



The Indian EXPRESS

FOUNDED BY
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

Our pride, our Constitution

Section 377 judgment offers lessons in how to use the Constitution to build coalitions and bring change



MENAKA GURUSWAMY

THIS DAY, ONE year ago, the Supreme Court in their judgment in *Navtej Singh Johar* held that LGBT Indians would be protected by constitutional values of equality, non-discrimination, dignity, expression, life and liberty. The Court read down Section 377 of the Indian Penal Code, 1860 or the unnatural sexual offences penal provision. Today, as we celebrate a year of freedom for queer India, we must also look to our Constitution and its values that fuelled the court battle and enabled this victory.

In April 2016, five LGBT Indians led by Navtej Singh Johar, on the back of a soul-shattering court loss in 2013, and curative petitions that were left unheard, believed enough in the Constitution's promises of equality, dignity, non-discrimination, life and liberty to let us lawyers take their stories to court.

Between early 2018, when the Supreme Court issued notice on this case, to July 2018 when the hearings started, five more writ petitions would be filed. From Keshav Suri, the scion of a business house, to Arif Jafar who had been imprisoned for being gay; from young ITians wearing coloured kurtas and jeans to the veteran LGBT activists of the Humsafar Trust, queer Indians came to court in waves that threatened not to stop till they were given their rightful place as citizens. Such was their belief in the promise of the Constitution that it would act as a beacon of hope for queer Indians to approach the court.

We have a long way to go towards full citizenship. Full citizenship would include social and civil rights, the ability to have joint bank accounts or a lease for a home or marriage to a partner. Subsequent to the judgment, we face many new obstacles such as the Surrogacy Bill and the Transgender Bill that are waiting to be notified.

As we embark on the journey towards full civil rights, let us take a moment to reflect on the lessons offered by jurisprudence of the *Johar* court in how to use the Constitution to build coalitions and make change in India today. To appreciate this, let us start from the origins of the Constitution.

The Constitution of India is special.

Drafted between 1946-1949, it envisaged a new country. This new nation would make reparations for previously socially-sanctioned discrimination like the caste system. India's Constitution is unique in its approach for making reparations for the historical discrimination that defines the present and future of marginalised communities. By contrast, America's Constitution makes no apology nor enables reparations for slavery.

The *Johar* court was aware of the expectations of our Constitution and her drafters. Therefore, they located their decision in core constitutional expectations of counter-majoritarianism and constitutional morality. What are these expectations? And why are they relevant for all of India, and not just queer India?

Counter-majoritarianism is the role courts adopt to prevent muscular majorities from trampling upon minorities, who are numerically weaker or even less influential. Constitutional morality is the morality of the Constitution, or core values like equality, non-discrimination, liberty for all. Both counter-majoritarianism and constitutional morality have their origins in Ambedkar's vision of a Constitution addressing historical discrimination against lower castes.

Our constitutional commitment to addressing caste discrimination has meant that courts, through the years, have made it their role to go against majoritarian social morality that may well be in favour of maintaining the caste system. This judicial role of going against majoritarian morality to protect constitutional morality would move the court to protect LGBT citizens. This court would not abdicate its responsibilities when confronted with the violation of fundamental rights of a group of citizens.

In early 2016, the constitutional protection of inter-caste and inter-religious couples, inspired us lawyers to frame the key *Johar* plea: The right to a sexual partner. It would be reflected in the court's judgment of the right to a companion for all — including LGBT Indians. This shows that we are reinforced by each other's freedoms, and weakened by state or society-sanctioned

discrimination against any set of citizens.

The *Johar* court's finding that the Constitution protects the right not to conform in food, dress, ideology, faith or sexuality is a constitutional lifeline to religious, sexual and political minorities. It is constitutional light that can only keep shining in our current political climate, if minorities and historically-discriminated groups form coalitions in this quest to keep our constitutional values intact. Our freedoms do not exist in silos, they exist in tandem with each other.

In constitutional litigation, we use existing rights of freedom and dignity of one marginalised group to extend it to another, arguing that such rights are due to every citizen. Similarly, diverse movements must recognise that in standing with each other, in ensuring the freedoms and equality of each group, they shore up their own.

It is also time for movements working on gender, caste and labour issues to embrace their LGBT brethren within and outside. Similarly, queer citizens in India must also realise that a national register used against one community can well be extended to another. German history teaches us this. In isolated communities, we have little power. But in coalitions, we have the ability to fight for the fulfillment of the promises of our Constitution.

The fraying of social fabric and the normalisation of discrimination in present day India, batters constitutional values of fraternity, equality and dignity. This leads to a weakening of the Constitution itself.

The vision of the Constitution's drafters, still holds promise for so many; queer and straight, conforming and non-conforming, newly empowered and also the newly persecuted. The Constitution enables all of us to express our hearts, amplify our voices and powers our aspirations; it is that vision that we celebrate, today. It is that vision that we must defend.

The writer is a senior advocate at the Supreme Court of India. She represented multiple petitioners in the challenge to Section 377

OWNING THE PROBLEM

Repeated infusion of capital in state-owned banks underlines the growing costs of government retaining control

THE FAILURE OF the government to let go or to lower its holdings in banks is extracting a huge cost, as the repeated infusion of capital in these banks shows. On Tuesday, the Cabinet approved a capital infusion of Rs 9,300 crore in IDBI Bank, as a one-time exercise, with LIC to pump in Rs 4,743 crore while the government will provide Rs 4,557 crore in proportion to its shareholding of 49 per cent. This, it says, will help address the issue of legacy bad loans of a bank which reported a net loss of Rs 3,801 crore in the quarter to June 2019, with a gross Non Performing Assets or NPA ratio of 29.12 per cent in the same period as a percentage of its total advances or loans.

Clearly, the cleaning up of the books of a bank in which the government is not a majority shareholder is turning out to be costly considering that part of IDBI Bank's legacy bad loans of over Rs 9,000 crore were transferred to a Stressed Assets Fund well over a decade ago. It also illustrates the political failure to move on privatising the bank which was identified as a potential first candidate by the government which later backpedalled, reckoning that public opinion was yet to evolve on this sensitive issue. The former Chief Economic Advisor, Arvind Subramanian, who left the government last year, too, had pitched for privatisation of some PSU banks, indicating that without major changes, the problems are likely to linger and recur. Former RBI Governor Duvvuri Subbarao, in an article that appeared in these columns on Thursday, flagged the issue of whether the government should own banks at all. He has suggested that it would be better off unveiling a roadmap for shedding majority stake in these banks.

The other serious concern is that of LIC's use of policyholders' funds for investments in weak banks such as IDBI Bank and the bet on its investments paying off later. That seems to be a long haul in this case. Clearly, the fiscal costs of retaining control in many banks and other state-owned firms is high when there are competing demands for funds in sectors such as health, education and infrastructure and with pressure on meeting the annual fiscal deficit target. From a political economy perspective, it would make sense for the government to retain ownership control in the country's largest bank, SBI, which has a share of nearly one-third of the banking business and perhaps a couple of other large PSU banks, while divesting the rest once there is an economic upturn.

LIFE AND DEATH OF NIE

Her journey encapsulated the tragedies of Mao Zedong's Cultural Revolution

NIE YUANZI, WHO died at 98 this week, created the poster for, and became the poster-child of, Mao Zedong's Cultural Revolution. Nie, a mid-level Communist Party of China (CPC) functionary at the University of Peking in 1966, put out what Mao called "the first Marxist-Leninist big character poster", which denounced senior functionaries at the university. Mao, eager to assert himself once again after being somewhat sidelined in the CPC following the failure of the Great Leap Forward in the previous decade, pounced on the poster as a way to root out "revisionists" and "reactionaries" from China. What followed was over a decade of purges, murder, anti-intellectualism and chaos, which culminated ultimately in the end of the reign of the "Gang of Four" and tarnished Mao's image to a great degree.

For a couple of years, Nie became a political celebrity, feted for her loyalty to the leader and party, and held up as an example to follow. She was a leader of the Red Guards — CPC gangs, really — and helped bring down the undesirables. But soon enough, she fell from favour, accused of disobedience and later, of the torture of Deng Pufang, Deng Xiaoping's son. For most of her life, she insisted that her role was limited to making the poster.

The trajectory of Nie's political career mirrors that of many stalwarts of the CPC, including Mao himself. The children of the revolution, the leaders of the party, from Lin Bao, to Deng, Luo Ruiqing, found themselves labelled disloyal following sectarian battles and personal vendettas, often stemming from insecurities at the top. Tragedies like the Great Leap Forward and Cultural Revolution were ideological creations: They tried to force people to fit a vision of society. Nie was one among the many who were lifted up and then cast in the process.



YOGINDER K ALAGH

IN AN ARTICLE on the Union Budget, I had predicted that a stimulus would come before November. It was announced in all its glory on August 25. The finance minister the training as an economist she received at JNU. She was possibly taught by Ashok Guha, who in my mind is one of the top experts in the profession. Unlike the budget, which made many promises but allocated money only for a fund for self help groups, the stimulus plan announced was action packed. Most of the announcements will take a few weeks to implement. But if the action starts now, the last quarter of the year should see the economy clocking a 6 plus per cent growth rate.

The time-bound announcements on ensuring a friendlier, transparent, rule-based and randomised tax compliance administration will make us a civilised country and will make the Enforcement Directorate and the Central Bureau of Investigation do the job they should be doing. The announcement that the government will be like all of us and will pay its bills in a fortnight is good in a country which has memories of a rapacious state. I hope this will mean that some day the friendly neighbourhood cop will pay for his *chai pani*. Incidentally, I once chaired a committee which argued that civil servants must get decent salaries.

The removal of criminal prosecution for

THE REVIVAL PATH

Measures to arrest economic slowdown are a good first move. Tough steps are awaited

defaulting on CSR obligations shows maturity. Of course, correctly, civil prosecution possibilities exist. Such gestures will let investors engaged in real capital formation to concentrate on their real responsibilities rather than looking over their shoulders all the time. The provision of Rs 70,000 crore for capital infusion in public sector banks is less than what they demanded. Yet, it makes sense since all such steps must be both exceptional and performance evaluation-based by the owner — in this case, the banking division of the finance ministry, acting on behalf of the President. Insistence that the changes in bank rates must get reflected in the cost of borrowing going down, rather than an oligarchic bank bureaucracy fattening itself, is to be commended.

The steps for micro, small and medium enterprises are all fine, although the drama in the announcement could have been moderated in what was essentially orchestrated as a professional policy exercise. There is no harm in an economic ministry being occasionally professional. In fact, there was a time when they were largely so. Finance, planning and commerce (trade policy) was serious stuff. It was not about playing to the gallery, since in a globalising world, everyone else is looking on.

In fact, Nomura has just given a GDP quarterly forecast, which is more pessimistic than others. We must now credibly show

that the last quarter will be better. Political parties will score brownie points. Visions are at a discount in a two minute sound bite in a channel. It would have been appropriate to stay away from giving sops to individual industries. Let the ministry make the overture and you give a majestic decision finance minister, otherwise we will be worrying about suitcases in North Block, finance minister, JNU withstanding.

I remember when the original suitcase wallah made the news. I was vice-chancellor of JNU and Manmohan Singh had cut my budget following Bretton Woods' advice. I was collecting non-government of India funds for my university and jokingly said that I'm available at the north gate of JNU, if anybody wants to give us a suitcase. We will also give him a receipt.

More importantly, the FM's announcements do not take cognisance of the RBI governor's plea that the finance ministry must come out with a fiscal stimulus to reverse the declining investment rates (as a share of GDP). He was clear that the steps he wanted the monetary policy committee (MPC) to take would be effective only in a friendly fiscal state. All that (tough measures) remains for the FM's next announcement. Well begun is half done, as they say.

The writer, an economist, is a former Union minister



SEPTEMBER 6, 1979, FORTY YEARS AGO

ACUTE INFLATION

INDIA MAY GET deeper into the morass of inflation because the steps required to meet the situation are difficult to implement. The finance ministry has submitted to the cabinet a note which, according to a minister, gives "such a gloomy picture that it makes you miss a heart-beat". It is estimated that the rate of inflation in the next few months will be 4 per cent a month as against 2.5 per cent so far. By the time the new government is in the saddle in January, inflation may have gone beyond 25 per cent. Officials are almost on the point of throwing up their hands because the situation is not being assessed properly and the measures proposed have

not received serious consideration.

RED CROSS BUNGLING

AN EMERGENCY MEETING of the Indian Red Cross Society executive committee is to be held on September 6 to discuss a report submitted by the Central Vigilance Commissioner, M G Pimpurkar, alleging large-scale bungling of relief material and manipulation of the society's accounts during the Bangladesh relief operations of 1971-72. Criticism of the Red Cross' role during the relief operations has been voiced both in the press and Parliament, but up until now the Red Cross authorities had ignored the accusations. However with the submission of the

report, it becomes difficult for the society to continue its ostrich-like stand.

ROYAL FUNERAL

KINGS, PRINCES, POLITICAL leaders and diplomats from various parts of the world attended the state funeral of Lord Mountbatten of Burma, who was killed off the Irish coast on June 27 by a bomb planted in his boat by Irish terrorists. India was represented by Vice President Mohammad Hidayatullah, the acting high commissioner, I P Singh, and his wife, and some 50 personnel of the Indian Army who are in London on a training programme. G S Dhillon represented the Congress (I).



WHAT THE OTHERS SAY

"Western media is a special force that obstructs Hong Kong from returning to stability. They are eroding the Hong Kong people's interests."
— GLOBAL TIMES, CHINA

Whose civil services?

It is time officers renewed their commitment to the nation, not the government of the day



MEERAN CHADHA BORWANKAR

ARE THE civil services being used and abused? Are the Enforcement Directorate and the Central Bureau of Investigation mere stooges in the hands of the party in power? Are taxmen deliberately hounding the businesses and the media which dare to differ with the government?

The common man, busy in satisfying the bare minimum needs of his family, may be unaware of the serious imputation of the above questions, but many of us — in comparatively comfortable positions — can only ignore it at our own peril. We engage in drawing room discussions about the country's "trusted steel frame", but with hardly any concrete measures to offer that can strengthen and refurbish it. Celebrating Civil Services Day is one such limp step we took and embellished it with rewarding young officers for their innovative work. The training academies in Mussoorie, Hyderabad, Nagpur, Baroda, Shimla etc. are no doubt state-of-the-art and well-equipped to enhance the skills of trainees who reach there after passing a tough competitive exam at the national level. These institutes do labour hard to impart training in subjects specific to the job profile of each service.

But what about the spirit of the civil services? What about "the impartiality and incorruptibility of administration", that Sardar Patel expected from us? What about the backbone to withstand the pressures of expediency, politicians, media and mobs of different hue?

I have known examples of lone fighters: A commissioner of police who, when asked not to oppose the bail of a film star who was the son of a Mumbai politician, refused to comply, politely but firmly — a way to smartly salute the minister and walk away with his cap held high, his pride in the Indian Police Service shining through.

A young IAS officer who refused to write the interview marks of candidates appearing for a teachers' interview in pencil — so the politicians on the board could "manipulate" them later. I have also known of a tax officer refusing to open a closed file to "teach a lesson to an unfriendly" business house.

However, these "principled stands" are known only to a few. While there are awards for innovation and achieving targets, has anyone thought of awarding an officer for standing by the principles she is supposed to be true to? Case studies have been developed for performance, but none exist for those who abide by their commitment to a just and equitable society, and thus, dare to differ with "orders from the top".

The result has been the poaching of the defined sphere of work of civil servants by self-serving politicians of all political parties. Being street smart, they identified the holes in the civil services and, following each election, they have dug deeper. A day will come when the civil services will sink and we shall have a bureaucracy committed to serve the politicians, not the society. Many fear that with lateral entry we have already reached that point in time.

Yet, no one is mourning the slow demise of the civil services. Perhaps, because we have been projected as slow in the delivery of services and tardy in the implementation of policies. Maybe because we have become corrupt and luxury-loving. Some would say that all of this is true and that the services lost their speed of delivery and idealism in the 1960s. That post liberalisation, their relevance in any case is limited.

Yet, the common man we talked about earlier, sees a lot of hope in the civil services. His dream is to have his child join them for the prestige and power that the services still seem to carry. This man or woman in the street still clings to the prospect of a just, fair and prosperous society — the "Ram Rajya" he has heard of since his childhood. To him, the services represent a very important tool to establish an equitable society through which he hopes to better his life and the future of his children. He does not think of "using" the services for his selfish ends but for the common good.

For the sake of this man or woman, let the civil services perform their specific role earnestly. Let them spread the culture of performance and accountability, and punish the corrupt. Let them develop a spine to resist undue pressures from different players, and concentrate on delivery of services to the poor — for whom they are meant.

Let the civil services not forget that, at the end of the day, Justice H R Khanna remains the most remembered for his principled stand against Emergency. Very few have heard of the other four judges, and even if they have, is there any respect for their being party to the curtailment of our fundamental rights. The political breeze blew Justice Khanna away from the coveted chair of the Chief Justice of India. But I know about 50 law graduates of a Pune college, each writing about Justice Khanna for his refusal to toe the line of the selfish political leadership of the time.

Times have changed, but not the political parties. We need the likes of Justice Khanna to motivate the civil services to take a principled stand. We need the likes of that commissioner of police, in Mumbai, who lost his chair but refused to agree to the bail of a VIP. And, we need someone like the young officer who did not buckle to induct the "teacher of choice". Wake up, civil services, as some are busy writing our epitaph. They may succeed in writing it too, if we do not break out of our slumber and stand erect, in the service of the nation.

The writer is an IPS Officer who retired as DG Bureau of Police Research & Development

Babasaheb and Kashmir

Ambedkar disagreed with Nehru government's stance on Article 370. But his notion of nationalism was at complete variance with the vision of Syama Prasad Mookerjee



VALERIAN RODRIGUES

FOLLOWING THE CHANGES to Article 370 of the Constitution converting the state of Jammu and Kashmir (J&K) into two Union Territories, J&K and Ladakh, several leaders of the BJP have attempted to construct a narrative that invokes B R Ambedkar to justify the measures. Some of them have even aligned his views and concerns on this issue with those of Syama Prasad Mookerjee, the founder of the Bharatiya Jana Sangh, who led an agitation against the mandatory permit to visit J&K, demanding the full merger of the state with India. Ambedkar and Mookerjee are then projected as allies pitted against Jawaharlal Nehru, who by defending an autonomous constitutional status to J&K, undercut the determined efforts of Sardar Patel towards India's national consolidation. To what extent does this narrative square with what we know about Ambedkar's stance on this issue?

Kashmir figures prominently in Ambedkar's resignation speech as the Union law minister in the interim Parliament on October 11, 1951, when he cites his disagreement with the Nehru government's policy towards the state. He argues that "the right solution" to the J&K dispute "is the partition of Kashmir. Give the Hindu and Buddhist part to India and the Muslim part to Pakistan as we did in the case of India". "Or if you like", he adds, "divide it into three parts — the ceasefire zone, the Valley, and the Jammu-Ladakh region and have a plebiscite only in the Valley."

Ambedkar cites the following reasons for it: First, given India's commitment to hold a plebiscite in the state and Pakistan's belligerent claims on it, "the Hindus and Buddhists of Kashmir are likely to be dragged into Pakistan against their wishes". On the other hand, if the

Valley chose to be part of India through the plebiscite, then Pakistan's claim over it can be debunked decisively. Second, if the pot is kept boiling in Srinagar, which Nehruvian policy has resulted in, armed stand-off with Pakistan will be a permanent feature of India's security policy, eating up resources that should rightfully be used to improve the condition of people in India. He felt that India's defence expenditure was eating up more than half of the Union revenue. Third, the excessive attention that J&K has cornered in policy circles has led to ignoring several other urgent concerns, particularly those arising from the carving out of East Pakistan. Fourth, India has lost much goodwill, its social capital, at the time of independence, in global forums, due to the foreign policy of the Nehruvian regime, in which J&K figured prominently.

Ambedkar repeated many of these arguments in the manifesto of the Scheduled Caste Federation in 1951, released soon after his resignation from Parliament. In this context, it is interesting to point out that Sheikh Mohammad Abdullah in his autobiography, *The Blazing Chinar*, takes little notice of these arguments, although the media at the time extensively commented on the issue and conservative Hindu politicians denounced Ambedkar's position on the Kashmir Valley.

Ambedkar's critique of Article 370 is directed against its justification by partisans of the measure. While moving the Article (then Article 306 A) in the Constituent Assembly on October 17, 1949, N Gopalaswami Ayyangar had argued that this special provision is made because "that particular state is not yet ripe for this kind of integration. It is the hope of everybody here that in due course even Jammu and Kashmir will become ripe for the sort of integration as has taken place in the case of other states". He further said, "the Government of India have committed themselves to the people of Kashmir in certain respects. They have committed themselves to the position that an opportunity would be given to the people of the state to decide for themselves whether they will remain with the Republic or wish to go out of it. We are also committed to ascertaining the will of the people by means of a plebiscite provided that peaceful and normal

conditions are restored and the impartiality of the plebiscite could be guaranteed". Ambedkar thought that such a policy measure had never taken off, and led to nomination of even representatives of the state to Parliament. Ambedkar had consistently opposed representation through nomination from his submission before the Southborough Committee in 1919. He felt that the Article, as it stood in 1951, denied democratic rights to the people of J&K in the name of safeguarding the state's autonomy.

While Ambedkar's attack on the Nehruvian policy on Kashmir was scathing, it was not less so with regard to Hindu nationalism and the idea of national unity that Syama Prasad Mookerjee subscribed to. In *Pakistan or Partition of India* (1946), he had argued that nationality is a "feeling of consciousness of kind" which binds together a people and the absence of a political setting germane to this feeling may reinforce nationalism, that is, "a desire for a separate national existence". Nationalism enacts itself by forging the common bond and shedding that which divides. Use of force to suppress the feeling of nationalism has proved counterproductive. While there was much in common among Muslims and Hindus in India, the former have increasingly come to consider themselves as a nationality and there has been no conscious and reflective attempt to undo such a feeling. If secession is inevitable, it has to be carried out through a plebiscite in the concerned territory and appropriate institutions and processes for the relocation of people and to protect minority rights must be put in place.

Ambedkar also argued that if a nationality wants to go its way, and efforts to forge a common bond were in vain, then the security of the state and the prosperity of its citizen-community leave one with little option but to part ways, rather than be caught in the quagmire of violence and insecurity. Clearly such a notion of nationalism, and the consequences that follow from it, would not be acceptable to Syama Prasad Mookerjee and his political progeny.

The writer taught political science at Mangalore University and JNU

LETTERS TO THE EDITOR

BANKS FOR THE TIMES

THIS REFERS TO the article, 'Bank for the buck' (IE, September 5). Nationalisation of banks happened at a time when mostly the rich and the middle-class used banks. Things have changed drastically. As a former RBI Governor rightly asked, do we really need public sector banks when private banks can be found in every corner of the country? By merging banks and creating 10 bigger banks, the government has saved on capital. However, reviving the economy and generating employment will require structural reforms.

Bal Govind, Noida

NOT JUST NUMBERS

THIS REFERS TO the editorial, 'For children's sake' (IE, September 4). The government seems to be interested in targets when it comes to social schemes rather than the spirit behind these schemes. This holds true for the Jan Dhan where bank staff deposit money in accounts to show them as active. This also holds true for the Clean India mission. Social Schemes like the mid-day meals in schools have become part of "votebank politics". Till the government implements these schemes in spirit, there will be more Pawan Jaiswals.

Suchak D Patel, Ahmedabad

DOCTORS MATTER

THIS REFERS TO the editorial, 'No panacea' (IE, September 5). The author tries to point out the shortcomings of centralised healthcare regulations. But he does not take into consideration the views of doctors, paramedics and other health sector workers. Government

LETTER OF THE WEEK AWARD

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THE WINNER RECEIVES SELECT EXPRESS PUBLICATIONS

medical college graduates end up in the private sector and do not give back to society. How does one explain that?

Aishwarya Shetty, Mumbai

DISSENT IN DANGER

THIS REFERS TO the editorial, 'Give and take' (IE, September 5). The withdrawal of the draconian extradition bill has met only one of the Hong Kong protesters' key demands. China has not affirmed that it will honour its 1997 commitment towards self rule in Hong Kong. The possibility of crushing dissent in by an aggressive China cannot be ruled out.

SS Paul, Nadia

proposed since the 1990s. Many committees have also recommended this". But then, it asks: Was this the right time for the merger? The editorial notes: "It appears unnecessary at a time when the economy needed to be put back on track, especially the segments that were undergoing a slowdown. The slowdown and the consequent unemployment in the automobile sector means that people connected with the sector are in desperate need of some confidence-boosting measures."

PEHLU KHAN'S MURDER

THE ACQUITTAL OF all those charged for the lynching of Pehlu Khan, the dairy farmer lynched in Alwar has attracted comment. *Munsif's* editorial on August 16 notes that "the Congress government in Rajasthan has said that it will appeal the order in the High Court. It must ensure that the shortcomings in the prosecution's case, which were pointed out by the lower court, are rectified." It concludes on an emotional note: "The late Pehlu Khan must get justice. His spirit is perhaps asking: 'Main kiske haath pe apna khoon talaash karun? Tamaam shahar ne dastaane pehne huye hain' (On whose hands do I look for my blood? The entire city is wearing gloves).

Compiled by Seema Chishtii

THE Urdu PRESS

NRC WOES

THE PUBLICATION OF the final National Register of Citizens (NRC) "list" and the consequent controversy has been commented on.

Inquilab's editorial on September 2 comments on the trouble faced by those dispossessed because of the lack of documents, especially those excluded in the NRC list finalised on August 31. "In a country like India, where a huge section of the people is homeless, the demand for documents is very strange. Before putting the burden on people to prove that they are citizens, it may have been better for the government to make such documents available." The editorial concludes by asserting: "Years of living under British dominance and the Partition of the country should make it clear that there are no 'ghuspaithiye' or infiltrators. It is ironic that India boasts about the creation of Bangladesh at one level and at another level, uses the 'Bangladeshi' tag to try and take away peoples' citizenship."

Siasat's editorial on September 1, 'The defects in Assam's NRC', also elaborates on the trouble and harassment faced by people as a result of documentation processes. It asks governments to ensure that real citizens do not suffer.

Munsif on September 2 cites the complexities of the NRC and describes it as a

"puzzle". It points out that in Telangana, a BJP MLA has vouched for the NRC by referring to "suspicious Bangladeshi and Rohingya presence, while another BJP MLA in Assam has talked of a conspiracy to exclude Hindus and assist Muslims". The paper blames "such politicians" for making the NRC a puzzle that is hard to decode.

Etemaad, the Hyderabad-based daily of the AIMIM contends that "fears over the NRC are justified". "Lakhs of citizens have been turned into non-citizens overnight, because of ordinary mistakes (in paperwork)," it points out. The editorial draws attention to known personalities, including a "Kargil War hero and an ex-MLA who are absent from the list". The daily finds it odd that in the "same family some are included and others excluded, though all of them submitted the same documents." It cites the concerns expressed by international human rights groups like Amnesty International. The editorial concludes by pointing out that "the future of 19 lakh people depends on foreigner tribunals and courts. If they lose their case, their future is uncertain. We hope these tribunals and courts do an impartial job."

Aag, on September 1, has an editorial titled 'Yahan se kahan jaayin hum?' (where do we go from here?). It points out that "people are unaware of the facilities and help that governments may have extended to them. The lines of grief on their faces are visible and

they claim, 'we are born in Assam, our parents were born in Assam, we have spent our lives here, educated our children here and it was time to start thinking about their future, but suddenly everything has come to an end'". But, says the paper, "in this atmosphere of despondency, some Muslims have not lost hope and they say a long legal battle will be fought. We hope we will succeed because if we don't, we do not know where to go."

MONEY MATTERS

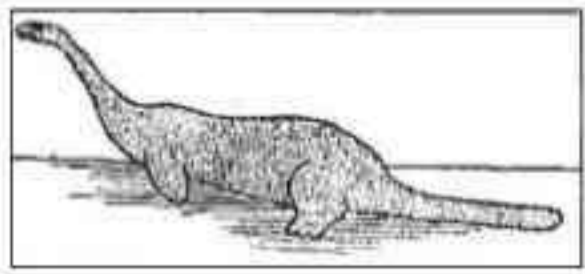
URDU PAPERS HAVE commented on the transfer of Rs 1.76 lakh crores by the RBI to the Centre and the merger of public sector banks.

Siasat on August 28 writes: "For some time this may help but the long-term impacts of the move, if any, are bound to be negative because the government is not willing to get to the root of the country's economic problems". The paper points out that "for 30 years, the question of a fresh set of reforms has been discussed, but it appears that the government does not care about the views of economic experts. Small changes will not stabilise the economy."

Inquilab's editorial on September 5 is titled, 'Is the merger of banks good for strengthening the economy?' The editorial tries to answer the question by pointing out that "the question of bank mergers has been

FACT CHECK, GROUND REALITY

WAS THE 'LOCH NESS MONSTER' A GIANT EEL? WHAT DNA STUDY FOUND



The alleged monster, as sketched in 1941 by Arthur Grant. *Wikipedia*

SINCE THE 1900s, the legend of the "Loch Ness Monster" has been the subject of much debate around the world. Did such a prehistoric creature really live in the waters of Loch Ness in the Scottish Highlands? In the absence of any conclusive evidence, there have been various theories about whether "Nessie" ever existed, or whether it was an identifiable creature. On Thursday, scientists announced one more theory: the Loch Ness Monster may have been a giant eel.

Professor Neil Gemmill, a geneticist from New Zealand's University of Otago, told reporters in London that an intensive analysis was carried out on traces of DNA in the Loch's icy waters. The results ruled out the presence of large animals such as dinosaurs, but there was a lot of eel DNA in the Loch. "Eels are very plentiful in the Loch system — every single sampling site that we went to pretty much had eels and the sheer volume of it was a bit of a surprise. We can't exclude the possibility that there's a giant eel in Loch Ness but we don't know whether these samples we've collected are from a giant eel or just an ordinary one — so there's still this element of 'we just don't know,'" Reuters quoted Gemmill as saying. Gemmill noted, however, that despite the idea of a giant eel having been around for decades, nobody had ever caught a giant one in the Loch.

The Reuters report referred to the first written record of a monster — Irish monk St Columba is said to have banished a "water beast" to the depths of the River Ness in the 6th century. In 1934 came the famous "surgeon's photo", showing a head on a long neck emerging from the water. It took 60 years more before it was established as a hoax — the photo of a model attached to a toy submarine. In 2003, the BBC funded a scientific search across the Loch. Then three years ago, a high-tech marine drone found a "monster" which, Reuters said, turned out to be replica used in the 1970 film *The Private Life of Sherlock Holmes*.

Nessie is described as having a long neck with multiple humps on its back. Even today, many tourists travel to the Loch only to see if they might catch a sighting of the monster.

TELLING NUMBERS

India rises in WEF travel rankings; how countries scored

A REPORT released by the World Economic Forum (WEF) on Wednesday ranks the travel & tourism competitiveness of 140 economies. The biennial "Travel and Tourism Competitive Report" shows that India has made the greatest improvement since 2017 among the top 25 per cent of the countries that were previously ranked, the WEF said in a statement. Overall, India is ranked 34, up six places from 2017.

TOP 5 OVERALL

Spain	5.4
France	5.4
Germany	5.4
Japan	5.4
United States	5.3

Source: WEF

cultural rankings, by just three places each, but India's rank was already high in the latter (*see table*).

The four broad indicators looked at 14 variables, which were further subdivided into 90 indicators such as property rights, efficiency of the legal framework, quality of electricity supply, female labour force participation, visa requirements and the number of World Heritage cultural sites.

India's highest improvement was in enabling environment, by 10 places to 98. The least improvement is in infrastructure as well as in natural and

HOW INDIA COMPARES WITH THE BEST (SCORE IN BRACKETS)

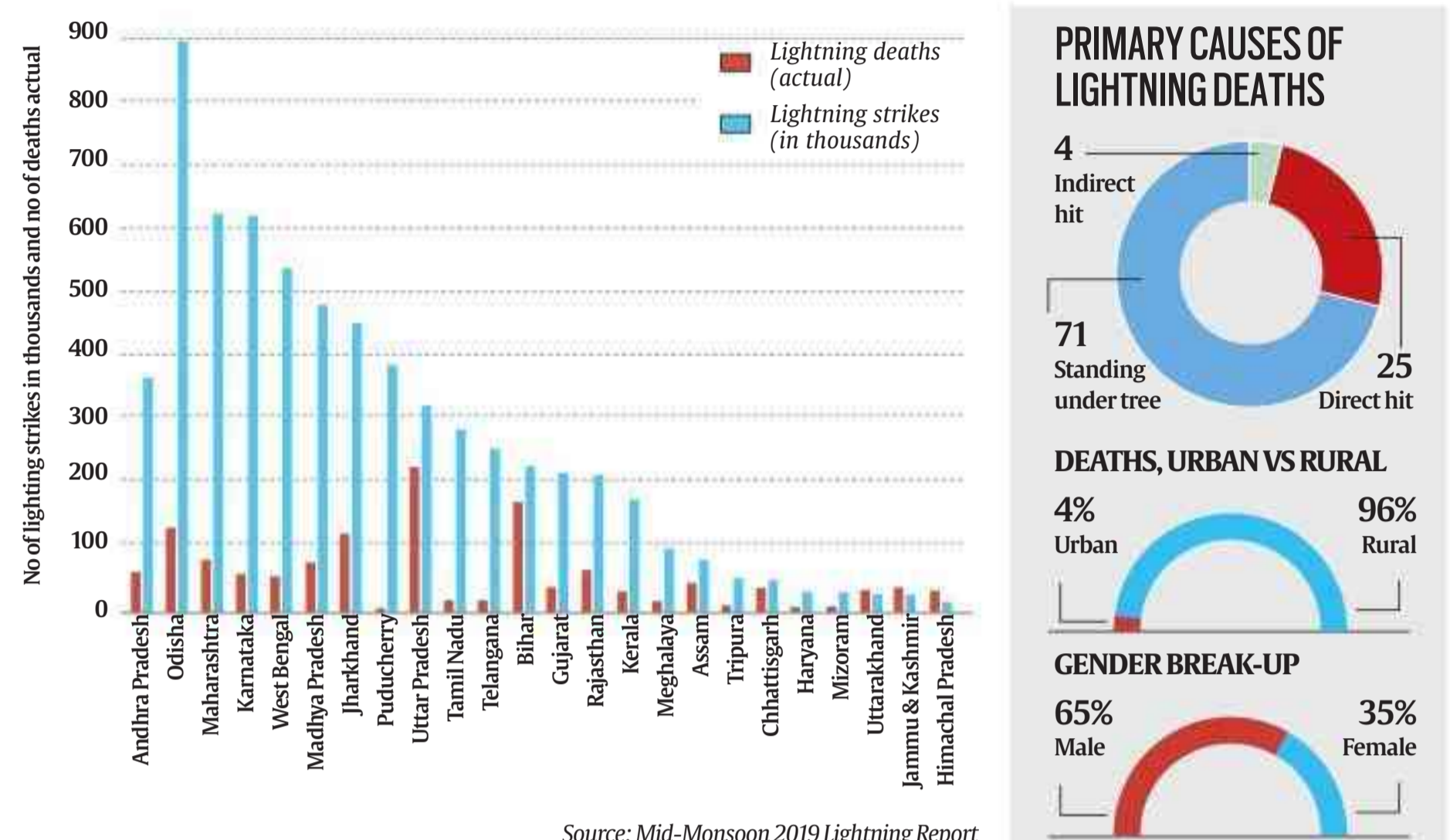
Basis	Rank 1 in 2019	India rank in 2019	India rank in 2017
Enabling Environment	Switzerland (6.2)	98 (4.4)	108 (4.1)
T&T policy and enabling conditions	New Zealand (5.1)	69 (4.5)	79 (4.1)
Infrastructure	United States	(5.8) 55 (3.8)	58 (3.7)
Natural and cultural rankings	China (6.1)	9 (5.0)	12 (4.8)
Overall rank	Spain (5.4)	34 (4.4)	40 (4.18)

SIMPLY PUT QUESTION & ANSWER

Mapping lightning across India

For the first time, a report has mapped lightning strikes across the country, and the lives they have claimed. What are the findings, and how can these be used to prevent damage in the future?

MOST STRIKES IN ODISHA, MOST DEATHS IN UP



Source: Mid-Monsoon 2019 Lightning Report

AN EXPERT EXPLAINS

States should use data, create emergency response systems



SANJAY KUMAR SRIVASTAVA

What went into the preparation of the report on lightning?

The Mid-Monsoon 2019 Lightning Report has been prepared by using IMD's lightning forecasts including Nowcast, Indian Institute of Tropical Management-Pune's lightning network data, NRSC, ISRO inputs, other satellite data and ground-based impacts reports received from the active network of Lightning Resilient India Campaign. The network includes state governments, NGOs, media, etc. This is part of our effort to prepare a lightning risk map of India and identify lightning hotspots.

What is the role of state governments?

IMD-installed sensors across India have been giving alerts since April. State governments should take the data and start an emergency response system and relay the information to the district level. Location-based SMS services is available,

but this is not done in many states, resulting in high casualties. States like Odisha, Karnataka, and Andhra Pradesh are doing this systematically.

Odisha had the highest number of lightning strikes in four months, but fewer casualties than many other states. How did this happen?

After receiving alerts from IMD, they send pre-fixed messages to the grassroots utilising their network. Vulnerable people have been trained how to respond after hearing the warning siren. Safe shelters were created. Lightning arresters have been installed on many buildings. Mayurbhanj, which saw 152 deaths last year, recorded only 17 this year. The state took proactive measures like changing housing patterns, providing education. They planted palm trees, which attract high-voltage electricity.

And Jharkhand, Bihar, UP saw less than a sixth of the lightning strikes but more than a third (51) of deaths...

In Bihar, disaster management is in place, but until recently it was focused on floods. In UP, the CM has initiated a scheme, but due to bureaucratic issues, the work is yet to be implemented. Jharkhand has done its groundwork, but since there is no manpower in the State Disaster Management Authority, there is no outreach.

Why did the study stress lightning protection to prevent extinction of tribal communities such as Birhor, Pahadiya?

Recent observations confirm that the Chhotanagpur plateau, which is the confluence of Jharkhand, Odisha, part of Chhattisgarh and West Bengal and is inhabited by tribals, is the most lightning-prone area. The area is electrostatically and thermodynamically charged, resulting in lightning. East Singhbhum has the highest number of lightning strikes — more than 2 lakh — compared to any other district in India. These areas are predominantly inhabited by tribals who need to be relocated to safer spaces, else their population will go extinct.

Is there a connection between lightning and climate change?

We found that areas prone to heat-waves were also prone to lightning. Pollution increases aerosols in the atmosphere, which in turn increases lightning. There have been at least two or three instances of lightning strikes without rainfall, killing persons in Jharkhand.

Col (retired) Sanjay Kumar Srivastava is Chairperson at Climate Resilient Observing Systems Promotion Council, which prepared the lightning report, and Convener, Lightning Resilient Campaign. He spoke to *Abhishek Agard*

column expands and produces shock waves that result in thunder sounds.

How does lightning strike Earth?

The Earth is a good conductor of electricity. While electrically neutral, it is relatively positively charged compared to the middle layer of the cloud. As a result, an estimated

20-25 per cent of the current flow gets directed towards the Earth. It is this current flow that results in damage to life and property.

Lightning has a greater probability of striking raised objects on the ground, such as trees or buildings. Once they are sufficiently near the ground, about 80-100 m from the surface, they even tend to redirect their course to hit

the taller objects. This is because travelling through air, which is a bad conductor of electricity, the electrons try to find a better conductor and also the shortest route to the relatively positively charged Earth's surface.

Thousands of thunderstorms occur over India every year. One thunderstorm can involve more than 100 lightning strikes.

What ED and I-T have against Karnataka Congress leader D K Shivakumar

JOHNSON TA
BENGALURU, SEPTEMBER 5

THE ENFORCEMENT Directorate (ED) has arrested senior Karnataka Congress leader D K Shivakumar in action that the party has decried as political vendetta by the BJP. Shivakumar was arrested in Delhi on Tuesday, and subsequently remanded in the custody of the agency until September 13.

What is the origin of the ED's money laundering case (ECIR/HQ/4/2018) in which Shivakumar has been arrested?

The origins of the ED's case lie in an investigation carried out by the Income-Tax Department beginning August 2017. Based on the findings of this probe, a deputy director for investigations in the I-T Department had filed a private complaint on June 13, 2018 in a special court for economic offences in Bengaluru.

The complaint alleged that Shivakumar and four associates based in Delhi and Bengaluru were part of "a well hatched conspiracy"

to help the Congress leader evade tax.

"Investigation has painstakingly acquired the leads over a period of time about the extensive network of tax evasion set up by Accused no. 1 (Shivakumar) and has been successful in discovering unaccounted cash and in the process established beyond any revocable doubt that Accused no. 1 has involved in organised tax evasion as part of a conspiracy by engaging others," I-T said.

On the basis of the I-T investigations, and complaint to the court of tax evasion and criminal conspiracy to evade tax under Section 120 B of the Indian Penal Code, the ED registered a case against Shivakumar and his associates in September 2018.

The four associates named in the ED case were: Sachin Narayan, a real estate businessman and Shivakumar's business partner; Sunil Kumar Sharma, a businessman and Shivakumar's associate; Anjaneya Hanumanthaiiah, a government employee who was the caretaker of properties and funds linked to Shivakumar; and Rajendra N, an aide of the Congress leader.

The case was registered under The

Prevention of Money Laundering Act (PMLA), 2012, and IPC Section 120B (criminal conspiracy).

So what specific findings from the I-T investigation led to the ED case?

At the core of the ED case is the discovery, during the I-T searches of 2017, of unaccounted cash to the tune of over Rs 8.5 crore in four apartments in New Delhi linked to Shivakumar and his associates Sachin Narayan and Sunil Kumar Sharma.

Shivakumar has been accused of money laundering also on the basis of statements — which were subsequently retracted — by Anjaneya Hanumanthaiiah and N Rajendra, who allegedly stored cash in these apartments on the Congress leader's behalf.

Hanumanthaiiah who "was responsible for storing/handling unaccounted currency of Accused no. 1 in Delhi", and the custodian



Arrested on September 3

of the keys to the flats where the cash was found, told the I-T department that all the cash found in the flats belonged to Shivakumar — although his associates, who owned two of the flats, too, have claimed it.

"It is clear through the statements of Accused no. 4 (Hanumanthaiiah) recorded from all four premises searched and also the facts found during the course of search proceedings that the cash found at

all these four premises were brought and kept as per the direction of Accused no. 1," I-T said in its court complaint.

"The object of purchasing these flats... was to entertain the guests of Accused no. 1 and... to store the unaccounted cash generated by Accused no. 1. Therefore, the cash generated by Accused no. 1 in Bengaluru and other places used to be transported by Accused no. 3 (Sunil Sharma), stored in the

flat, which in turn used to be distributed to various sources as directed by Accused no. 1. The entire conspiracy was hatched by Accused no. 1, Accused no. 2 (Sachin Narayan) and Accused no. 3 at Bengaluru for the purposes of evading tax," the June 13, 2018 private complaint said.

According to I-T, Shivakumar did not provide valid documentary evidence to account for the cash seizures. It has also said that documents found during the searches suggest that payments were made to AICC functionary V Mulgund from the stash in the flats. The I-T searches were carried out as Shivakumar was sheltering 44 Gujarat Congress MLAs from poaching by the BJP in a resort outside Bengaluru ahead of a crucial Rajya Sabha election in which senior Congress leader Ahmed Patel was a candidate.

How has Shivakumar responded to the I-T and ED cases?

On June 25, 2019, a special court in Bengaluru rejected Shivakumar and his associates' plea for discharge in the I-T case.

In February 2019, Shivakumar and his