



## The Indian EXPRESS

FOUNDED BY

RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

# A line runs through it

India, Nepal must seek mutually acceptable diplomatic solutions to controversy triggered by a new map



SHYAM SARAN

THE NOTION OF boundaries as lines drawn on a map is a recent concept — as is the nation state. This is particularly true in the Subcontinent, where empires and kingdoms shaded into one another across ambiguous frontiers rather than be separated by boundaries marking sovereign jurisdictions. The India-Nepal border is unique in that neither country has allowed a political boundary to interrupt the age-old traffic of people who share ties of kinship, religion and culture. This is now being threatened by territorial nationalism on the Nepali side and an emerging security state on the Indian side.

It is easy to trigger anti-Indian sentiment in the Kathmandu Valley, which remains the crucible of Nepali politics and the arbiter of its domestic and foreign policies. As we witness in our own country, nationalist sentiment can be a potent instrument for political mobilisation, but its orientation could be positive or negative. This depends on the political leadership but equally on how aware and enlightened a citizenry is. In Nepal, political groupings of every persuasion have been unable to resist the temptation to conjure up a bullying and overbearing India to present themselves as the fierce custodians of national interest. This is what we saw at play in the demonstrations held recently on the streets of Kathmandu. Residual revolutionaries of the Left competed with the supposedly pro-India Nepali Congress to castigate India for releasing maps which showed Kalapani at the India-Nepal-China trijunction to the north and Susta to the south as Indian territory.

These latest maps have nothing to do with Nepal. They were published to reflect the recent bifurcation of the state of Jammu and Kashmir (J&K) into the two new Union Territories of J&K and Ladakh. There was no change in the depiction of India-Nepal boundary. Yet, the perception was created that the publication of the new map was a departure from the past and constituted pernicious cartographic aggression. It is true that Nepal has, in the past, claimed territory in the Kalapani area and Susta as its own. The two sides agreed that these differences should be resolved through friendly negotia-

tions and their foreign secretaries were mandated to undertake this exercise. As far as one is aware, these talks are yet to take place. If this is an issue with the potential to arouse such strong public sentiment on the Nepali side, then such inaction is inexplicable. My own experience has been that the Nepali side raises such issues for rhetorical purposes but is uninterested in following up through serious negotiations. This is what happened with Nepali demands for the revision of the India-Nepal Friendship Treaty. The Indian side agreed in 2001 to hold talks at the foreign secretary level to come up with a revised treaty — one that, in the Nepali eyes, would be more “equal” with reciprocal obligations and entitlements. Only one such round of talks has taken place.

While I was in Nepal as ambassador, a request was made to put the issue on the agenda of the foreign secretary level talks held in 2003 but without any expectation of actual discussion. When we conveyed our readiness to have a substantive discussion on the treaty revision, the agenda item was dropped by the Nepali side. The purpose was to merely show that the Nepali side was taking up the issue seriously with India. I believe it would be a good policy on the part of India to regularly offer to take up such outstanding issues bilaterally even though the Nepali side may wish to side-step. If efforts are made to rake up such issues for political gain, then India would be able to list publicly the occasions when it has offered to resolve them through friendly negotiations. At the moment, raising these issues as means of hoisting their nationalistic colours is of little risk to the Nepali political parties.

It is not widely known that the two countries have managed to settle about 98 per cent of their common border and these are reflected in the 182 strip maps initiated by them. More than 8,500 boundary pillars have been installed reflecting the agreed alignment.

The Kalapani controversy has arisen due to a difference of perception as to the real and primary source of the Mahakali river. The Treaty of Sugauli concluded in 1816 locates

the river as the western boundary with India but different British maps showed the source tributary at different places. This is not unusual given the then state of cartographic science and less-refined surveying techniques. We have similar problems regarding the alignment of the McMahon Line on the eastern sector of the India-China border. With regard to Susta, the problem has arisen as a result of the shifting of the course of the river, again a frequent occurrence in rivers shared by neighbouring countries. There are only two ways to deal with this challenge — either to accept a shifting border as the river itself shifts or to agree on a boundary which remains fixed despite changes in the course of the river. The latter is usually the more rational choice. But such matters require friendly consultations aimed at mutually acceptable outcomes not emotionally charged grandstanding.

Just a few days before this controversy erupted, the prime ministers of India and Nepal inaugurated, through a video conference, the much awaited Motihari-Amlekhgang pipeline, which will enable safe, secure and assured supply of petroleum products to Nepal. These supplies were trucked across the border in the past with frequent incidents of pilferage and contamination in transit and interruptions due to natural disasters or road blocks set up during political protests. This is a demonstration of what cross-border cooperation can achieve to benefit both countries. The ugly anti-Indian protests in Kathmandu provide the self-defeating counterpoint.

There are six to eight million Nepali citizens living and working in India. They enjoy immense goodwill and a congenial and friendly environment wherever they are. Political leaders in Nepal should reflect on this extraordinary asset their country enjoys built over centuries of benign togetherness. Its thoughtless erosion may prove to be costly for both our countries.

The writer is a former foreign secretary and senior fellow CPR. He was India's ambassador to Nepal 2002-4

## A SAVING GRACE

Hopefully, SC on law and a united Opposition in politics have taught BJP a lesson or two in hubris

ALL OF DEVENDRA FADNAVIS's postures and pieties while resigning as four-day chief minister could not mask the bare facts that must deeply embarrass him and his party, in the state and at the Centre: The BJP had to exit the arena in Maharashtra because it was left with little choice after Ajit Pawar decided to switch sides again on Tuesday afternoon, and with the Supreme Court having stepped in to call for an immediate floor test on Wednesday. That is, in Maharashtra, the BJP was both outplayed by its rivals in the bareknuckled political game it so enjoys, and snubbed for its apparent constitutional transgressions by the umpire, the apex court. With Fadnavis's resignation, the field has now been cleared for the Shiv-Sena-NCP-Congress to prove their majority and form a government. But the sorry saga that played out in public view over the last few days will not easily fade away. It demands a greater reckoning, and more accountability, by all the institutions and authorities that colluded in undermining the constitutional rules of the game, in letter and spirit. On Constitution Day, the cloak-and-dagger pre-dawn lifting of president's rule and swearing-in of a new government in a crucial state by a governor after a prime minister invoked an extraordinary provision to circumvent the need for a cabinet meeting was a tawdry image and a taint.

The taint is, most of all, on the BJP. For a party that came to power in 2014 and then again in 2019 with overwhelming mandates riding, largely, on the accumulated fatigue and cynicism of the people vis a vis Congress-dominated regimes, for a party that promised to change the old and bring in the new, it has been strikingly reckless in its own treatment of political norms and institutions. In Maharashtra, there is political blame to be pinned on all major players, with unlikely and opportunistic alliance-making on all sides. But the responsibility for playing fast and loose with the Constitution rests with the BJP. That the doors of the Supreme Court had to be knocked on after the travesty of government formation enacted on Friday-Saturday morning, and that the court had to call for an urgent floor test now, followed by a possible review of the constitutionality of the actions taken by various authorities a few weeks later, must bring a sobering moment of pause for the party that has tripped on its high command's oversized will-to-win seemingly unconstrained by law or the Constitution.

The next government in Maharashtra starts with an unclean slate. The Shiv Sena-NCP-Congress will have to battle and rein in their several inner contradictions, ensure that they do not overwhelm governance. It will also be their responsibility to ensure that the dark manoeuvres of the last few days do not leave a lasting impression in a state famed for getting on with it.

## SEIZE THE SCAM

Karvy case offers an opportunity to debate new challenges to regulation, new balance to be struck in oversight

TO AN OUTSIDER, it may well appear that India's financial sector is under siege. After the collapse of Non Banking Finance Companies such as IL&FS last year, the unravelling of Dewan Housing and Finance Ltd (DHFL) and PMC Bank and the troubled state of many banks, securities market regulator, Sebi, has banned Karvy Stock Broking Ltd which has over 2 lakh clients, from undertaking fresh business, for allegedly misappropriating money and securities belonging to its clients to fund its real estate arm, Karvy Realty. The regulatory action follows the inspection report of the National Stock Exchange, which found that the stock broking firm had transferred Rs 1,096 crore to its real estate business by misusing the power of attorney given to its clients to sell securities apparently through entities controlled by it.

It is but natural that there is concern about possible similar violations by other large broking firms too — something the regulator is now probing. The Karvy Stock Broking scam isn't like the routine cases that Sebi disposes of often, involving minor stock brokers. It features diversion of funds of a much bigger scale and blatant violation of regulatory rules which stipulate segregation of accounts of clients and proprietary trades. The fact that a financial services group, now the top registrar and transfer agent in the country, which claims to service every third citizen in the securities market and 60 per cent of the Sensex/NSE 500 companies, was at the heart of this is bound to further erode investor faith.

On the face of it, Sebi appears to have tightened its rules relating to stock brokers — the last being in June this year. Even if there is no systemic issue, a full inspection of the books of other large stock broking firms should help, on the lines of the Accelerated Quality Review of banks by RBI which contributed to exposing a lot of divergences, notwithstanding the near-term fallout in the markets. The latest development offers an opportunity to debate the new challenges to regulation, the balance to be struck in oversight and whether there should be fetters or not on unrelated diversification for firms in the financial sector. A look at the model and experience of other jurisdictions would also help.

## A POLL, AN OPENING

Local election results provide space to negotiate greater freedoms as well as a return to normalcy in Hong Kong

WHEN HONG KONG Chief Executive Carrie Lam described the local body elections in the city as unusually political, she was not far off the mark. Pro-democracy forces have swept the polls in Hong Kong, winning 90 per cent of the seats and with an over 70 per cent turnout — up from 47 per cent in 2015. While the local body has limited municipal powers and selection to it usually passes without comment, Sunday's verdict was different. For one, it is a clear signal that the people of Hong Kong have not viewed favourably the manner in which the Chinese government has handled the protests. Second, it threatens to deepen the wedge between the Chinese mainland and Hong Kong.

The protests were sparked six months ago in response to a proposed law that would allow the extradition of people from Hong Kong to the Chinese mainland. The law was seen as a violation of the “one country, two systems” principle that is the bedrock of the political-constitutional relationship between China and Hong Kong. While the law was eventually withdrawn, the protests have gone on and have turned into a demand for wider reforms and full democracy. Sunday's result also punctures Lam's claim that the protesters were just a disruptive and vocal minority, and that a “silent majority” did not support the pro-democracy movement.

The local body elections were in a sense a referendum for what has gone in the last six months. But, unlike in a fully-functioning democracy, an election result need not signal a shift in power in China — or Hong Kong. Both the Chinese government and the protesters have thus far taken maximalist positions. In the best case scenario, these elections could provide an opening, as well as local leaders, with legitimacy, to negotiate greater freedoms as well as a return to normalcy in Hong Kong.



E P UNNY

IN 1998 WHEN BJP was elected to power, L K Advani wanted to meet the capital's cartoonists before he began his tenure as home minister. He seemed to have a special interest in the tribe. Natural for Delhi's early politicians who saw from close quarters free India's cartoon emerge with a certain zest. Besides, as long time practitioner of opposition politics he must have found common ground with the adversarial art. Add to these his acquaintance with cartoonist Abu Abraham in the Rajya Sabha, where *The Indian Express* cartoonist was a nominated member.

Whatever the intention, the home minister was ready to receive us at his Pandara Park bungalow for evening tea. The informal delegation was naturally led by the city's most visible cartoonist, Sudhir Dar. It wasn't long after the Rath Yatra and the demolition of Babri Masjid and some of us were inclined to play truant. Veteran cartoonist Ranga was at his persuasive best and virtually herded us in. Through the evening, it was Dar Saab who did the talking for us. After the pleasantries, he asked the host, “Now, can we go beyond polite conversation?” and went on to make no secret of our apprehensions, staying perfectly polite.

It was a surprise to see the incisive political mind at work. Something one rarely saw in his cartoon. He kept his weekday pocket cartoon, “This is it”, wispy. It stayed true to form as it travelled from *Hindustan Times* to *The Pioneer* and finally to the now defunct,

## THIS WAS IT

The Sudhir Dar cartoon neither screamed nor lost poise

Dar Saab chose the pocket cartoon to depict comic characters at one remove from the neta and the babu. He reduced the day's news to an everyday situation and located it firmly in the capital's backdrop, giving the reader multiple prompts to relate to the content.

*The Independent*. He was content to catch the fallible leader off guard and seldom rubbed it in. Unlike unsparing peers like the combative Rajinder Puri and the cerebral O V Vijayan, he had no killer instinct. He lived through the decades of disillusionment, first with the iconic Nehru and then with the heroic Indira Gandhi, retaining an incredible lightness of touch. Indian cartooning was turning pretty acidic and he like Mario Miranda managed to stay exceptionally aloof from the hardening trend. Mario had his picturesque Goa; Dar Saab was in a Delhi that then provided neither visual nor social excitement. Lutyen's quarter seemed designed to circulate nothing but politics. Big money caught up with the capital later.

The easier thing in those politics-only times would have been to do the display cartoon featuring recognisable characters. Instead, Dar Saab chose the pocket cartoon to depict comic characters at one remove from the neta and the babu. He reduced the day's news to an everyday situation and located it firmly in the capital's backdrop, giving the reader multiple prompts to relate to the content. On his day, his cartoon drew upon every aspect of the capital — from the news it made to the physical setting itself. There was a typical one that showed a couple walking beside a water body (could well be the Boat Club) commenting on a wading bird that stands on one leg. “What's so fantastic?”, asks the wife, “Chandrasekhar is doing it”. Through a short-lived premiership,

Chandrasekhar was then running a shaky stump of a government backed from outside by Rajiv Gandhi's Congress.

Ever since he migrated to *Hindustan Times* in 1967, the Dar cartoon was a combo. You got to see Delhi as both city and capital in varying measures. Earlier on from 1961, he had run a politics-*mukt* page one pocket cartoon, “Out of My Mind” in *The Statesman*. Through those years of freewheeling, he honed his cartooning skills and used them in the capital to cut down the big wigs to human scale. He was that rare practitioner who could work across a range. He gave a stirring talk on AIR on a master cartoonist who can't be more different from him, that intensely political and personal Jules Feiffer of *Village Voice*. Dar Saab sketched and interviewed Satyajit Ray in the filmmaker's much photographed study in Kolkata. He cartooned with equal ease for his father Krishna Prasad Dar's Kashmiri cookbook as well as the astro-physicist Jayant Narlikar's *Journey through the Universe*.

There was no guile in the cartoon. He never screamed or lost poise. For some of us who had watched his work for years, he was surprisingly political that evening at Pandara Park. “I grew up in a conflict-averse Kashmir”, he told the home minister then. The last few weeks have had much to make him concerned. The voice, therefore, would be doubly missed.

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## NOVEMBER 27, 1979, FORTY YEARS AGO

### KISSA KURSI KA

THE HEARING OF the appeals of Sanjay Gandhi and V C Shukla in the *Kissa Kursi Ka* case opened at the Supreme Court amidst what may well be the tightest security measures ever. Madan Bhatia, counsel for Sanjay Gandhi, told a three-member bench of the Court that Sanjay did not come under the “ambit” of the Special Courts Act and that the Act in itself was unconstitutional. He said that as Sanjay had never held high public or political office, he did not come under the ambit of the Act. The Act, Bhatia contended, empowered the executive to choose certain class of people for “hostile” treatment, which was violative of Article 14 (relating to funda-

mental rights) of the Constitution.

### ASSAM VIOLENCE

THE ARMY HAS been alerted all over Assam to come to the aid of civil power at short notice following a fresh bout of violence and arson in the Brahmaputra valley which claimed five lives and reduced practically an entire village to ashes. Two persons were killed in police firing at Ahotgiri village under Kamalpur police station of Kamrup district last evening. Three persons were killed, four seriously injured and practically the entire village of Joyshreegaon under Marigaon police station in Nowgong district was reduced to ashes following violent clashes be-

tween two communities in the morning.

### CONG SYMBOL FREEZE

THE ELECTION COMMISSION froze the “cow and calf” symbol of the Congress, even as the party leadership was trying to stall the possible defection of Brahmananda Reddy and Swaran Singh to Indira Gandhi's fold. The party high command is likely to decide on a new symbol for the party in a day or two. In his order, the chief election commissioner, S L Shakhder, said that in the interest of justice and prima facie evidence, the symbol stood frozen and the parties could lead their evidence, to establish their case for claim of the symbol later on.

# Rebuilding credibility

Sometimes a nation has to recognise that its statistical institution is failing the most basic of 'smell' tests and is in need of reform



**NO PROOF REQUIRED**

BY SURJIT S BHALLA

SOME RESULTS OF the National Statistical Office's consumer expenditure survey (CES) for 2017-18 have been leaked. It is hoped that the official release (not endorsement for the reasons enunciated below) of the unit-level data will follow soon, so that researchers, analysts, politicians and even former prime ministers can evaluate for themselves how bad the NSO data really are.

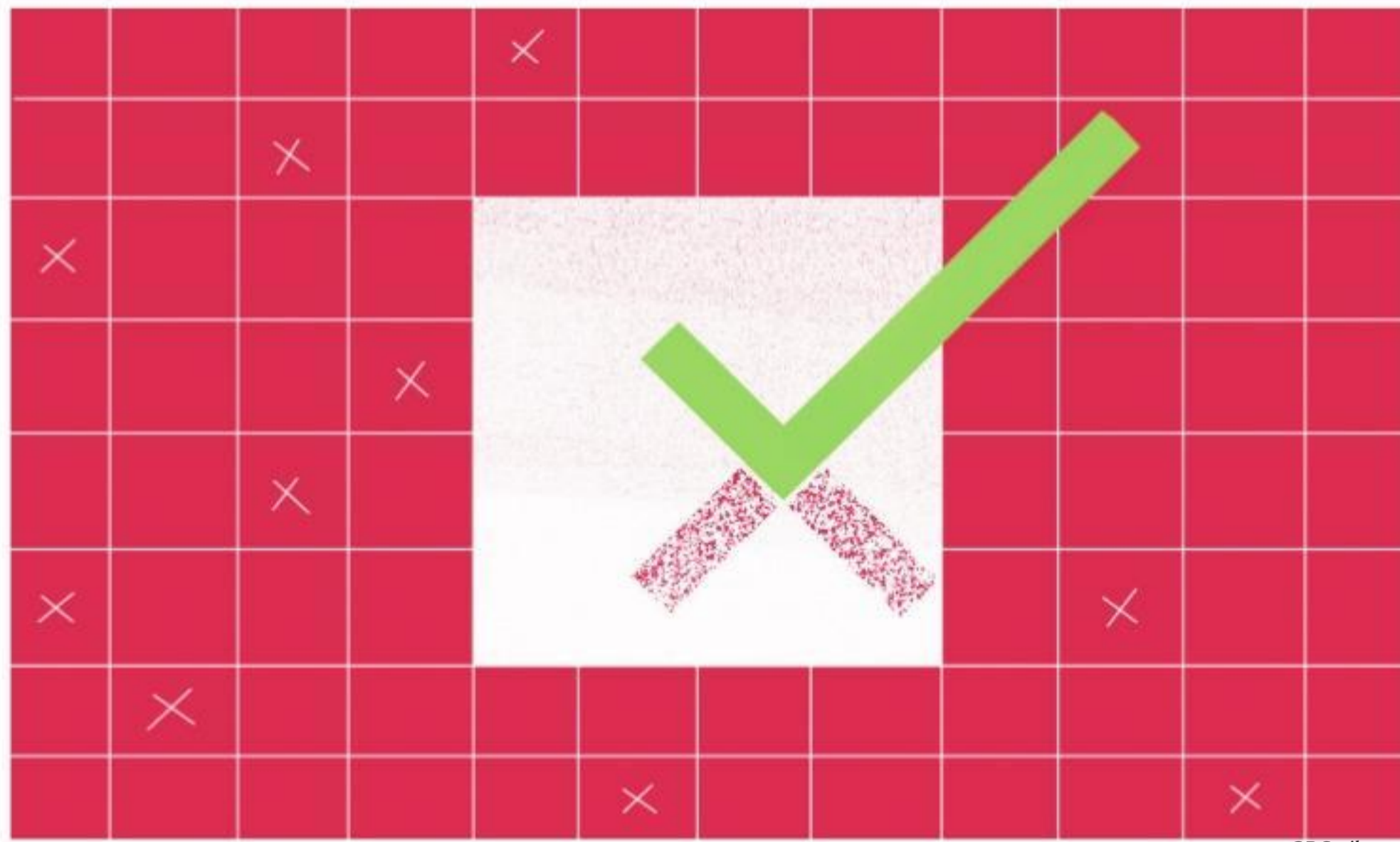
The previous NSO survey on employment (PLFS) estimated the population in 2017-18 to be 1,074 million, when even mathematically challenged individuals estimated it to be upwards of 1,300 million (actually 1,339 million). That error of a 265 million under-estimation is a national record for the highest under-estimation of such a basic number — most NSO surveys have under-estimated population by around 5-10 per cent. The underestimation in 2017-18 at 20 per cent is a record.

This under-estimation has consequences for a major policy variable of interest — jobs and job growth. The unemployment rate is not affected by the estimate of aggregate population; but the number of jobs is affected. Most scholars have estimated employment generated by the PLFS data to decline by around 18 million in the number of jobs in 2017-18 relative to 2011-12. This is according to the usual status of employment, a measure which counts both half-time work (employed for 30-182 days) and full-time work (employed for more than 182 days) as full-time employment. In a detailed (forthcoming) paper on employment, Tirtha Das and I find that the desired full-time jobs (defined as principal status) increased by eight million between 2011-12 and 2017-18 — an increase not that different from what was obtained in the high growth years of 2004-5 to 2011-12 (a 14 million increase, but over seven years).

It is much easier to count people as employed or not employed, than to ask about their monthly per capita expenditure. This is where the world record is on the way to being established. The CES survey for 2017-18 shows that the per person real monthly expenditure (mpce in NSO parlance and not income as mistakenly assumed by some) declined from Rs 1,573 in 2011-12 to Rs 1,514 in 2017-18 (data converted from 2009-10 prices to 2011-12 prices to make it consistent with other data).

In my book, *Imagine There's No Country*, I had documented how there was a declining trend in the amount captured by the surveys over time. Household surveys (S) were capturing less and less of consumption as revealed by an alternative calculation — the national accounts (NA). While the two definitions (survey and national accounts) are not identical, they are broadly comparable.

The average S/NA ratio, around the world, was in the mid 80s in the 1980s, that is, if the NA estimate of per-capita consumption was 100, then the household survey would estimate it to be 85. It is worth remembering that the S/NA ratio in India in the 1950's and 1960's was upwards of 95 per cent. Too high



CR Sasikumar

to be true? In a manner of speaking, yes. For then, the household survey provided the estimate of consumption for national accounts.

But, with time, economies became complicated, and the national accounts data moved with the times, became more sophisticated and captured the trends in the economy much better than the surveys. Survey organisations like the NSO refused to move. In 1983, the S/NA ratio in India collapsed to 63 per cent from the high 70s level just a decade earlier. It was to be 30 years later (in 2012) when the world reached the low 60's average.

That year (2011-12), India recorded a 55 per cent ratio for S/NA. Just six years later (2017-18), the S/NA ratio in India has collapsed to just 33 per cent — the second lowest ever recorded around the world for economies without hyper-inflation (when S/NA ratio really gets distorted) and with populations above 10 million. The worst ever was Nigeria in 2009 with a S/NA ratio of 27.2 per cent.

There is yet another comparison one can make. The two most recent consumption surveys in India, just six years apart, yield a decline of 22 percentage points. This is the second worst sequential decline in the world. The worst was Pakistan in 2001 when the S/NA ratio was 46.9 per cent, down 26.9 percentage points from the 73.8 per cent estimate recorded in 1998.

The secular decline in NSO has now persisted for some 50 years and marks a sad occasion for an institution that was a trend setting statistical institution in not only the emerging economies, but in the world as well. In the early 1950s, the world famous statistician P C Mahalanobis was its head.

I was privileged to be a member of the first National Statistical Commission of India headed by an internationally renowned economist Suresh Tendulkar. I was sent to Calcutta by Tendulkar to interact with the NSSO and to find out why the Indian S/NA ratio had sharply declined and what could be done to improve survey response. I met with little success and came back frustrated with the ancient techniques being followed by them.

The most recent statistical commission chairman, P C Mohanan, was a colleague. He has been quoted as not being surprised with the decision of the government to not accept the findings of the latest record-low NSO sur-

vey. His view is that the government is suppressing reports that are not "favourable". If I thought that the NSO consumption surveys were misleading and not acceptable in 2002 and 2006, I can be forgiven for thinking that the surveys are even less acceptable today. The results of the NSO survey 2017-18 are truly bizarre — a decline in average real consumption of 0.6 percentage per year between 2011-12 and 2017-18, when the NA consumption estimate is of a positive 5.8 per cent annual growth. As discussed above, the NSO estimate for 2017-18 is so out of the box that it is actually out of any (reasonable) ballpark. If the government does not accept the findings of the survey (as has been suggested by a recent press release) then a genuine reform of the NSO can actually begin. Even if it does not return to its previous glory, a reformed NSO can become a respectable institution. That will not be easy, but it is a path worth embarking upon.

I have been surprised by how many respected analysts have pointed to the 'findings' of the NSO 2017-18 and are relating it to the slowdown in the economy in 2019-20. Some of these very same 'analysts' were cheering the RBI/MPC a year ago when it raised the repo rate to 6.5 per cent in June 2018, the very last month of the 2017-18 survey. Their reason for cheering the MPC — growth was too high, so high that it was leading to high and accelerating inflation. Both views cannot be right, and it is worse than disingenuous to hold both views simultaneously.

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The writer is executive director IMF, representing India, Sri Lanka, Bangladesh and Bhutan. Views are personal

## WHAT THE OTHERS SAY

"The Conservative programme unveiled by Boris Johnson rests upon a central untruth: The promise to 'Get Brexit Done'."

—THE GUARDIAN

# Checkmated by the Constitution

Even after late-night coups, the sun rises — as it has in Maharashtra



RANDEEP SINGH SURJEWALA AND MUHAMMAD KHAN

IT IS perhaps fitting that the Supreme Court's decision ordering a floor test in Maharashtra was delivered on Samvidhan Divas, our national Constitution day. It is a celebration of this hallowed occasion that the BJP again stands exposed for its reckless ambition that prioritises its own political gains above the Constitution.

However, the fact that the apex court was required to intervene, once again, is itself a sad commentary on where the Narendra Modi-Amit Shah regime has taken Indian politics. Over the last five years, these tactics to secure power by way of constitutional subterfuge has become textbook for the BJP, which seeks to position this low-level cunning as illustrative of a political wisdom never seen before. In fact, this "Chanakya niti" as hailed by its cheerleaders, appears to be little more than horse trading. Evidence has even surfaced of the current Karnataka chief minister allegedly admitting to the BJP's interference in Karnataka.

This latest episode had all the hallmarks of the BJP fly-by-night operation; unquestioning institutions in the form of the Governor and the President, who without recording any protest, allowed President's rule to be vacated in the early hours of the morning, the fabled purification — which exonerates former rivals whom the BJP had promised to prosecute to the fullest extent of the law — and a desperation to secure power at any cost without any concern as to how it looked to the public.

But few were shocked. Because this is exactly the sort of behaviour that the public has come to expect from the Modi-Shah duo. We saw it in Arunachal Pradesh, Uttarakhand, Goa, Meghalaya, Karnataka where despite not having the requisite numbers, the BJP clawed its way into office. In the first two cases, the Supreme Court struck down their preliminary attempts as illegal (in 2015-2016).

In fact, we owe a debt of gratitude to the previous benches of the Supreme Court which laid down rock solid precedent interpreting the Constitution in a manner which limits the scope for horse trading. It is the one thing the BJP could not find a way around.

But Modi in 2014 had promised India two things above all else — a corruption free government and unparalleled economic reform. No amount of spin can detract from

the fact that on the latter he failed spectacularly, breaching even the lowest of expectations. On the former, he has demonstrated scant regard for the ethics and morals which he claimed made BJP a "party with a difference". Even his attempts to appropriate Gandhian principles through propaganda are scored for their apparent hypocrisy.

This episode was also a reminder of the BJP's unsettling fondness to execute its moves under the cover of darkness (as in the late-night movements against a former CBI chief) or in the confines of a sealed envelope. Are these the actions of a government that swears by transparency? Considering the BJP government has recently amended the RTI Act in a manner that effectively neutralises its independence, this too is in doubt.

On the contrary, the BJP's reckless and selfish ambition has come at a great cost to our institutions and to our laws. Some of these highlights of the BJP's tenure include governors whose fax machines suddenly stop working, who violate convention by allotting arbitrary amounts of time to different parties to prove their numbers, governors who invite the second-largest party before they invite the first. They should bear in mind that ultimately it is the Constitution to which they have sworn their allegiance. This judgment is the latest reminder of that promise.

We have also witnessed an Election Commission, which despite repeated and brazen violations of electoral laws, took no action against the leaders of the parties in power, requiring us to approach the Supreme Court yet again for its intervention. What we saw instead was action being initiated against an Election Commissioner who dissented against this approach.

We have seen vast sections of the fourth estate become parodies of their former selves in their embarrassing loyalty to the king. Some of whom steadfastly celebrated these actions as being indicative of political "hunger" and worth our respect. These are just some illustrations in the current context which remind us the direction in which the Modi-Shah BJP has taken the country. All in an ironic inversion of their own slogan, "minimum government, maximum governance". Whatever this form of "governance" is, it has certainly advanced the political fortunes of one party above all others.

If Modi-Shah had spent more time studying the Constitution they would have been made familiar with Justice Brandeis's maxim that sunlight is the best disinfectant. And regardless of how many late-night operations or coups are executed, the sun always rises.

No amount of "Chanakya niti" can change that.

Surjewala is the AICC national communications in-charge and an advocate, Khan is a lawyer

# Two sides of a coin

Citizens' rights must be seen in the context of duties



ARJUN RAM MEGHWAL

THE NATION celebrated Constitution Day on November 26 to mark the anniversary of the adoption of the Constitution in 1949. Since 1979, this day was observed as National Law Day, and from 2015, it has been observed as Constitution Day.

The traditions and temperament of Indian thought through the ages laid greater emphasis on duties. Swami Vivekananda even termed "devotion to duty" as the highest form of worship of God. The Constitution of India, originally, did not contain the aspect of fundamental duties for citizens. However, during discussions on the draft Constitution and fundamental rights therein, in the constituent assembly, few members had raised their voices in favour of citizens' duties towards the nation. Prabhudevaram Himatsingka, a member of the Constituent Assembly representing West Bengal during the discussion on the draft constitution on November 18, 1949, had said: "I wish along with fundamental rights there were certain fundamental duties also. If we think more of our duties than of our rights, a lot of our difficulties will be over and the rights will take care of themselves and there will be no occasion to feel any difficulty for want of those rights".

Along similar lines, the Constituent Assembly members — Krishan Chandar Sharma (United Province), Thakur Das

Bhargava (East Punjab), Arun Chandra Guha (West Bengal), Nand Kishore Das (Orissa), Durgabai Deshmukh (Madras), Har Govind Pant (United Provinces), B Pattabhi Sitaramayya (Madras), K T Shah (Bihar), Shibban Lal Saksena (United Provinces), Hriday Nath Kunzru (United Provinces), and Kaka Bhagwant Roy (Patiala and East Punjab State Union), emphasised that rights must co-relate to some duties.

Seventy years after the adoption of the Constitution, this idea offers a new paradigm that can help rethink individual duties towards the nation. And, at a time when New India has set high targets for leading the 21st century, combating climate change is crucial in the country's journey towards becoming a \$5 trillion-strong economy in a time-bound manner. Invariably, it also brings responsibility on ourselves to act dutifully towards adopting a lifestyle that helps the nation to move ahead for achieving these targets.

Earth has limited natural resources. The 20th century witnessed large-scale developmental activities and progressive changes such as industrialisation and infrastructure building. It saw the use of other improved methods for production through the massive use of natural resources — reflecting the self-centered approach of mankind. The fact is that with such exploitation of nature, con-

cerns related to duties towards future generations were largely ignored.

While governments, institutions and civil societies work for citizen's rights, inherent duties remain crucial for individuals in order to ensure the efficacy of the system at large. However, in practice, everywhere — schools, homes, workplaces, or at the courts — "rights" have taken up more space than "duties", when actually they are the two sides of the same coin. It is the moral duty of citizens to introduce and enhance a positive "work consciousness" and reject the tendency to find loopholes in rules and laws in order to suit convenience.

Citizens need to fulfil their duties and obey laws too. For instance, citizens have the right to get better roads, infrastructure and better traveling facilities. But following traffic rules is their duty. Having basic household amenities like electricity and clean tap water are citizens' rights. However, it is their duty to end practices that lead to the wastage of electricity and water. It is the citizen's right to get clean streets, but it is the individual's duty to stop throwing garbage on roads, and put trash into the right bins or dispose it in a proper manner. Citizens are entitled to get better health and healthcare facilities, but it is the duty of individuals to act towards swachhta and vaccination. It is indeed the right of

the people to get a pollution-free atmosphere and natural calamity-free ecosystem. But for that to happen, voluntary citizen service is required for planting trees, reforesting wasteland, cleaning rivers, protecting forest cover, and population control measures, along with requisite governmental efforts.

India is the largest democracy of the world. Citizens have the right to vote, but casting that vote is their duty. Citizens are certainly entitled to get better civic facilities for easier daily living, but their responsibility also includes timely payment of taxes for the welfare of the nation.

It is imperative for citizens to strive for a perfect balance between their rights and duties in order to achieve local and national development goals. Unless we promote the culture of duty and responsibility, the aims and objectives enshrined in the Preamble, and under Article 51A of the Constitution, cannot be truly achieved in letter and spirit. Any step towards a "duty-bound lifestyle" in our daily lives — be it at home, the workplace or public spaces will be a humble tribute to the founding fathers of the Indian Constitution.

The writer is Union Minister of State for Parliamentary Affairs and Heavy Industries & Public Enterprises

## LETTERS TO THE EDITOR

### WISDOM MATTERS

THIS REFERS TO the report, 'Muslim Sanskrit professor applies for job in other BHU faculties' (IE, November 26). It is disturbing that a teacher, who is well qualified, has to face protest by students for teaching Sanskrit. A teacher's religion should not come in the way of him imparting knowledge.

Chandravir Singh, Agra

### WRONG SPIRIT

THIS REFERS TO the editorial, 'No cheers for Jagan' (IE, November 26). Prohibition does nothing more than drive the legal sale of alcohol underground. It is ironic that despite being well aware of this fact, several state governments have resorted to prohibition. A dangerous bootlegging industry could thrive in Andhra Pradesh, creating a situation where the government will end up losing revenue while people's lives will be imperiled. Counselling and medical care is a more potent way to wean people off alcohol.

Vijai Pant, Hempur

### STATE'S TASK

THIS REFERS TO the editorial, 'The missing piece' (IE, November 26). Labourers are nation-builders. The country's industrial and organised sectors have social security laws for workers. But they are rarely implemented. After globalisation, stringent labour laws are seen as constraints for investors. So, the government wants to relax them. The question is: On whose behalf should the state act? The working class is always weaker. Shouldn't the state take their interests into account?

Tapamoy Ghosh, Bardhaman

### LETTER OF THE WEEK AWARD

To encourage quality reader intervention, The Indian Express offers the Letter of the Week award. The letter adjudged the best for the week is published every Saturday. Letters may be e-mailed to [editpage@expressindia.com](mailto:editpage@expressindia.com) or sent to The Indian Express, B-1/B, Sector 10, Noida-UP 201301.

### MESSY BONDS

THIS REFERS TO the editorial, 'Money and power' (IE November 23). It's true that the figures on electoral bonds raise alarming questions. The Election Commission should have knowledge about party funding. If transactions amounting to crores are taking place, what about issues like tax compliance?

Vihaan Gupta, Ujjain

### ENGLISH IN STEPS

THIS REFERS TO the article, 'Let them have English' (IE, November 21). In times where English is seen as the language of aspirations, the Andhra government's move to teach in English medium in its schools is justified. However, given that educational sector reforms are evolutionary, the state government should have implemented the project in a graded manner, taking into account the availability of teachers.

Satish Reddy, Nalgonda



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If there are questions of current or contemporary relevance that you would like explained, please write to [explained@indianexpress.com](mailto:explained@indianexpress.com)

## TELLING NUMBERS

## Pollution on Diwali: PM2.5 rose 5x in Delhi, Bengaluru air clean

IN DELHI, the Diwali readings for PM2.5 and PM10 rose respectively by roughly five and three times from the previous week's readings, statistics tabled in Parliament by the Ministry of Environment, Forest and Climate Change show. While the PM2.5 reading rose from 116 micrograms per cubic metre to 512 µg/cu.m on Diwali (October 27), PM10 rose from 190 to 600. Air quality on Diwali deteriorated significantly in Delhi, Lucknow, Agra, and Kolkata. While it deteriorated in Bengaluru too, the latter remained the least polluted among these cities as both PM2.5 and PM10 levels remained within prescribed limits.

The Central Pollution Control Board conducted air quality monitoring for seven cities — Delhi, Agra, Bengaluru, Bhopal, Kolkata, Lucknow, and Vadodara. It measured air quality for pre-Diwali, Diwali and post-Diwali periods. The Board prescribes the National Ambient Air Quality Standard (NAAQS) for PM2.5 (Particulate Matter 2.5) at 60 µg/cubic metre (24-hourly average), and PM10 (Particulate Matter 10) at 100 µg/cu.m.

On pre-Diwali days, PM10 and PM2.5 were already significantly above NAAQS levels in Agra, Delhi, Lucknow and Kolkata, while the levels in the other three cities were below or slightly above these standards. On Diwali, all cities except Bengaluru crossed PM2.5 NAAQS values. On post-Diwali days (seven days after

City	PM10		
	Pre-Diwali	Diwali	Post-Diwali
Delhi	190	600	439
Lucknow	182	377	324
Agra	214	284	303
Kolkata	124	263	166
Bhopal	94	150	92
Vadodara	100	91	52
Bengaluru	29	53	40

City	PM2.5		
	Pre-Diwali	Diwali	Post-Diwali
Delhi	116	512	435
Lucknow	140	298	266
Agra	134	225	231
Kolkata	91	216	123
Bhopal	67	105	60
Vadodara	39	64	24
Bengaluru	11	35	22

Figures in micrograms per cubic metre  
Source: Central Pollution Control Board via MoEFCC

October 27), the levels of both pollutants fell in all these cities except Agra.

The question was raised by Trinamool Congress MP Shanta Chhetri in Rajya Sabha. In his reply, Minister of State Babul Supriyo said it was evident that north Indian cities displayed similar dispersion patterns.

## THIS WORD MEANS

## POLYDACTYLY

Birth defect that leads to extra digits on hands and feet

SEVERAL NEWS organisations in India and overseas on Monday reported the story of a 63-year-old woman in a village in Odisha who, according to the reports, had been ostracised by the community as a "witch" because she was born with 12 fingers and 20 toes. The woman's condition is known as polydactyly/polydactylism or hyperdactyly, a birth defect in which humans and animals have supernumerary fingers or toes. In other words, a person suffering from the congenital anomaly of polydactyly will have more than five digits in a particular hand or foot — a condition opposite to oligodactyly, in which the sufferer has fewer than five digits in a hand or foot.

Polydactyly is reported in perhaps one or two children per 1,000 live births, and could be the most common abnormality of development seen in newborns worldwide. The defect develops during the sixth or seventh week of gestation, when an irregularity occurs in the splitting of the fingers from the hand or foot, creating an extra digit. Causes are believed to be genetic, in some cases hereditary. The defect is also seen in cats, dogs, cattle, sheep, pigs, chickens, geese, and sometimes horses.

The extra digit is only rarely fully functional; most often it is a small piece of soft



Illustration of a 12-fingered man in Hartmann Schedel's Nuremberg Chronicle, 1493. Wikipedia

tissue that sometimes also has a bone and, in a small number of cases, a bone with a joint. In most cases, the extra digits can be surgically removed; the procedure gets more challenging if there is bone with the skin and tissue, and most difficult when the bone has a joint.

Stories of stigma associated with the condition are often reported; the stigma is most commonly seen among poor and less literate communities. In December 2018, a newborn baby girl died in a tribal hamlet in Khandwa, Madhya Pradesh, after her mother allegedly cut off the extra fingers and toes with which the child had been born, apparently for fear that no one would marry her when she grew up.

of France, Germany, Switzerland, Italy, and Ghana; tech majors Google, Facebook, Twitter, Microsoft, NordVPN, Reddit, Github, and DuckDuckGo. The Contract allows individuals to endorse it on the official website.

## SIMPLY PUT QUESTION &amp; ANSWER

## Maharashtra's irrigation scam

Ajit Pawar, a BJP ally for three and a half days, was the target of repeated attacks by the saffron party during the time he was Water Resources Minister in the Congress-NCP government. What were the allegations?

## KAVITHA IYER

MUMBAI, NOVEMBER 26

ON MONDAY, the day before NCP leader Ajit Pawar resigned as Maharashtra Deputy Chief Minister, the Anti-Corruption Bureau (ACB) said it had closed nine "open enquiries" in connection with the alleged multi-crore irrigation scam. The ACB denied this was done to give a "clean chit" to Ajit Pawar whose support had enabled the swearing-in of a BJP-led government (which has now resigned).

## Where does Ajit Pawar figure in this?

Ajit Pawar was Water Resources Minister in previous Congress-NCP governments during the time allegations of irregularities surfaced in irrigation projects, including in Vidarbha Irrigation Development Corporation (VIDC) of which he was chairman. Maharashtra has five region-specific Irrigation Development Corporations.

While Ajit Pawar has not been named in any of the FIRs, then ACB Director-General Sanjay Barve had told the Nagpur Bench of the Bombay High Court in November 2018 that Ajit Pawar had intervened in the process of award of contracts for irrigation projects. The nine enquiries closed were out of open enquiries into 2,654 tenders for 45 VIDC projects. The ACB said it had completed open enquiries into 212 tenders, registered 24 FIRs and filed chargesheets in five cases.

## What was the nature of the allegations?

As of June 2011, irrigation potential of 48.26 lakh hectares had been created by the Maharashtra Water Resources Department through 3,712 completed and ongoing projects, while the irrigation potential utilised as of June 2012 was only 32.51 lakh hectares, or 67.36%.

Between 2001-02 and 2011-12, various reports of the Comptroller and Auditor General (CAG) of India on Water Resources Department projects highlighted the absence of long-term plans, non-prioritisation of projects, delays in completion, commencement of work without forest/ environmental clearances, etc.

## CHAKSHU ROY

NEW DELHI, NOVEMBER 26

UNTIL THE resignation of Maharashtra's newly sworn in Deputy Chief Minister Ajit Pawar on Tuesday, followed by that of Chief Minister Devendra Fadnavis, the focus of attention had been on a floor test the government would have faced on Wednesday.

The Supreme Court had ordered the floor test on Monday. In its order, it referred to cases in the past where it had directed the holding of a floor test to establish whether the political party/alliance that staked a claim for government formation had the requisite majority. Here is a recap of these cases from various states and the circumstances that led to the Supreme Court's intervention.

## S R Bommai v Union of India (1994)

The concept of floor test was first established by the Supreme Court in 1994 in the landmark case of S R Bommai. In this case, it was alleged that the Janata Party government led by Bommai did not enjoy a majority in the Karnataka legislature. The court held that, wherever a doubt arises whether the



Ajit Pawar outside the Maharashtra Assembly on Monday. Nirmal Harindran

## How did the allegations first surface?

In 2012, then chief engineer of the Maharashtra Engineering Training Academy and former Irrigation Department engineer Vijay Pandhare wrote to Chief Minister Prithviraj Chavan and Governor K Sankaranarayanan recommending CBI investigations into inflated cost estimates and other alleged irregularities in dam-building contracts handed out by different Irrigation Development Corporations. The first whistle-blower in the case, Pandhare had to be given police protection after then Deputy Chief Minister Ajit Pawar resigned as details emerged of irregularities in multiple contracts. Pandhare later unsuccessfully contested the 2014 Lok Sabha elections on an AAP ticket. Other activists who flagged irregularities included Anjali Damania (she too contested unsuccessfully as an AAP candidate) and Pravin Wategaonkar.

## How did the then government respond?

Early details of the alleged scam came in Pandhare's first letter in February 2012. In March 2012, the annual Economic Survey report tabled in the Assembly said the department had spent about Rs 70,000 crore over a decade on dam projects that had added a mere 0.1% to area under irrigation.

Council of Ministers has lost the confidence of the House, the only way of testing it is on the floor of the House.

## Jagdambika Pal v Union of India (1999)

The events that led to this case coming before the Supreme Court were less than pleasant. In 1996, the Uttar Pradesh Assembly elections resulted in none of the contesting parties winning a clear majority. President's Rule was imposed for some time and thereafter, the BJP and the BSP formed a coalition government. The understanding between the two parties was that each party would have its Chief Minister for six months. Consequently, Mayawati of BSP became the Chief Minister for six months. When Kalyan Singh of the BJP occupied the CMs chair, BSP withdrew support to the government. A trust vote was called on the floor of the House, which witnessed some of the most violent scenes in any Legislative Assembly. MLAs threw mikes, chairs and sound boxes not only at each other but also at the Speaker. While Kalyan Singh won the trust vote, his government was later dismissed by Governor Romesh Bhandari. The Governor swore in Jagdambika Pal, whose appointment was

challenged by Kalyan Singh. The Supreme Court then ordered a composite floor test to determine who enjoyed a majority in the UP Assembly. The court also gave specific instructions about how the test should be conducted.

## Anil Kumar Jha v Union of India (2005)

The next instance of a composite floor test being ordered by the Supreme Court happened in Jharkhand. This time the contest was between Jharkhand Mukti Morcha's Shibu Soren and the NDA's Arjun Munda. The Governor had invited Soren to form the government while Munda claimed that he commanded a majority in the House. The Supreme Court advanced the date of the floor test and again issued detailed instructions with regard to recording of the proceedings of the floor test and regarding the orderly conduct of the test.

## Union of India v Harish Chandra Singh Rawat (2016)

The case in Uttarakhand was a little different. Here the controversy regarding a majority did not occur after the elections to the state legislature. The Congress government led by Harish Rawat had been in power since 2012. It was towards the end of its tenure in 2016, that

controversy erupted on the floor of the House. A few rebel MLAs from the Congress party alleged that an appropriation Bill was passed without the government enjoying a majority in the legislature. Thereafter, President's Rule was imposed in the State. In response, Rawat approached the Supreme Court, which ordered an immediate floor test, after suspending President's Rule for two hours. Again the Supreme Court ordered video recordings of the floor test proceedings and also asked that the result of the floor test be brought before it.

## Chandrakant Kavlekar v Union of India (2017)

This case from Goa was a result of the Governor inviting Manohar Parrikar of the BJP to form the government in the State. The BJP had won 13 of the 40 seats in the Goa legislature and had claimed the support of smaller parties for forming the government. The Supreme Court, while ordering a floor test in this case, held, "The holding of the floor test would remove all possible ambiguities, and would result in giving the democratic process the required credibility."

## The author is Head of Outreach at PRS Legislative Research

## In SC's order on floor test, mention of several sordid episodes elsewhere

## Coming: A rulebook, bill of rights and 'Contract' for the World Wide Web

## SHRUTI DHAPOLA

NEW DELHI, NOVEMBER 26

SIR TIM Berners-Lee, inventor of the World Wide Web, has announced a "Contract for the Web" — aimed at saving the future of his invention, which is now almost an essential condition for human existence. The Web is at a tipping point, Berners-Lee wrote in an op-ed for *The New York Times*, and needs radical intervention from all stakeholders — governments, companies, civil society groups, as well as individual users.

## What is the Contract for the Web?

Berners-Lee announced plans for this "Contract" nearly a year ago, and the World Wide Web Foundation, a non-profit he has founded, worked on it. The idea is to create a global plan of action for all stakeholders to together commit to building a "better" Web. The Contract consists of nine principles — three each for governments, private

companies, and individuals and civil society to endorse — with 76 clauses each.

Emily Sharpe, Director of Policy at the World Wide Web Foundation, said the Contract was not meant to be "simply aspirational", or just a "declaration". "It's actually meant to be implemented, and it's meant to be a plan of action. We're hoping, for example, that governments who are looking to regulate in the digital era, can use the contract as a roadmap to lay out their policies and laws going forward. And companies to do the same when they're developing their products and services for the world," she told *The Indian Express* over the phone from London.

## And who has created this Contract?

Representatives from over 80 organisations, including governments, companies, civil society activists, and academics. The goal was to create a standard policy for a Web that benefits all. The nine principles emerged after a series of discussions over almost a year. Participants included the governments

## What are the principles in the Contract?

■ Governments will "Ensure everyone can connect to the Internet", "Keep all of the Internet available, all of the time", and "Respect and protect people's fundamental online privacy and data rights".

■ Companies will "Make the Internet affordable and accessible to everyone", "Respect and protect people's privacy and personal data to build online trust", and "Develop technologies that support the best in humanity and challenge the worst".

■ Citizens will "Be creators and collaborators on the Web", "Build strong communities that respect civil discourse and human dignity", and "Fight for the Web" so that it "remains open and a global public resource for people everywhere, now and in the future".



www at tipping point: Berners-Lee AP

## How will the Contract be implemented?

The principles are lofty, and implementation will not be easy. Sharpe said companies that do not implement the Contract would be delisted from it — which may not be the strongest deterrent. However, she pointed out that companies had themselves reached out to be active participants in the Contract. "This was an opportunity for them to have conversations with governments and

civil society instead of shouting at each other. It was an opportunity for dialogue. So they're going back to their engineers and saying, 'We've committed to all these other stakeholders that we're going to fight hate speech, that we're going to respect privacy.' We hope they will actually do that now," Sharpe said.

Even so, the "Contract for the Web" is not a legal document, or a United Nations document — though the organisation is in talks with the UN. It cannot currently bend governments or companies — even those that are on board — to its will.

"We have to agree as a global community, what are the right standards. And now that we have that agreement, hopefully, we will see governments who are more willing to act in line with human rights standards, that they will abide by the contract clauses," Sharpe said.

Citizen action is an important part of the Contract, and the organisation hopes citizens would hold governments and companies accountable for violations of its terms.

## Contract is ready, what happens now?

The idea, Sharpe said, is to build "concrete solutions that support the goals that were set out in the Contract". A clause for companies, for example, calls on them to invest in research to ensure they're not designing services that manipulate people.

"Currently there's no real accepted standard of best practices for even designing user interfaces, to make sure that people actually understand what they're consenting to, what information is being collected. That's still work that needs to be done," she said.

The World Wide Web Foundation says it will work with all stakeholders to build some of these standards, which could help the Web stick to the principles of the Contract. It will measure the progress of the Contract's endorses, and work with regulators around the world to ensure that companies comply with national laws that support the Contract's goals. The organisation also hopes to persuade more governments across the world to come on board the Contract.