



**WORDLY WISE**  
RELIGION FLOURISHES IN GREATER PURITY,  
WITHOUT... THE AID OF GOVERNMENT.  
—JAMES MADISON

## The Indian EXPRESS

FOUNDED BY  
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

# Wrong number

The revival plan for BSNL and MTNL does not inspire confidence



RAJAT KATHURIA AND CHAVI ASRANI

THE EARLY LOGIC of public provision of telecommunications services in India was justified on grounds of market failure and employment creation. Market failure meant the private sector would either not be interested in provision especially in far flung rural areas or monopoly conduct would flourish unchecked in areas it did serve. The widespread distrust of the market and private enterprise obliged the government to supply telecommunications services. And in the absence of a meaningful social security architecture, the department of telecommunications (DoT) along with other public sector enterprises, became employers, not only of "last resort" but also of "first choice". The security of a government job and its associated benefits are enticing even today, even though the economy is vastly different and private enterprise is truly established.

The natural monopoly character of telecommunications has been decidedly undermined by wireless technology. Accordingly, ownership is no longer the best way to achieve multiple government objectives, if ever it was. There is ample evidence from India and the world that suggests government ownership dulls incentives and therefore, development and distributional objectives are better achieved through independent regulation and the law of contract.

The arrival of independent regulation in 1997 in the form of the Telecom Regulatory Authority of India (TRAI) and private sector participation meant the government could easily vacate this space without hurting its development objectives. To be fair, the government did incorporate BSNL in 2000 to supply services in India except for Delhi and Mumbai, which have been served by the MTNL since 1986. The change formally created a PSU in telecom but functioning, process and culture was largely inherited from the parent department.

Often, the argument is made that in choosing between a private and public sector monopoly, the former would be abusive and extractive while the latter benign. And thus, if ever the sector inched towards monopolisation, either by design (read cartelisation) or market circumstance (read aggressive and disruptive competition), the public sector would provide the much needed countervailing power. One cannot imagine either BSNL or MTNL succumbing to become part of a private sector led cartel, just as one cannot visualise the nature of the competitive threat they would present in case pri-

private sector ran amuck.

The beginning did, however, inspire confidence. In the three years following BSNL's incorporation, it became the country's leading telecom operator commanding a market share of about 85 per cent in provisioning of fixed-line services, over 17 per cent in mobile services and 25 per cent in internet services. But, over time, its fundamental weaknesses, overstaffing, lack of market responses and cumbersome procedures have rendered it an also-ran. The market share of BSNL has dwindled to about 10 per cent, while MTNL has a market share of about 7 per cent in two of India's most lucrative circles. If preservation of competition is the objective, it is a task best performed by the sector and economy wide competition regulator, and not by artificially supporting a public sector entity. It seems to be a rather extravagant route to maintaining competition.

Another argument made in support of the public sector is service provisioning in remote areas. To BSNL's credit, it did serve areas which private sector did not. But BSNL's rural market share has dwindled from over 25 per cent in 2008 to less than 8 per cent in 2019, while the rural market has been growing. A robust telecom PSU, another argument suggests, could be of strategic value especially in periods of calamities. Once again, it seems a rather expensive route to maintain strategic services when the same could be provided by private players under threat of regulatory injunctions.

How does the public sector survive with market disruptions and technology shocks becoming the norm rather than the exception in telecom? Public sector is at best geared for stasis and the telecom sector is anything but that. Adding to the technology disruptions are policy flip-flops that went from being pro-public sector to either neutral or even hostile. Private entrants had long argued for a level playing field with the public sector, while the latter complained they could not compete with one hand tied behind their back. Both were right from their standpoints, but asymmetric policy in favour of the public sector was hard to maintain. Thus, the public sector was persuaded to pay license fee and for spectrum, just like others did, some of which they did not want. In 2016, the entry of Reliance Jio coincided with intense tariff competition, and subsequently, a sharp fall in interconnection user charges (IUC) affected the entire telecom industry. Public sector operators already bleeding were hit badly.

Worried about the future of the public sector entities, the government has crafted a revival plan, including a merger of BSNL and MTNL. In management jargon, the merger could potentially unlock synergies, but unfortunately there appear none on the telecom horizon. The return on capital employed for the two PSUs has been consistently negative, and manpower costs account for 60 and 80 per cent of their revenues respectively, compared to about 5 per cent for private operators. The other components of the rescue package include raising sovereign bonds, monetising land assets and a voluntary retirement scheme for employees. The government has also promised allocation of 4G spectrum at 2016 prices.

None of these inspire confidence, given protracted government procedures. For example, asset sales will be subject to cumbersome tenders, allegations of favouritism and plain rent-seeking, aspects that are partly responsible for the bleak situation in the first place. Moreover, customer interface is not a public sector forte, so 4G spectrum is likely to be a drain rather than a revenue spinner.

At the beginning of this piece, we advanced two reasons for direct public sector service provision by government — market failure and employment. The market failure justification doesn't exist anymore, suggesting exit for BSNL and MTNL. The medium to long term costs of continuing in operation are likely to be higher than shutting down. Although employment creation is no longer a public sector imperative, shutting down may make economic sense but it is hardly a feasible political option. One cannot lay off two lakh employees with a stroke of the pen, even if continuing operations is a more expensive form of social protection. It has to be carefully planned.

The silver lining is that the merged telecom entity would have a pan India presence and would become a listed enterprise. This may eventually assist in disinvesting or better, privatising the merged operator. Thus "revival to sell" should be the mantra rather than "revival to operate". The latter is a tall order and, unencumbered, the merged entity could well turn out to be profitable in private hands. But it will be a painstaking process. As Terrell, as a great poet said, *aah ko chahiye ik umr asar hone tak!*

*Kathuria is director and chief executive and Asrani is consultant at ICRIER. Views are personal*

## FRAUGHT COURSE

On essential religious practice, SC should have gone case by case — rather than aim for a grand unified theory

A FIVE-JUDGE CONSTITUTION bench has deferred its decision on the review of the 2018 Sabarimala verdict until a larger bench examines a range of broader issues — and thereby led the apex court into uncharted, and potentially turbulent waters. There are technical reasons why reference to a larger seven-judge bench in a review petition is mined with complications. The parameters of review usually permit a narrow reconsideration in case of an error in the verdict or discovery of new evidence. But apprehensions that the majority judgment on Thursday could open up new questions, instead of settling the old, go well beyond technicalities. The court has clubbed together the question of the entry of women of menstruating age into the Sabarimala temple with others — the entry of Muslim women in the dargah/mosque and of Parsi women married to non-Parsis to the holy fireplace of an Agyari, and whether female genital mutilation in the Dawoodi Bohra community constitutes that religion's essential practice. It is possible to argue that each of these questions must be considered on its own ground, in its specificity. Not content with putting together issues that may not belong in the same frame, the court has gone further, casting on the larger bench a responsibility that may not belong to it.

The seven-judge bench has been tasked with finding the balance between the right to freedom of religion and other constitutionally-guaranteed rights, especially the right to equality, defining "essential religious practice" and "constitutional morality". This is a tall order, and not least because in a large and diverse democracy, spelling out judicial doctrines on these matters removes essential ambiguities. It also usurps the space of other players and protagonists, and narrows the room for manoeuvre for them, for the court itself — and eventually, for justice. Of course, constitutional morality has been used to emancipatory effect in past cases by the apex court, not only in striking down the restrictions on women of a certain age in the 2018 Sabarimala decision, but also in another verdict the same year decriminalising homosexuality. In both, the court upheld ideas of freedom and equality and the constitutional promise of a pluralistic and inclusive society, while redressing an injustice, even though its Sabarimala decision was seen by certain sections to rush into grey areas of tradition and its autonomy. Yet in setting itself the task of defining this constitutional morality, the court will now have to go into the question of its limits and boundaries, of its possible clash with religious beliefs and faith and what is essential to them. In the process, it could not only be tying its own hands for the future, but also circumscribing individual freedoms and treading into the clergy's domain.

The court has been inconsistent in applying the essential religious practice doctrine that it evolved in the 1950s. Perhaps that is just as it should be. It may be that the court's push for expanding its remit and for hard clarity on complex questions is misguided and counterproductive. In some cases, it is okay, even just, to keep to the narrow path, take it case by case.

## STUDENTS ARE WRONG

Protests against appointment of a Muslim faculty member in Sanskrit department in BHU are regressive and disturbing

IN 2017, THE churn in Banaras Hindu University (BHU) mirrored the conflicts between students and university authorities in institutions of higher education across the country. The protests then were sparked by an alleged incident of eve teasing but soon became about the larger issue of discrimination based on gender, caste and class. Like elsewhere, BHU's students were demanding that the university become a more equal and open space. The BHU was at the forefront of the anti-colonial struggle and the early efforts to build a modern India, and the students were keeping that legacy alive. Over the last week, however, a section of students from the Sanskrit literature department have displayed an attitude that goes against the grain of all BHU has stood for.

Students of the Sanskrit literature department have been protesting the appointment on November 6 of Firoz Khan as an assistant professor. Khan holds a BA, BEd, MA and PhD from Rashtriya Sanskrit Sansthan in Jaipur and was appointed to the post in line with the University Grant Commission's guidelines. But he cannot teach at the department, according to the protestors, because he is a Muslim. The vice chancellor and other university authorities have said that Khan's appointment cannot be rescinded on the grounds the students are demanding. But what of the students themselves? Sanskrit is not, as they appear to believe, the province of "Aryans", but rather, the means to a rich store of historical and philosophical knowledge that belongs to no single community or religion, but to all. The fact that Sanskrit scholarship in India has widened to a point where people from every community are involved in its study and growth ought to be a matter of pride.

In various periods in India's history, the university has been a contested space. There are now, in India's public universities, a plethora of voices from hitherto marginalised groups that often make the powers-that-be uncomfortable. Students have, by and large, demanded that the university become a more egalitarian space — in terms of representation, access and protocols and practices in hostels. To insist that people from a particular religion not be allowed into a department of one of India's most prestigious universities is a demand to make it a space more regressive than society at large, not less. Hopefully, the students and scholars at the Sanskrit department will soon course correct.

## THE LOST SCHOLAR

Vashishtha Narayan Singh's work has applications in varied areas including quantum mechanics

IN THE EARLY 1960s, JOHN L. Kelley, the head of the mathematics department of the University of California, was visiting the Patna Science College. He was in the principal's room when a mathematics teacher rushed in with a complaint about a student who was disturbing his class. The youngster's fault was that he had asked difficult questions. Kelley's curiosity was aroused and in the meeting that followed, the student, Vashishtha Narayan Singh, had impressed the American scholar into inviting him to the UCB. There is more than one version of this story. Many stories of Singh's brilliance are apocryphal. However, his 1969 PhD dissertation, "Reproducing Kernels and Operators with Cyclic Vector," is one of the most referred works in the field. But in less than a decade, this brilliant mind was lost to academia. His troubled life came to an end on Thursday.

Born to a family of modest means in Vasantpur village in Bihar's Ara district, Singh acquired a reputation for quizzing his mathematics teachers at school. Patna University decided to bend its rulers when it was felt that the syllabus system was holding the prodigy back. Singh was allowed to appear for the final year BSc examination when he was still in his first year. He topped. The American sojourn followed soon after.

After his PhD, Singh worked at NASA for about three years. His research has applications in areas ranging from computer graphics to quantum mechanics. Singh chose to return to India at the height of his scholastic prowess and worked at the IIT Kanpur, TIFR, Mumbai and the ISI, Kolkata. But his mind had also begun wandering into realms unknown. In 1976, not yet 35, he was diagnosed with schizophrenia. He is known to have scribbled equations in notebooks that admirers would get for him, which would be kept under lock and key. Are there traces of his erudition waiting to be uncovered?

## CORRIDOR OF CONCILIATION

Kartarpur presents an opportunity for normalisation of India-Pakistan ties



KHALED AHMED

ON NOVEMBER 9, Prime Minister Imran Khan got together with thousands of Sikh pilgrims to inaugurate the Kartarpur Corridor. Prime Minister Narendra Modi thanked Pakistan for opening up the route to the last resting place of the great Sikh founder-guru, Nanak Dev, in accordance with an agreement reached between the former Pakistan Prime Minister Nawaz Sharif and former Indian statesman-PM Atal Behari Vajpayee in 1999. The Sikh yatris were visibly touched as they heard PM Khan speak of the "opening up borders for free movement and trade with India".

Things looked good till the Indian media "revealed" the presence of a group of "Khalistani" agents at Kartarpur. That meant the corridor was actually a conspiracy to undermine India's integrity by luring the Sikhs away. On the Pakistani side, the hounded opposition thought of the "betrayal" of "Kartarpur" after Modi "annexed" Kashmir. But the people at large didn't bite and were happy to receive more pilgrims. Imran Khan covered his head as he paid tributes to Guru Nanak Dev.

The "largest gurudwara in the world" was thought of by Imran Khan and the chief of the Pakistan Army General Qamar Javed Bajwa. The impressive gurudwara came about in 10

months because the army took charge of it and built it in record time. If the army is behind the project, is it, therefore, a conspiracy to alienate the Sikhs of Indian Punjab from India?

Or is General interested in "cooling the eastern front" because his challenge from the "western front" is too big for the Pakistan Army to handle? India kills Pakistani troops on a permanent basis on the Line of Control (LoC), but the new development is that Afghanistan too kills Pakistani troops across the wire-fence Pakistan has erected on the challenged Durand Line. The odds on the western front are enormous: The hostile elements include the Taliban (Afghan and Pakistani) backed by al Qaeda which is fully entrenched in Afghanistan, and the Islamic State whose appeal for the Pakhtun youth is increasing.

Pakistan has tried diplomacy against the removal by India of Article 370 from the Constitution. The world has reacted negatively to the abuse of human rights in Kashmir but Pakistan has failed to get the world, including the Islamic world, to condemn the "annexation" of Kashmir by India. What Pakistan has learned is the fact that under the Simla Agreement the world will "not decide" the dispute of Kashmir between India and Pakistan.

On the Pakistani side, the hounded opposition thought of the 'betrayal' of 'Kartarpur' after Modi 'annexed' Kashmir. But the people at large didn't bite and were happy to receive more pilgrims. Imran Khan covered his head as he paid tributes to Guru Nanak Dev.

Pakistan is under pressure. It is economically handicapped by the stringency of the conditionalities of the IMF and threatened with sanctions from the Forward Action Task Force (FATF), ironically presided over by China whose China-Pakistan Economic Corridor (CPEC) requires peace in the region and possible participation in the trade route by India with whom China enjoys a two-way trade of \$80 billion. After the exit of the US from Afghanistan, Pakistan faces uncertainty across a border it has failed to control. Is it time for an India-Pakistan "normalisation" that once looked real under Prime Minister Vajpayee?

There was a time when India as a status quo power wanted Pakistan to join talks on bilateral "normalisation". Pakistan stuck to "the precondition of Kashmir" which it now acknowledges is not a realistic policy option. It thought it could compel India to come to the table under pressure from "jihad". But this so-called jihad slumped towards the end of the 1990s and began to hurt Pakistan. The Kartarpur Corridor is the door of opportunity for both countries.

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## NOVEMBER 16, 1979, FORTY YEARS AGO

### IRAN HOSTAGE CRISIS

THE IRANIAN GOVERNMENT is expected to free some 40 non-Americans and American women, who are among the hostages in the US embassy in Teheran. The foreign minister, Bani Sadr, said a decision would be taken "very soon". Among the hostages, in addition to 62 Americans, are nationals of India, Pakistan, Bangladesh, the Philippines, Korea and Italy. They are believed to be employees of the embassy. CBS News reported that Bani-Sadr told its correspondent, Randy Daniels, that "all women and blacks would be freed very soon". Bani Sadr did not say exactly when this would take place, Daniels reported.

### BAHUGUNA IN A SPOT

THE INITIAL EUPHORIA following H N Bahuguna's decision to join the Congress (I) was somewhat diminished with the Shahi Imam of Jama Masjid refusing to endorse the CFD decision. The Imam, Syed Abdullah Bukhari, was said to be sore that Bahuguna had ignored him and his 15-point programme while discussing the modalities of merger with the Congress (I). Bahuguna had a long meeting with the Imam last night. Since the latter insisted that Mrs Gandhi first give a separate assurance to him on the 15-point programme, the CFD leader postponed his last night's scheduled meeting with the Congress (I) president.

### ZIA ON KASHMIR

PAKISTAN PRESIDENT GEN Zia-ul-Haq said that Pakistan would hold talks on Kashmir with the Indian government to be formed after the Lok Sabha elections, Radio Pakistan reported. He said in Muzaffarabad in occupied Kashmir that some progress had been achieved towards the normalisation of relations between the two countries, but complete normalisation would be possible only after a solution of the Kashmir issue. Zia said in the past India had agreed to hold talks on a settlement of this issue. Zia spoke of his country's desire for "peace and friendship" with all countries, in particular, with its neighbour.



# 15 THE IDEAS PAGE

## Education, ours and theirs

BJP has still not realised its ambitions of rewriting history at national level, but in the states, has been more effective in transmitting its version of Indian history to the next generation of learners



CHRISTOPHE JAFFRELOT AND PRADYUMNA JAIRAM

UNION HOME MINISTER Amit Shah, while speaking at a recent seminar in Banaras Hindu University on the 5th century emperor, Skandagupta, declared: "Putting together our history, embellishing it and rewriting it is the responsibility of the country, its people and historians", suggesting that there are different ways to write the history of India and that professional historians had not done their job properly so far.

One of the government spheres in which the sangh parivar has always shown interest is the teaching of history, not only because it contributes to defining the national identity, but also because the *parivar* believes the version of the past portrayed by secularists does not reflect reality.

Shortly after Narendra Modi's rise to power, in August 2014, the RSS formed a committee, the Bharatiya Shiksha Niti Aayog, to "Indianise" the education system. It was headed by Dinanath Batra, who had specialised in rewriting Indian history according to the canons of Hindu nationalism. In 2010, he had filed a civil suit to ban Wendy Doniger's *The Hindus*, which he felt gave Hinduism a bad image. Batra also pressured the University of Delhi to remove from its syllabus an essay by A K Ramanujan — *Three Hundred Ramayanas* — that contradicted the Hindu nationalist idea that there was a single version of the epic.

At the same time, Batra, long-time general secretary of the sangh parivar's Vidya Bharati, devoted most of his energy to combating perceived errors in history textbooks written by secular authors. In his 2001 book, *The Enemies of Indianisation: The Children of Marx, Macaulay and Madrasa*, he listed 41 major flaws that reflected the historic tropisms of the Hindu nationalists: First, the idea that the Aryans came from another part of the world in ancient times because the Hindus could only be sons of the soil; second, all the glories attributed to ancient India in its epic poems are an accurate reflection of historical reality; third, the Muslim invasions opened the darkest chapter in Indian history, starting with the destruction of Nalanda University in the 12th century up until the end of the Mughal empire; and fourth, the standard account of the freedom movement ascribes too much importance to Gandhi and Nehru to the detriment of Hindu nationalist heroes. These serious flaws have all been attributed to the secularist or Westernised nature of history textbook authors.

The second point was particularly emphasised by the leading Hindu nationalist historian, Y Sudershan Rao, who was appointed by the Narendra Modi government in summer 2014 to head the Indian Council of Historical Research. Rao views history and mythology as being the same thing and believes that historiographic research should focus on identifying the locations where the "events" described in the epics took place. This mixing up of history and mythology has become common since



C R Sasikumar

2014. The then culture minister Mahesh Sharma said in 2018: "I worship Ramayana and I think it is a historical document."

The textbooks put out by the National Council of Educational Research and Training (NCERT), which can be used in schools affiliated with the Central Board of Secondary Education (CBSE), have been extensively rewritten. According to *The Indian Express*, between 2014 and 2018 1,334 changes were made to 182 textbooks put out by the NCERT between 2005 and 2009.

However, the scale on which Hindu nationalists are rewriting history can be most clearly gauged at the state government level. Take Rajasthan, where the revision of the history curriculum, and changing of narratives formed an integral part of policy at the highest levels of government. In fact, when the BJP was in power, the education minister, Vasudev Devnani, was quite candid on how he wanted the history textbooks to be rewritten. For him, the focus of teaching should be on imparting nationalism, and he asserted that the textbooks "would remove the chapters on the greatness of Akbar and include the heroics of Maharana Pratap". This led to a process of regionalising the history of the nation, wherein Pratap would become the central protagonist of the Medieval period. Devnani went a step further when he had the textbooks change the outcome of the Battle of Haldighati, fought between Pratap and Akbar. As the historical record points to a stalemate, the BJP narrative "altered" this, to portray a victory for Pratap, in Devnani's eyes "fixing an aberration".

Devnani's opinions reflected in the textbooks released in 2017. He remarked that the new textbooks would ensure "no more Kanhaiyas are born in the state", a reference to the former JNUSU president who had been accused of sedition. Thus, nationalism became the cornerstone of the new Rajasthan history textbooks. This was depicted through a hagiographical account of Hindu rulers, which focused on their early lives, territorial exploits, and differences in personal de-

meanour from their Muslim enemies.

Besides, these textbooks revisited the prioritisation of individuals associated with the freedom struggle. For instance, the first prime minister of the nation, Jawaharlal Nehru, has been omitted from the class 8 textbook, while B R Ambedkar is classified as a 'Hindu social reformer', in a bid to sanitise his fight against caste. In fact, the textbooks argue that Ambedkar's efforts were similar to those of Dayanand Saraswati, Mahatma Gandhi and RSS founder KB Hedgewar. Ambedkar's more radical contributions such as the Mahad Satyagraha, or his conversion to Buddhism are omitted altogether.

Finally, the most celebrated "freedom fighter" is Vinayak Damodar Savarkar, the founder of the Hindutva ideology. He figures in every history textbook from class 8 to 12 as someone "whose contribution to the cause of independence cannot be described in words". Deified status is further exemplified by describing him as a "great patriot, great revolutionary and great organiser". The usage of the term "great" is thus once again the monopoly of certain protagonists in the BJP textbooks.

Thus, for the BJP, the teaching of history is linked to the prioritisation of certain communities and individuals in order to foster a particular spirit of nationalism among school students. While Batra has still not yet realised his ambitions at the national level, in the states, the party has been most effective in transmitting its version of Indian history to the next generation of learners.

Will the Congress government re-write the history textbooks of Rajasthan, or is the Hindu nationalist version bound to prevail? And if one more version of India's history is produced, in the context of the political narrative in India today, will it have any impact on the next generation of learners?

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## SC as unifier-in-chief

Supreme Court's Ayodhya verdict has strengthened democracy



GAURAV BHATIA

ON NOVEMBER 9, the Supreme Court delivered a historic verdict on the Ram Mandir issue, which was under litigation for more than seven decades. Finally, the judgment put to rest the competing claims of two opposing sides — for the construction of a Ram temple and the rebuilding of the Babri masjid respectively.

It is a unique judgment for the manner in which it has been authored and delivered. The 1045-page judgement, and its addendum, does not mention the name of the author of the judgement — it has been signed by all the five judges. The regular practice of the Supreme Court is that every judgement — whether majority, concurring or dissenting — carries the name of the author. The verdict was pronounced on a Saturday, which is again unusual as it was not a regular working day. And, the judgement becomes more efficacious, since it is a unanimous one by all the five judges constituting the bench.

The Supreme Court while deciding this contentious issue strictly went by the evidence placed on record, the testimony of witnesses, the ASI report and travelogues. The judgement makes it clear that all faiths and religions are to be respected equally.

To the credit of the bench, the judges always patiently heard both sides, maintained rectitude to uphold the dignity of the Court, even when there were multiple occasions when the counsels for the Sunni Waqf Board

made scurrilous remarks, and tried to browbeat it.

The Supreme Court firmly rejected the prayer of the Sunni Waqf Board opposing the its five-day a week hearing plan. It also decided to exercise restraint for the larger public good when a lawyer, acting unprofessionally, tore a map handed over by the counsel for the Hindu side. During the course of the hearing, in December 2017, a request was made to the Supreme Court to defer the matter till the completion of the 2019 Lok Sabha election. Senior lawyers even went to the extent of threatening to walk out of the Court room, if their prayers were not accepted: This was completely blasphemous and against the traditions of the Supreme Court. However, the Court showed exemplary restraint here too.

Eventually, the Supreme Court, on the basis of clear evidence held that, "the worship by the Hindus in the outer courtyard continued unimpeded" and "their (Hindus) possession of the outer courtyard stands established together with the incidents attaching to their control over it."

As regards to the inner courtyard, the Court stated that, "there is evidence on a preponderance of probabilities to establish worship by the Hindus prior to the annexation of Oudh by the British in 1857." It was also recorded by the Court that "The Muslim side offered no evidence to indicate that they were in exclusive possession of the in-

ner structure prior to 1857 since the date of the construction in the sixteenth century."

The Court set aside the Allahabad High Court judgement and held that "Three-way bifurcation by the High court was legally unsustainable. Even as a matter of maintaining public peace and tranquillity, the solution which commended itself to the High Court is not feasible. The disputed site measures all of 1500 square yards."

The Court noted that, "dividing the land will not subservise the interest of either of the parties or secure a lasting sense of peace and tranquillity."

It is evident that in the present case justice was clearly delayed, if not completely denied. The real delay was caused at the trial stage, as litigation which was going on since 1950 was finally adjudicated by the Allahabad high court on September 30, 2010. Whereas, in a relatively shorter span of nine years, the Supreme Court was able to deliver this historic verdict.

The main reason why it took the Supreme Court nine years to finally decide the matter, has more to do with the procedural aspects — like the completion of pleadings and translation than the lack of will on part of the Supreme Court to finally decide on it. What added to the delay was the lackadaisical approach of the earlier state governments of Uttar Pradesh in assisting the Supreme Court registry in getting approximately 14,000 pages translated

in time. These relevant pages were translated within a short span of five months by the newly elected government led by the present chief minister, Yogi Adityanath. As a result, the matter was decided expeditiously.

Significantly, in the interest of justice, the Supreme Court also directed that a suitable plot of land measuring five acres be handed over to the Sunni Waqf Board, either by the Central government or the state government. The Nirmohi Akhara was also granted appropriate representation in the Trust/body to be formed by the Central government.

Finally, it augurs well for our democracy that both sides had the patience to wait for decades for this historic verdict. All parties exercising patience displayed that unity in diversity is the inherent strength of our democracy.

It is important that in a democracy governed by the rule of law, every action undertaken by a citizen or a community has valid legal sanctity. This judgment ensures that the construction of a temple at Ayodhya will also have complete legal sanction. It will be apt to say that the Supreme Court, with one stroke of the pen, has strengthened the democratic fabric of our country. It has played the decisive role of "Unifier-in-Chief".

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## WHAT THE OTHERS SAY

"Over and over, the Republican members of the House Intelligence Committee attempted to cast the hearings as a sham, a Democratic plot to remove the president."  
— THE NEW YORK TIMES

## Separated at the seam

Ayodhya verdict offers justice for some, but not fairness for all



SHAH ALAM KHAN

I WAS A 22-year-old medical student when a group of thugs climbed the dome of the Babri masjid in Ayodhya and reduced it to a grey pile of rubble on December 6, 1992. Having been brought up in a liberal democracy, I was devastated at this blatant brutality and violation of the Constitution, and that too with the tacit collusion of the state. It was painful, probably because it happened in an India which believed in the virtues of liberty, secularism and pluralism.

As we ascended in our national quest to achieve the goals of neo-liberal economics, India evolved. And we lost ourselves to more trysts with bigger brutalities and even bigger national tragedies which claimed our consciousness. We became aloof to the sufferings of the poor, the marginalised, the underprivileged and minorities. We kept on erecting more and more tombstones in the cemetery of that liberal democracy, which we had decided to once nurture when we became independent in 1947. In evolutionary terms, we did lose our tails, but in the bargain we developed fangs full of poison for the deprived masses of the land.

On November 9, a closure happened for one of the tragedies which had marred our consciousness. The Ayodhya verdict, given by a bench of five judges of the Supreme Court including the Chief Justice of India, hopefully, brought an end to this long-standing dispute. The unanimous verdict pronounced that the disputed land in Ayodhya will go to a government-monitored Trust to build a temple, and the Muslims will get a separate five-acre piece of land in the city at some "prominent" site. Although it is still in its early days, the verdict is being hailed as prudent and practical. There is little resistance and mention of the fact that the verdict, in a way, has vindicated the brutality which was unleashed on the disputed structure in 1992. If, in 1992, there were whispers of correcting the wrongs of the past, in 2019 there are rumblings that the past stands corrected.

The India in which I grew up was, by and large, ashamed and felt guilty of doing what it did to the Babri masjid in 1992. Having said that, even at that time a fringe celebrated the demolition of the mosque. However, though that fringe had political faces and common men as supporters, they

did not get the kind of acceptance they had wished for. There were momentary political gains for many, but there was a general resistance to the idea of hatred. In 2019, that fringe has taken centre-stage. They now rule our consciousness. They decide what is wrong and, more importantly, what is not. Hatred is acceptable. The evolution from demolishing century-old structures to breaking human skulls is complete. Lynching of fellow citizens, bail to proven thugs like Babu Bajrang and Maya Kodnani, detention of human rights activists, demands for awarding the killers of Gandhi, bail for the killers of Dalits in Khairlanji — we have definitely come a long way. The tortuous route that the republic has taken to arrive at where we rest today is exceptionally unique. In a way, it is our tryst with destiny, as claimed by Nehru in the famous midnight speech. It is never easy to defeat destiny.

As a common Indian, I am happy that the Supreme Court judgment has brought closure to a long-standing dispute which vitiated the atmosphere of the country for so long. But, as a liberal in a democracy and citizen of the broader world, the ache of the judgement's arbitrariness is like a thorn in my heart. The idea of justice is based on the perception of fairness. John Rawls, in his seminal work, *A Theory of Justice*, said that all people have a claim to as much freedom as is consistent with everyone else having an equal level of freedom. This is an important concept towards understanding both justice and freedom. According to him, freedom and equality can be integrated and, thus, justice can be presented as fairness. With this verdict of the Supreme Court, I am not sure if justice can be outlined as per Rawls's definition. Justice and fairness seem to be separated at the seam in this case. This open seam, like an open vein, can bleed a society white. Justice as fairness for just a few, can erode societal norms.

We should respect the judgment of the Supreme Court without trying to fit it into the landscape of justice and fairness as explained by Rawls. It is a closure of something perniciously erosive to the idea of India, the idea to which we all owe our allegiance. To be honest, our worry lies not in this verdict, but the verdicts which can come in the future. It is not a time to celebrate or mourn this judgment. It is a time to be alert to the idea of justice, to the idea of inclusion, to the idea of democracy and, most importantly, to the idea of peace. In the words of the Dutch philosopher Baruch Spinoza, peace is not the absence of war, it is the presence of justice.

*The writer is professor, department of orthopaedics, AIIMS, New Delhi. Views are Personal*

## LETTERS TO THE EDITOR

### ABOUT DEMOCRACY

THIS REFERS TO the article, 'A verdict, a test' (IE, November 15). I want to ask a question — what is the writer's criteria for being a nationalist? He holds that those who did not predict that the BJP would win the general elections and did not support the party do not qualify as nationalists. Can questioning the government and not supporting the popular opinion in a country be reason enough for being called anti-national? Have we become so intolerant that anyone who questions the government is said to be acting against the nation? If only the BJP and its allies are nationalists, what is the purpose contesting elections? We need to keep the importance of dissent in view in re-examining the idea of Bharat.

Chinmay Jain, Delhi

### BUDGETS, SECURITY

THIS REFERS TO the article, 'Beyond the mandate', (IE, November 15). The idea of a separate mechanism for funding defence and internal security definitely deserves wider consultation and the Finance Commission must have a say on this subject. A dedicated corpus for defence procurement and police modernisation will ensure that the security is not subjected to the annual budget cycle. A dedicated stream to fund defence and internal security would also distribute the financial burden evenly across a period of time.

Sudip Kumar Dey, Kolkata

### A DEAD HORSE

THIS REFERS TO the report, 'SC rejects Rafale plea' (IE, November 15). It is evident that Rafale has boomeranged on the Congress. The party should now refrain from flogging a dead horse. The party has plethora of issues to criticise the government. The economy in dire straits, there is acute joblessness and the environment is worsening. The country's major opposition party needs to ask the government if it has

### LETTER OF THE WEEK

#### NO ECONOMISTS

THIS REFERS TO the article, 'Experts, dissent and the economy' (IE, November 8). There are two basic problems in implementing author's suggestions. In today's world there are no economists who have the requisite expertise but are politically and ideologically neutral. The second problem is, economists are expert in devising various solutions after the horse has bolted away. No economist worth his salt had predicted the 2008 meltdown. Lastly, economists are never known to give practical and precise advice. Their craft lies in beating around the bush while sounding profound.

H N Bhagwat, Chiplun

delivered on any of its promises. Post Ayodhya verdict, the BJP's jingoism should ebb as the common man is feeling suffocated with the overdose of nationalism.

Deepak Singhal, Chennai

### LESSON FOR BJP

THIS REFERS TO the editorial, 'Winning and losing' (IE, November 13). The Maharashtra and Haryana assembly election results signal that no party can claim a permanent place in the states. Unemployment problem is a burning issue in every state. The government's failure to curb this problem has reflected on the BJP's reduced numbers in the two states. This has given an impetus to parties like the Shiv Sena to break away from the NDA fold. There is a lesson for the BJP to manage its relationship with the allies.

Dilip Kumar Dutta, Midnapore