an opportunity for all sides to take a deep breath and step back. In the last couple of years, Iran has seen most of its oil exports vanish amidst the American sanctions. While Iran can certainly hurt the Saudi oil production, a military confrontation with the US could set Tehran back by decades. The US and Saudi Arabia, on the other hand, may have miscalculated that Iran would simply cave under the current campaign to put "maximum pressure" against Tehran. Meanwhile Trump, unlike the security establishment in Washington, has no desire to push America into another costly war in the Middle East. The current lose-lose situation should open the door for sensible compromises all around. India, which is friends with all the actors in the Middle East, can easily do more than being a passive observer. Like Japan and Europe, which are trying to calm the waters in the Gulf, India too must step in to nudge the region towards military restraint and political engagement.

IDENTITY FIXATION

There is no ground for an NRC in Haryana and UP. Loose talk around it can only trigger anxieties and fears

THE CHIEF MINISTERS of Haryana and Uttar Pradesh seem to be keen on a National Register for Citizens (NRC) on the lines of the one in Assam. While Haryana Chief Minister Manohar Lal Khattar announced that his government will have its NRC, UP CM Adityanath spoke of implementing it in phases if need be. Both leaders seem unaware that the NRC was introduced in 1951 in view of the exceptional conditions that prevailed in Assam then. The Supreme Court ordered that the register be updated and thereafter, started to monitor the process after being seized of the specific context of the problem. Ironically, with the completion of the Assam NRC on August 31, it has become evident that the process is neither fool-proof nor can a citizenship register offer solutions to complex issues of identity. Surely, Haryana and UP have more pressing administrative issues to tackle instead of contemplating divisive schemes.

The NRC seems to have caught the imagination of BJP leaders ever since party chief Amit Shah started to mention it in his campaign speeches during the general election. While the anti-immigrant sentiment in Assam did not discriminate on religious grounds, the BJP twisted it to give the narrative a communal colour. The principle that underlies the NRC itself is flawed since modern societies and economies are influenced by migration. Assam's own tortuous history, particularly since the mid-19th century, has been shaped by the influx of capital and labour, often facilitated by the state, and the pressures of geography. The same state also fuelled anxieties about identity and demography, which congealed into political movements in the last century. The Partition of the Subcontinent further complicated the process. Seeing it all through the prism of religion would not help to understand the nuances of a complex, and tragic, process that has affected millions of people.

The lesson from Assam is that it is a futile exercise to catalogue people on the basis of their supposed origins. For instance, it was estimated that illegal migrants in Assam numbered anywhere from 10 lakh to two crore. But the NRC puts it at 19 lakh, which has left many who backed the process dissatisfied. The process has been an unmitigated disaster with people threatened with uncertain future, including detention. Any talk of NRC today only triggers anxieties and fears with deep communal undertones. The government must ask itself if it wants to expend its immense political and social capital on the "illegal" migrant or focus on creating opportunities for a large young population.

LET THERE BE BIRYANI

Pakistan cricket team's new boss wants the dish out of the sport. He is going too far in the quest for fitness

ONE OF THE best things about cricket throughout the second half of the 20th century was that its heroes were not six-packed, styled and and trying to be sexy. Sachin Tendulkar always remained a bit portly, Arjuna Ranatunga far more so. And Shane Warne was frequently seen smoking between sessions. The last bastion for the everyman in the gentleman's game, Pakistan, is now set to fall. The new head-coach-cum-chief-selector, Misbah-ul-Haq, has reportedly put in place dietary restrictions for players in Pakistan's national camp and in domestic tournaments to address the team's deteriorating fitness levels. But the ban on biryani is going too far.

Among the immediate provocations for the dietary dictatorship were the accusations faced by the Pakistan team in the wake of their loss to India in the World Cup. Angry Pakistan fans alleged that on the eve of the encounter, the team was wolfing down burgers, pizzas and all manner of desserts and this gluttony was the reason for their lethargy on the field. Of course, junk food should have no place in the diets of athletes. But unlike the junk food of the west, the South Asian comforts of "biryani or oil-rich red meat meals or sweet dishes" ought to be treated with more leniency. After all, Inzamam ul Haq's batting did not suffer too much, did it?

Meat, rice and a bit of spice. It's a simple combination that gives the taste-buds and the soul so much more than the sum of its parts. In fact, for years, rumour (let's call it conventional wisdom) had it that it is the lack of the now offensive red meat meals that prevented India from producing a fast-bowler of an Imran, Wasim or Waqar calibre. And players, working hard as they are on their fitness now, need something to look forward to, lest they rebel against the new cricket leadership. Misbah must be careful not to throw the biryani out with the bathwater.



D RAJA

DYERISM, THEN AND NOW

Why the phrase coined by Mahatma strikes a chord

IN 1919, THE Rowlatt Act enacted by the British government took away the civil rights of Indians. Those who protested peacefully in Jallianwala Bagh faced merciless police firing on the orders of General R Dyer. That cold-blooded assault was described by Mahatma Gandhi as Dyerism. He employed the concept to denote practices of exclusion, including the ostracisation of the Dalits from all spheres of social life in 1919.

Gandhi also described the killing of Muslims in the name of cow as a manifestation of Dyerism. Sadly, today, we are witnessing calculated attempts to employ Dyerism against Dalits and minorities by the NDA regime.

The manner in which bills are framed by the government and passed in Parliament without following the due processes of deliberation and consultation clearly indicate the revival of full-blooded Dyerism. The government paid scant regard to the Opposition's plea, in both houses of Parliament, that bills should be sent to committees for deliberation and consultation on a bipartisan basis. In doing so, it negated the message of Babasaheb Ambedkar that Parliament belongs to the Opposition. A variety of opinions needed to be taken into account before enacting legislation. By not doing so, the NDA invites the accusation that it's worse than the British regime of 1917 and 1919.

The British rulers responded to Mahatma Gandhi's satyagraha in Champaran by arresting him when he visited the place to consult the people there. However, he was released unconditionally and allowed to hold discussions with farmers and colonial planters who forced the former to plant indigo in their lands. As a result of the satyagraha, the colonial state framed the Champaran Agrarian Bill

1917, which stipulated the abolition of forcible plantation of indigo. When this Bill was introduced in the Bihar and Orissa Legislative Council, members demanded its reference to the House's Select Committee. The colonial rulers agreed. It is instructive to note that the British government sent the Bill to Mahatma Gandhi and other leaders for scrutinising it and fine tuning its contents. The Bill became an Act after the changes suggested by Gandhi were incorporated. The national movement forced the colonial legislature to be accountable and the culture of accountability and scrutiny became the heart of parliamentary functioning in independent India. The Modi government is destroying this culture.

It's worrying that the NIA, UAPA, RTI and several other bills, including the J&K re-organisation bill, were passed in Parliament's monsoon session without extensive deliberation and consultation. The convention of sending contentious pieces of legislation to parliamentary standing committees wasn't followed.

Majoritarianism based on numerical strength can never be a guiding norm for running Parliament and governing the country. In fact, what was done to Jammu and Kashmir is contrary to Prime Minister Narendra Modi's assurance in his last year's independence day speech. He had talked about abjuring "gaali" and "goli" and winning over the Kashmiris by embracing them ("gale lagaane se"). But the clampdown on Kashmiris and reducing the area's status to a union territory is nothing but Dyerism. The absence of dialogue, debate and informed scrutiny of government action in Parliament also endangers federalism.

A Constituent Assembly debate is worth referring to here. On December 13, 1946, the

Constituent Assembly took up the Objectives Resolution for discussion. There were two important groups missing in the Assembly. A debate ensued on whether to move the amendments or stall constitution-making. Ambedkar issued a warning which assumes relevance in the context of what was done to Jammu and Kashmir. He said: "It may be that you have the right to do so. The question I am asking is this. Is it prudent for you to do so? Is it wise for you to do so? Power is one thing; wisdom is quite a different thing and I want this House to consider this matter from the point of view, not of what authority is vested in this Constituent Assembly, I want this House to consider the matter from another point of view, namely, whether it would be wise, whether it would be statesmanlike, whether it would be prudent to do so at this stage."

Is the passage of J&K reorganisation bill without adequate scrutiny, the repeal of Article 35A and the withdrawal of Kashmir's special status without the consent of the Kashmiri people wise, prudent or statesmanlike?

In using its brute majority to pass important bills, the government ostensibly seems to be acting on its credo of "minimum government and maximum governance". But it has reduced Parliament to a "minimum Parliament". If Parliament becomes redundant, democracy will die. Conditions will be created for presidential form of government, the rule of a so-called strong man or fascism. Political parties which believe in democracy and justice for all citizens must put up strong resistance before such a calamity hits the Indian nation.

The writer is General Secretary, CPI

SEPTEMBER 18, 1979, FORTY YEARS AGO



FIGHT HINDU RASHTRA

JANATA PARTY PRESIDENT Chandra Shekhar felt that there is bound to be a clash between the party and the RSS if the latter decides to be a political party. He was reacting to the reported statement of the RSS chief, Balasaheb Deoras, that the organisation was a political party and had a 10-year plan to capture power and convert India into "Hindu Rashtra". He told journalists in Jamnagar that the RSS was known to be a cultural and non-political organisation and he was not aware if it had decided to enter politics. The CPM politburo asked "secular and democratic forces" in the Janata Party, like the socialists and former Congressmen including Jagjivan Ram, to

sever relations with the RSS and join those fighting the "twin menace" of Congress (I) authoritarianism and RSS communalism.

RSS CHIEF'S DENIAL

RSS CHIEF BALASAHEB Deoras denied that he had spoken of capturing power in 10 years at a meeting in Bhopal. In a statement issued in Ujjain, he dismissed the report to this effect as "sheer nonsense and a figment of imagination". The statement, however, did not say anything about his other remarks at the meeting as reported in the press. Deoras also denied that the RSS and the Congress (I) president, Indira Gandhi, had entered into any kind of understanding.

TARAKI OUSTER

AFGHAN PRESIDENT, NUR Mohammad Taraki's ouster, barely five days after he was received in Moscow with great fanfare by President Leonid Brezhnev among others, could mean that the latest developments in Afghanistan occurred despite preferences indicated by the Soviet leadership, diplomatic observers in New Delhi point out. Since reports from Kabul are sketchy, it is not yet clear whether Prime Minister Hafizullah Amin seized power from Taraki in a palace coup. But it is clear that Taraki's eclipse and Amin's emergence as the strongman has brought into the open the struggle that was ongoing within the ruling Khalq party.

Not in the spirit of the Constitution

Supreme Court's example of Goa as a state with a Uniform Civil Code is inconsistent with Article 44. Its colonial era law is archaic in comparison to post-Independence legislation on personal laws



TAHIR MAHMOOD

THE FOUNDING FATHERS of the Constitution had "hoped and expected" that the state will act on Article 44 that pertains to Uniform Civil Code but "till date no action has been taken in this regard," an apex court bench has observed. Though Hindu laws were codified, "there has been no attempt to frame a Uniform Civil Code applicable to all" the bench has said, adding rather curiously: "However, Goa is a shining example of an Indian state which has a Uniform Civil Code applicable to all regardless of religion" (*Jose Paulo*, September 13). With due deference, I find both the *obiter dicta* and the ruling of the bench inconsistent with the letter and spirit of Article 44.

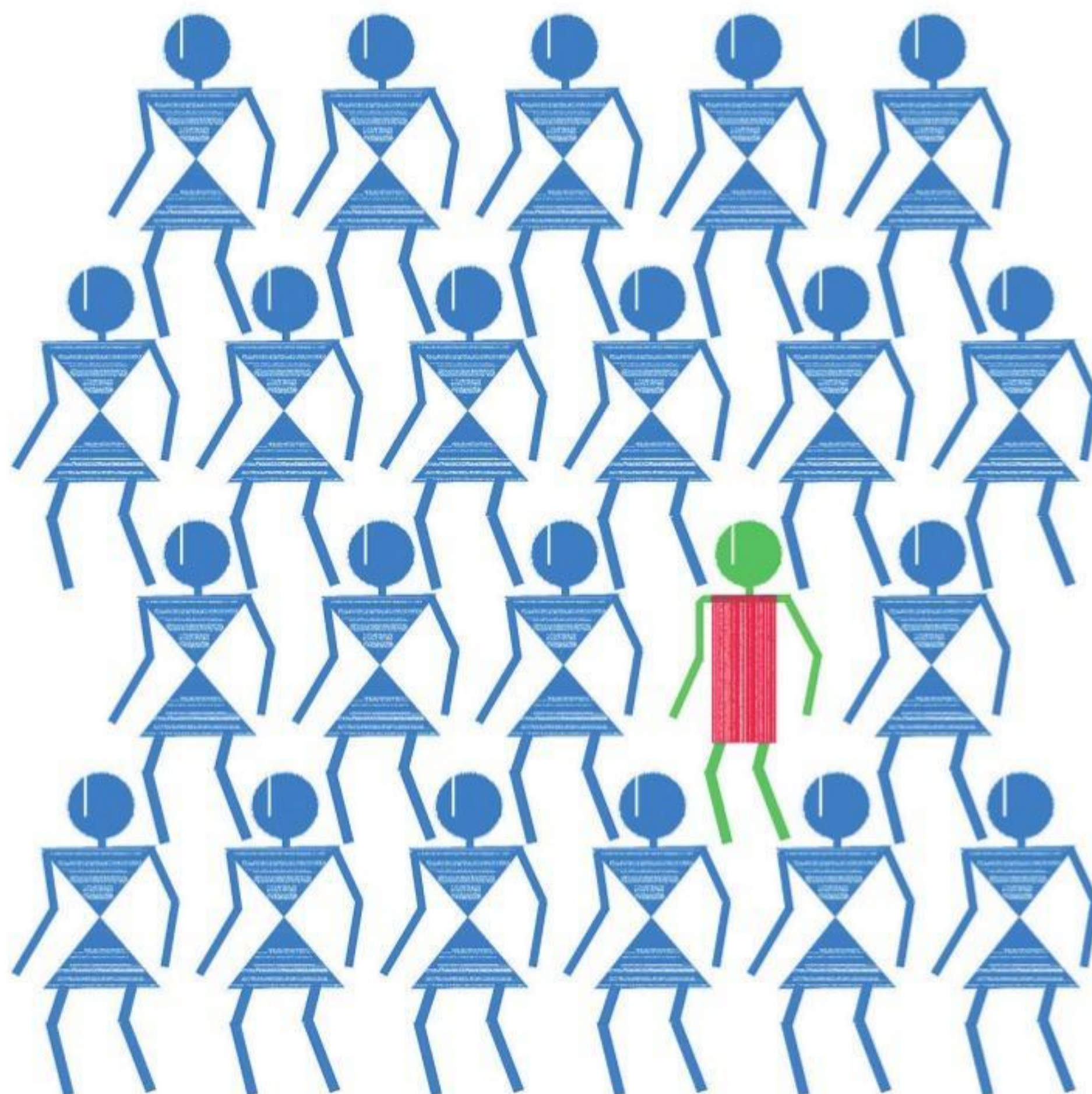
Placed in the Constitution among the non-justiciable Directive Principles of State Policy, Article 44 charges the state with a duty to "endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India". If this can be seen as a clear-cut injunction for "framing" a new comprehensive code at one go, the bench is right in complaining of the state's inaction, but does the language of the Article mean this? Is endeavouring to secure a law the same as framing and enforcing it straight away? If not, have any endeavours ever been made in this direction?

Codification of the Hindu law in 1955-56, often cited in the context of Article 44, cannot be seen as an "endeavour to secure" a Uniform Civil Code. A Hindu Code Bill was moved in the central legislature four years before the Constitution came in force. It faced stiff opposition from various quarters. Article 44 was, in fact, meant to answer the objection that the majority community's personal law was being singled out for modernisation and reform. Notably, the proposed Hindu Code had to be fragmented later and eventually took the form of four separate Acts.

The state's endeavours to secure a Uniform Civil Code are to be found in the miscellany of laws of general application that were sporadically enacted since 1954. Among these are the Acts facilitating civil marriages, banning marital dowries, protecting women from domestic violence, preventing child marriages, ensuring ancestors' maintenance and protection, and facilitating adoption of ill-fated children. The process has, of course, been slow-paced. But there is abundant scope for enacting more such laws that are applicable to all regardless of religion and personal laws.

Article 44 demands uniformity of family laws at an all-India level — a local law even if applicable to all cannot be seen as a Uniform Civil Code. The state-level code cited by the bench as an instance — the 152-year old Portuguese civil code in force in Goa and Daman & Diu — is not even applied uniformly. The bench, in fact, admits that it applies to all "except while protecting certain limited rights". Yet, it calls the code a "shining example" of uniformity.

The Portuguese who ruled Goa and Daman & Diu since the 16th century had separately codified local customs of each of these territories. Article 8 of the Royal Decree of 1869, by which the Portuguese had extended



CR Sasikumar

their two-year old civil code to their "Indian possessions", had pointedly subjected its application to the three pre-existing codes of native customs. After liberating the territories in 1961 and integrating them into a Union Territory, the Indian government ruled that the Portuguese laws would continue until amended or repealed by a competent authority; among these was the Portuguese civil code. In 1987, Goa was separated from the newly formed Union Territory and made a state, but the civil code based on 19th century legal culture of Portugal was not thrown out.

What is the sense in retaining an archaic law of foreign origin in certain national territories, 58 years after their assimilation into the nation? The government seems to have been oblivious of history in this regard, but how about the judiciary? RC Lahoti, former CJI, had once said "where two organs of state fail to perform their duty, the third cannot remain a mute spectator." Instead of glorifying the archaic Portuguese code, the judiciary should have cared for its ouster.

The court's view that the supposedly uniform law of Goa cannot be replaced with non-uniform family laws in force in the country ignores the fact that, unlike the former, laws enacted and amended in the post-Constitution era are in keeping with social needs and norms of the time. The majority community along with Buddhists, Jains and Sikhs are predominant in the population of both the state of Goa and the Union Territory of Daman and Diu. It is unfair to keep them deprived of the modern family laws of 1955-

The court's view that the supposedly uniform law of Goa cannot be replaced with non-uniform family laws in force in the country ignores the fact that, unlike the former, laws enacted and amended in the post-Constitution era are in keeping with social needs and norms of the time. The majority community along with Buddhists, Jains and Sikhs are predominant in the population of both the state of Goa and the Union Territory of Daman and Diu. It is unfair to keep them deprived of the modern family laws of 1955-56

56 which are applicable to these communities in the rest of India.

The issue before the bench was if the succession rules under the Portuguese civil code would apply also to properties of Goans located elsewhere in India, and the court answered that in the affirmative. In two earlier cases, the apex court had ruled that Christians of Travancore and Cochin were to be governed by the Indian Succession Act of 1925 in force in Kerala, not by the local laws enacted before the merger of those territories in that state (*Mary Roy* 1986, *CJ Simon* 2012). By the same analogy, the Act of 1925, in force in Maharashtra, could have been declared to be applicable to Mumbai-based property of the Goa-domiciled parties to the case before the bench.

Last month, the Jammu and Kashmir (Reorganisation) Act repealed local family laws and replaced them with corresponding central laws. It is high time similar action was taken in regard to the Portuguese laws in force in Goa, Daman and Diu and also for the French Civil Code still applicable to a section of Indians in Pondicherry. Till this is done, the judiciary — as a "competent authority" — should suitably restrict application of these archaic laws of foreign origin whenever it gets a chance. This will be its proper role in leading the nation to the constitutional goal of a uniform civil code.

The writer is former chairman of National Minorities Commission and member, Law Commission of India

WHAT THE OTHERS SAY

"Trump wants to be a president who can reinvigorate the American economy. It's widely believed he has no interest in wars. But certain forces in the US are pushing Washington to use military power." — GLOBAL TIMES, CHINA

How Parliament is diminished

Legislature's role is not merely to pass as many laws as possible. History shows lack of debate is a symptom of majoritarianism



MANOJ KUMAR JHA

THE NUMBER OF bills passed during the last session of Parliament were cited as a reason for calling it the most productive session in recent times. However, as any entrepreneur/manufacturer will tell you, the real test of productivity lies in quality and not just quantity. Let us not forget to examine the time spent deliberating on any piece of legislation from diverse perspectives. This is particularly important because there is no evidence to show if the "swiftness" of passing a legislation contributes to its effectiveness in governing.

The time allocated for the important legislative business pertaining to J&K reorganisation, triple talaq and the National Medical Council in the upper house was four hours. No wonder, careful consideration of disagreements, and respect for dissent were absent. The intention of the government seemed to be to pass the bills in both houses with just a pretence at discussion.

Also, as per the established rule of the House, parties like AIADMK, DMK, RJD, CPM, JDU and TRS get time in the range of four to six minutes, which does not allow these parties to express their views in comprehensive manner. In the best interests of a deliberative parliament, a mechanism must be evolved whereby numbers alone do not dictate the time allocated to each party.

This would also help realise Sarvepalli Radhakrishnan's idea: He emphasised on multiple occasions that Parliament is not only a legislative but a deliberative body. "So far as its deliberative functions are concerned" he said, "it will be open to us to make very valuable contributions". He advocated for better balance between legislation and deliberation, even if it requires sitting early and continuing till late. The history of parliamentary democracy from across the world shows that when any political party gets a huge majority, there is a temptation to acquire an authoritarian posture and one of the most obvious features of the same is to set aside quality deliberation by pushing legislation in haste under the cover of "mood of the nation".

Let us not forget that understanding and explaining the mood of the nation and its reflection through a majoritarian parliament is a fundamental intellectual question that has not received due attention. Daniel Jonah Goldhagen, author of *Hitler's Willing Executioners*, shows that studies of the Holocaust were marred by a poor understanding and under-theorising of anti-Semitism. Similarly, evidence suggest that even in the Indian case the demonisation of the "other" has been working at subterranean level for very many years. The "other" could encompass minorities, Dalits, Kashmiris or many other groups, depending on the issue at hand.

This reality has been unfolding slowly over the last several decades but we only worked on the symptoms and remained

oblivious of the chronic ailment afflicting the body politic. Now those subterranean emotions are coming to the surface, unsettling a large section of civil society as well as several political parties. As a result, on the J&K reorganisation bills and on the abrogation of Article 370, faultiness across and within political parties have been exposed. Several representatives were seen appealing to their leaders to accede to the "national mood", irrespective of the constitutional history as well as the mysterious manner in which the bills were brought to the House.

Needless to say, the ruling party poses as the sole custodian as well as the anchor of the said "mood of the nation". It is axiomatic that a political party or a coalition of political parties need a majority in the parliament and that is how governments are formed and function. However, over-powering of parliament procedures by popular myths or half-truths of the dominant majority diminishes Parliament from being a deliberative institution to being a majoritarian one.

Parliament was always meant to engage with and undertake the legislative and deliberative business, representing the people of India and it has more or less adhered to this since 1952. In most cases, parties and coalitions in power aimed at building consensus. And when consensus building failed and legislation had to be voted upon, the minority voice was judiciously respected and not jeered. However, a majoritarian parliament is different from majority in the parliament. Majority in parliament gains legitimacy through deliberation but in a majoritarian parliament, numbers trump every other moral consideration. In a nation that prides itself on its argumentative traditions, the hectoring of minority opinion amounts to the strangulation of democracy.

As far as tailoring legislation to suit the narrative of prevailing national mood is concerned, we should open some pages of Goldhagen's classic: "We know that many societies have existed in which certain cosmological and ontological beliefs were well-nigh universal. Societies have come and gone where everyone believed in God, in witches, in the supernatural, that all foreigners are not human, that an individual's race determines his moral and intellectual qualities, that men are morally superior to women, that blacks are inferior or that Jews are evil." At some point in history, each of these beliefs were held by a majority and was carried forward as the "national mood".

A majoritarian parliament and its modus operandi should not allow us to ignore that contemporary concerns are also about an unending struggle between memory and forgetting. If not our contemporaries, history shall ask us what made us succumb to a politics of amnesia, thriving on imagined history amplified by counter-factuals. As a matter of caution we — political and ideological differences notwithstanding — must remember what the progression of events in the Third Reich tells us. But we must also remember that history is not inescapable and that our individual and collective choices with regard to the "national mood" shape it.

The writer is a Rajya Sabha MP and RJD member



MC MARY KOM

A birthday card, from Northeast

PM Modi has ensured sturdy development across sectors, with a personal touch

THE VERY FIRST time I met our Prime Minister Narendra Modi, a few years back, he told me, "You are like a daughter to me and you can always come whenever you need anything". I still sense and see that same attitude, something that makes me comfortable every time I meet him. More than a leader, I feel like I am meeting a father figure to whom I can address anything. He is a great inspiration to me personally for his selfless life, devoted towards the welfare of the society and the nation.

There are specific milestones which I noticed under his leadership which are admirable. Being a sportsperson, the first thing that comes to my mind is how sports are being promoted and taken to the next level. Setting aside the other achievements, through Khelo India, sportspersons are benefiting a lot — new and young talents are being identified, recognised and nurtured in all possible ways to excel. The achievers are being encouraged to do better. I believe that with this pace — from both the government and sportspersons — we will surely perform better in the times to come.

Modi is health conscious and, because of his personal involvement, yoga is recognised throughout the world and practised to build a healthier society. It is great to see a prime minister personally performing yoga and setting an example for the citizens. His initiative, the 'Fit India Movement' is also one of the more unique and significant steps to have been taken. Yes, fitness comes first and it is a prerequisite for moving forward and becoming more productive in life.

In India, the declining child sex ratio presented a dreadful scenario. The ratio of the girl child was falling steeply compared to boys due to various societal reasons. Under PM Modi's leadership, a campaign was launched for the welfare of girls as well as to make people more aware of the declining child sex ratio through the Beti Bachao, Beti Padhao initiative. This is something I consider to be a very welcome move, and certainly worth working for. I do believe that in a few years from now, there is going to be visible positive change visible not only in this ratio, but also in the attitude and mindset of the people. We are witnessing how women achievers are proving their mettle in various fields: There is a renewed confidence

that we (women/girls) can do it.

Cleanliness is next to godliness. The Swachh Bharat Abhiyan, an initiative towards a cleaner India, has been a great success — it has been one of the most effective campaigns, featuring very high participation by one and all. This mission has immensely benefited the entire nation. Cities and localities are becoming cleaner, and several states and union territories have been declared open defecation-free. It is also a silent reminder of how we ought to be more responsible citizens — that we are as responsible as the government. The credit goes to PM Modi for spearheading the movement and taking it to the people, making it a mass movement. Another initiative which is close to the PM's heart is the Clean Ganga mission. Efforts are being made now to arrest pollution in the river, and an integrated programme, "Namami Gange", has been launched for this.

We are all aware of the harmful impact of plastic pollution on Mother Nature. Recently, during his Independence Day address to the nation, PM Modi made an appeal to the people of India to shun the use of single-use plastic, and encouraged everyone to

use cloth and jute bags. Beating plastic pollution is something which I feel is the need of the hour to make our environment cleaner and sustainable.

I belong to Northeast India, a region blessed with very talented and hard-working people but which did not receive much attention in the past few decades. PM Modi's attention and attitude towards the Northeast is not only heartening, it is ensuring fast-paced progress in the entire region. We are seeing rapid development through infrastructure projects, agriculture and in the deployment of special schemes for the Northeast. This focus gives confidence to the people of our region and will give great results in the future. The dedication of PM Modi to serve the nation deserves great respect. I have complete faith in him that, in the time to come — and under his leadership, our country will reach the glorious heights of progress. I wish him a healthy and long life!

The writer is six-time winner at the World Boxing Championship and nominated member of the Rajya Sabha

LETTER TO THE EDITOR

IMPERFECT GROUNDS

THIS REFERS TO the editorial, 'Public? Safety?' (IE, September 16). The dichotomy that has been made out between national security and freedom is irrational in a constitutional democracy. They are both important and need to be upheld simultaneously — it is a difficult task, but has to be done. The government cannot shed its responsibility of respecting freedom by taking the refuge of national security. Nor can the courts shed their responsibility of protecting the fundamental rights of the citizens. Pradeep Kumar, Chandigarh

THIS REFERS TO the editorial, 'Public? Safety?' (IE, September 16). The government may have its own reasons for invoking the Public Safety Act (PSA) against the already detained National Conference leader, Farooq Abdullah. However, it defies logic especially when the step was taken barely a few hours before the Supreme Court was to entertain a habeas corpus petition for his production. If there were strong grounds necessitating such a strong action to be taken, it should be explained for the benefit of the public. Without an appropriate explanation, the exercise appears arbitrary. This may be a politically correct step, but given that Abdullah is the known face of moderate politics and a standard bearer for India on the Kashmir issue, it lacks strategic merit. Ravi Mathur, Ghaziabad

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

WHAT ARE THE ODDS?

THIS REFERS TO the editorial, 'Clearing the air' (IE, September 16). Odd-even has been tried twice in 2016 with limited success, so it will not be appropriate to reject it outright. It is also heartening that the AAP government has introduced measures like distribution of masks free to the people. Bal Govind, Noida