



ALSO IN SUPREME COURT SOON

## RAFALE VERDICT REVIEW

On court-monitored probe and pricing details

A THREE-JUDGE Supreme Court Bench comprising Chief Justice of India Ranjan Gogoi, Justice S K Kaul and Justice K M Joseph is expected to deliver its verdict on a clutch of petitions seeking review of its December 14 judgment last year, which had dismissed the pleas challenging India's agreement with France to procure 36 Rafale fighter jets.

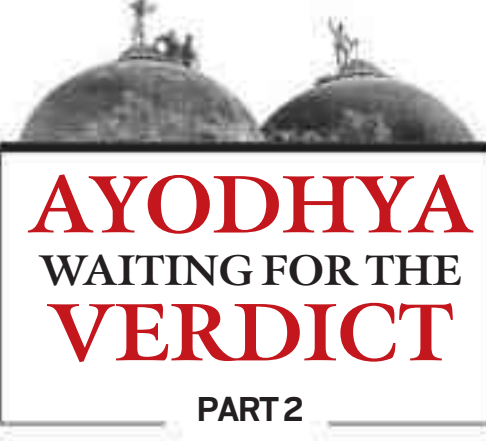
The petitioners include advocate Prashant Bhusan and former ministers Arun Shourie and Yashwant Sinha. Besides adjudicating if the deal requires a court-monitored probe, the Bench is also expected to rule on whether the pricing details regarding the Rafale deal

should be made public. While dismissing the petitions last December, the Bench had said it found "no occasion to really doubt the process" of decision-making, pricing and selection of offset partners. It had said there was no material to show that the government had favoured anyone commercially. During the review, the Centre has maintained that that the pricing details could not be made public due to security concerns. However, Bhusan has questioned how revealing the price of the Rafale would affect national security when the RFP (request for proposal) for the 126 jets had all the technical details of the aircraft.



# How HC verdict was argued in SC

Leading to its 2010 verdict, Allahabad HC had examined eight key questions in the Ayodhya title suit. What arguments did the two sides make over the same issues in SC, whose judgment is expected soon?



APURVA VISHWANATH  
NEW DELHI, NOVEMBER 6

AHEAD OF the Supreme Court's verdict in the Ram Janmabhoomi-Babri Masjid dispute, which is expected soon, Part-1 of this series looked at the Allahabad High Court verdict of 2010 that had directed a three-way partition of the disputed land among Bhagwan Ramlalla Virajman, Nirmohi Akhara and Uttar Pradesh Sunni Central Waqf Board. In doing so, the Allahabad Bench had broadly dealt with eight key issues that involve over 30 questions.

In Part-2, a look at how the two sides subsequently argued before the five-judge Supreme Court Bench — Chief Justice of India Ranjan Gogoi, Justice S A Bobde, Justice D Y Chandrachud, Justice Ashok Bhusan, Justice S Abdul Nazeer — over the same eight issues:

### Is the claim made by the Hindu side in 1989, particularly by the deity Ram Virajman, time-barred?

**HINDU PARTIES:** While defending the High Court's finding that the claim filed by Bhagwan Ramlalla Virajman was not time-barred, they argued that the High Court was correct in holding that the Nirmohi Akhara and UP Sunni Central Waqf Board had delayed filing their claims and would not be entitled to seeking possession after the period of limitation.

**MUSLIM PARTIES:** The Muslim side argued that the period of limitation of 12 years began in 1949 when the idols appeared under the central dome, and the claim was filed in December 1961, and not six years as the High Court had held. The High Court had decided the period of limitation began to be applicable in 1950 when the first two suits were filed.

### Does a suit filed in 1885 settle the question of land possession?

**HINDU PARTIES:** They have argued that the civil suit, in which a district court in Faizabad had remarked (in 1886) that the mosque was built on land considered holy by the Hindus in Ayodhya although he did not grant permission to build a temple, settles the question of land possession and it was for the Muslim side to show that this finding was wrong.

**MUSLIM PARTIES:** They have argued that the 1885 suit cannot be agreed as settled law on the issue since it only dealt with a portion of land — the Chabutra on the outer courtyard — and that the subsequent claims involved the entire disputed site.

### When was the structure built, by whom, and who was in possession of the land?

**HINDU PARTIES:** The Hindu side stuck to its claim that the structure in question was built by Babur in 1528. However, since the Janmasthan is divine and is a deity in itself even without an idol, they argued that the land always belonged to Hindus and even a mosque on the premises subsequently would not alter its divinity. The court has to adjudicate whether Janmasthan can be considered a legal entity. The Akhara claimed possession of the land saying it had *shebait* rights and is entrusted with maintenance and preserving



After the conclusion of hearings in the Ayodhya title suit appeals on October 16: (Top) Primary litigant Mahant Dharam Das and Maulana Suhaib Qasmi of the Ayodhya Varta Committee. Tashi Tobgyal (Above) Senior counsel (from right) Solicitor General of India Tushar Mehta (UP government), Senior Advocate C S Vaidyanathan (Ramlalla Virajman), Additional Solicitor General of India Vikramjit Banerjee (not representing any party in this case), Senior Advocate P S Narasimha (Mahant Paramhans Ramchandradas), and Senior Advocate Ranjit Kumar (Gopal Singh Visharad). Ananthakrishnan G

the idol and its property.

**MUSLIM PARTIES:** The Muslims had possession of the area since 1528 when the mosque was built and the land was never claimed by Hindus till 1989. "If they had possession, why was one dome of the Babri Masjid knocked down in the 1934 riots and trespass to install the idols in 1949 if they already had the title," senior advocate Rajeev Dhavan had asked.

### Was the mosque built on the site of an ancient Hindu temple?

**HINDU PARTIES:** They have relied on reports of the Archaeological Survey of India (ASI) submitted as evidence that Babri Masjid was on land on which stood a "massive structure" dating back to at least the second century BC, and not on vacant or agricultural land. Another contention percolating throughout the arguments was that the mosque was built on a Hindu temple site based on "unshakeable faith" of Hindus that Lord Ram was born in Ayodhya. During the course of the arguments, the judges had put questions to senior advocate C S Vaidyanathan to prove that the mosque was built over a temple.

**MUSLIM PARTIES:** They have argued that ASI reports are at best expert "opinions" and "cannot be accepted as evidence" to decide

the case. They also highlighted inconsistencies in successive reports and statements made by ASI officials in depositions and argued that the court should not accept it as evidence. Additionally, they argued that gazetteers and books relied on by the Hindu side cannot be considered verified accounts of history.

### Were idols and objects of worship placed on the night of December 22-23, 1949, or were they already there?

**HINDU PARTIES:** The Allahabad High Court had held that the idols were placed under the central dome in 1949, while the Hindu side argued that they had existed previously. During the arguments, Justice Bhusan referred to oral evidence of individuals who had testified and made references to idols and a *garb grih* before 1935.

**MUSLIM PARTIES:** They continued the argument that placing the idols under the central dome was a planned, surreptitious attack and an trespass.

### Did the outer courtyard include Ram Chabutra, Bhandar and Sita Rasoi?

**HINDU PARTIES:** Since all three judges in the Allahabad High Court ruling had agreed that Ram Chabutra, Bhandar and Sita Rasoi existed before 1855, this was not a point of

contention before the Supreme Court. **MUSLIM PARTIES:** The Muslim side agree that there were idols of Hindu deities in the Ram Chabutra before 1949 too, but they argued that the Hindus did not hold the title over the place and only had the right to pray.

### Who had possession and title of the property?

**HINDU PARTIES:** The Hindu side sought declaration of title of not only the 2.77 acres of disputed land but also the adjoining land acquired by the government. Lawyers appearing on behalf of the deity argued that the Nirmohi Akhara had "disentitled itself" from filing claims adverse to the deity.

**MUSLIM PARTIES:** The Uttar Pradesh Sunni Central Waqf Board also argued that the Nirmohi Akhara and the Board were original litigants over the property until a claim was made in 1989 on behalf of the deity Ramlalla Virajman as the sole and exclusive owner of the site. However, the Board argued against the Nirmohi Akhara's claim for title on the ground that *shebait* rights cannot transfer to ownership. The Akhara has no duties and no rights, the Board argued. The Muslim side said they have only sought title over the area of dispute and not the land acquired, and that it would allow Hindus to worship in the outer courtyard in Ram Chabutra. They have argued that they are entitled to restoration of the mosque as it stood before its demolition on December 6, 1992.

### Is the Babri Masjid a valid mosque?

**HINDU PARTIES:** Quoting the ASI reports that noted that inscriptions in the Devanagari script were found on the pillars of the mosque, the Hindu side argued that the structure was not a valid mosque according to the tenets of Islam. They also argued that every place where prayers are offered cannot be treated as a mosque, countering the claims of the Muslim side that prayers were offered in the mosque.

**MUSLIM PARTIES:** The disputed structure has been a mosque since the day it was constructed, the Muslim side claimed. They argued that even after the riots of 1934, namaz was offered and the Babri Masjid had an imam who led the prayers and a muezzin who recited the azaan. However, the parties agreed that construction of the mosque cannot be questioned on the basis of theology but on historical facts.

## SABARIMALA RULING REVIEW

On a ban, its lifting and the right to equality

A FIVE-JUDGE Constitution Bench headed by Chief Justice Ranjan Gogoi is expected to deliver its verdict on a batch of petitions seeking a review of the court's September 2018 ruling that had lifted a ban on menstruating women from entering the Sabarimala temple.

In February, the court reserved its verdict after a day-long hearing of over 65 review petitions and fresh writ petitions. Lawyer K Parasaran, appearing on behalf of the Nair Service Society, argued against the ruling while senior advocate Indira Jaising, appearing on behalf of two women, Bindu and Kanakadurga, who entered the temple despite protests, argued against reviewing the ruling. The temple's chief *tantri* Rajeevaru Kandararu filed the

first review petition. The Kerala government and the Travancore Devaswom Board too opposed the review and argued that courts can set aside religious practices that violate fundamental rights of citizens.

In 2018, a five-judge Constitution Bench headed by then CJI Dipak Misra had ruled that banning entry of menstruating women is discriminatory and violates the right to equality. It said discrimination based on menstruation is akin to practising untouchability as both concepts are rooted in the idea of purity.

Justice Indu Malhotra, however, wrote in dissent and said the petitioners, NGO Indian Young Lawyers' Association, had no standing before the court to seek such relief.



## JUDICIARY UNDER RTI AMBIT

'The question is where do we draw the line'

A CONSTITUTION Bench headed by Chief Justice of India Ranjan Gogoi and including Justice N V Ramana, Justice D Y Chandrachud, Justice Deepak Gupta and Justice Sanjiv Khanna is expected to deliver its verdict on an appeal by the Supreme Court's Central Public Information Officer (CPIO) against a January 2010 ruling of the Delhi High Court which held that the Supreme Court and CJI are "public authorities" under the Right to Information Act, 2005.

The HC had upheld a Central Information Commission order directing the SC CPIO to provide information sought by an applicant on assets of SC judges. This is significant as the Bench

will decide if disclosure of confidential information, like discussions in the collegium for appointment or promotion of judges, under RTI would be "deleterious to functioning" of the judiciary.

The Bench had earlier said "somewhere a line has to be drawn" on how much information about the process can be made public lest it affect the institution itself. "Nobody is for a system of opacity. Nobody wants to remain in darkness. Nobody wants to keep anyone in darkness. The question is where do we draw a line. Somewhere a line has to be drawn. In the name of transparency, you cannot destroy the institution," CJI Gogoi had said, reserving the verdict.



APURVA VISHWANATH & KAUNAIN SHERIFF M

## INTERVIEW MADHAV GODBOLE

# 'National Integration Council meeting must be called to build consensus'

**Madhav Godbole** was Union Home Secretary when the Babri Masjid was demolished. Pune-based Godbole, who also served as Justice Secretary and held several high positions in the bureaucracy in the 1980s and early 1990s, has recently written a book, *The Babri Masjid-Ram Mandir Dilemma: An Acid Test for India's Constitution*. He spoke with **Seema Chishri**

### What is your key takeaway from the Babri Masjid/Ram Janmabhoomi crisis, and the demolition of the Babri Masjid?

As I have brought out in the book, the demolition of Babri Masjid signified a total breakdown of not just the rule of law, but of the Constitution itself. The demolition could have been avoided if three successive Prime Ministers — Rajiv Gandhi, V P Singh and P V Narasimha Rao — had intervened effectively to find a solution to the dispute.

All constitutional bodies — the central government, the state government, the Governor, the judiciary, and the all India services (IAS and IPS) — failed in discharging their responsibilities. Even after the demolition of

Babri, the stand of the two communities — Hindus and Muslims — has not changed, as if time has stood still over the years. If another catastrophe like in Ayodhya takes place, India will be as vulnerable as it was in 1992, when the mosque was demolished.

### Several individuals with close links to the Ram Janmabhoomi movement are associated with the government in various capacities today. Is that relevant as the verdict is about to be delivered?

Ideally, it should make no difference to upholding the principles, precepts and values of the Constitution whichever political party is in power, as every holder of office, while taking over, undertakes to bear true faith and allegiance to the Constitution of India and to uphold the sovereignty and integrity of India.

But this is easier said than done. Secularism, which is part of the basic structure of the Constitution, is being questioned and flouted in flagrant disregard of constitutional precepts. Communalisation and politi-

cisation of civil services, which are the main instruments for upholding the rule of law, has become a cause for serious concern. After all, the strength of democracy lies in its institutions. Equally important is the role of civil society and the media, among others.

### Why didn't then PM Narasimha Rao invoke Article 355 or 356 (in Uttar Pradesh) before the demolition? Could that have prevented the events of December 6, 1992?

Prime Minister Rao was of the view that Article 356 (of the Constitution) could not be used preemptively. My view, based on Supreme Court decisions, is quite the opposite. Invoking Article 356 (along with Article 355) and imposition of President's Rule in UP, as advised by the Ministry of Home Affairs, with the concurrence of the Ministry of Law, was the only way Babri could have been saved from destruction.

Not imposing President's Rule meant giving a free hand to (then UP) Chief Minister Kalyan Singh, and he made full use of it by

literally presiding over the destruction of the mosque. As I have argued in the book, after the adoption of the Constitution in 1950, Article 356 was invoked more than a hundred times. This was one occasion which fully warranted its use, but unfortunately, on this very occasion it was not used.

### With the Supreme Court verdict in the title suit appeals only days away, what should be the focus now?

Strong pressure of public opinion must be built that, whatever may be the decision of the highest court, it will be fully respected and accepted by all. A meeting of the National Integration Council may be called to build a national consensus and resolve for the purpose. At the same time, it must be made unambiguously clear by the central and state governments that any breach of law and order would be put down firmly.

### What is your prognosis for India after the decision? Will there be closure, or could the judgment open a Pandora's box?

The Supreme Court, in its majority judgment in the Special Reference No. 1 of 1993 dated 24 October 1994, had underlined that it is in the national interest that there is no loser at the end of the process, so that the final outcome does not leave behind any rancour in anyone. The court had also said that unless a solution is found which leaves everyone happy, that cannot be the beginning for continued harmony between "we the people of India". This was of course with reference to the expected negotiations between the contending parties. I have suggested in my book a similar approach to resolving the dispute. I sincerely hope this will come about as a result of the judgment of the apex court.

India cannot shirk the existential question of separation of religion from politics, as it has done so far. I believe that India's religious, racial, linguistic, cultural, ethnic and even sartorial diversity is its strength, and under no circumstances should it be permitted to be compromised and diluted.



Illustration: Shyam Kumar Prasad





The Indian EXPRESS

FOUNDED BY RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

The jobs challenge

A comprehensive employment policy combined with an industrial policy is necessary to address the crisis



SANTOSH MEHROTRA AND J PARIDA

A REPORT IN this paper (IE, November 1) on various employment estimates for 2017-18, based on the PLFS (periodic labour force survey) data, has received considerable attention. We have received several queries from policy makers regarding the differences in our employment estimates with studies by Laveesh Bhandari and Amaresh Dubey (BD), and Himanshu that are quoted in the report. In this article, we clarify the reasons for the differences and highlight the major findings of our study.

First, our estimates are different from that of BD because theirs are based only on the usual principal status (UPS) of employment. Our study is based on both usual principal and subsidiary status (UPSS) of employment. Since Himanshu's estimates are also based on UPSS, our figures are not much different except for the 2017-18 PLFS figures. Himanshu's and our estimates for employment in both 2004-05 and 2011-12 are almost the same (the negligible difference is because of the use of population multipliers that differ at second and third decimal points). The discrepancy with Himanshu's 2017-18 employment figure is only because he probably used a lower population multiplier based on a projected total population of 1.33 billion.

But, while comparing Himanshu's estimates with that of BD for 2017-18, we find that both their figures are the same (this is surprising since BD have ignored the subsidiary status of employment unlike Himanshu). We have explored why this has happened. BD have used a projected population of close to 1.36 billion based on their argument that the annual population growth of India was about 1.7 per cent between 2011-12 and 2017-18. This is a very high over-estimation of India's population growth rate during this period. The World Bank's population projection (available at World Development Indicators) shows that annual population growth in India was only 1.2 per cent per annum in 2012 and 1.04 per cent in 2018, and the total population was about 1.34 billion in 2017-18. Our population projections (based on a monthly exponential growth rate) show that the total population in India was about 1.345 billion in 2017-18 (the same as the World Bank's estimate).

The number of disheartened youth (having secondary and above level of general education, and with technical and vocational qualifications) is rising at an alarming rate. With total jobs falling at a time when new entrants into the labour force are increasing at an accelerating pace, it is not surprising that real wages have not increased in both rural and urban areas.

The National Family Health Survey 2015-16 shows that there has been a phenomenal decline in the total fertility rate (the number of children born to women in the reproductive age group of 15-49), reaching a near replacement rate of 2.2 per woman, from 2.7 in 2005-06. Hence, the 1.06 per cent population growth rate we use is logical; and 1.7 per cent cannot be India's current population growth rate. The use of the latter artificially raises the workforce number that BD came up with, 457 million in 2017-18. This is surprising since they had missed out on subsidiary workers altogether. Hence, they fail to find that the total jobs in India fell by nine million in six years, a first in India's history.

Moreover, since the employment and unemployment figures are always estimated considering both the principal and subsidiary status of employment, BD's employment estimate, based only on the principal status, is incomplete and misleading. The principal employment status is recorded for a relatively longer duration of time in the survey year (normally for a period of six months and more). It leaves out those who work for less than six months, and who must also be counted among those working. The subsidiary status of employment data (covering those working 30 days but less than 182 days), covers those not employed in the principal status, and must be added to workers in principal status. So, by ignoring the subsidiary employment, BD provide an incomplete and incorrect employment trend for India.

Hence, BD's claim that manufacturing employment during 2011-12 and 2017-18 was "stagnant" is also misleading. In fact, based on the UPSS, we found that manufacturing employment actually declined by three million between 2011-2012 and 2017-2018. While labour intensive sub-sectors were mainly responsible for this decline, a few capital intensive manufacturing sub-sectors did register consistent growth of jobs during 2004-05 and 2017-2018. Although the quality of jobs is very poor in the services sector, it has played a major role in driving job growth, but only partly offsetting the fall in employment in agriculture, manufacturing, and slowing employment creation in the construction sector. In fact, because of their problematic methodology, BD fail to notice the actual fall in total em-

ployment (including self-employment of the Ola/Uber or Mudra variety, which is captured in a comprehensive sample of the unorganised and organised sector workers).

The share of regular and formal employment increased marginally due to growth of formal jobs in the private sector, but the share of informal jobs (without social security) within the government/public sector has increased. A dominant and rising share of jobs is still generated by micro and small units in the unorganised sectors without any formal or written job contract. In both government and private sectors, the number of contract jobs (with no written contract, or less than a year's contract, or one to three-years contract) is on the rise post 2011-12. Although BD's paper also reveals the same story, we differ from them on the absolute number of jobs. The rate of growth of jobs in the unorganised component is much higher than in the organised sector (those with more than 10 workers).

Moreover, BD's research also provides a partial picture of the unemployment trends in India as they could not capture the upsurge in open unemployment among educated youth (which has more than doubled in a matter of six years), nor the recent rise in the disheartened youth labour force (those in the age group of 15-29 and not in educational institutions or the labour force). We found that the number of disheartened youth (having secondary and above level of general education, and with technical and vocational qualifications) is rising at an alarming rate.

With total jobs falling at a time when new entrants into the labour force are increasing at an accelerating pace, it is not surprising that real wages have not increased in both rural and urban areas. From now on, entrants into the labour force will increase at an accelerating pace, at least until 2030. Hence, a comprehensive employment policy combined with an industrial policy (to boost growth of medium and large firms) is necessary to address the transformation of agrarian workforce, boost real wages, and to ensure industrial development.

Mehrotra is professor of economics and chairperson, Centre for Labour, JNU. Parida is assistant professor of economics, Central University of Punjab

DRAWING DARK LINES

Targeting of migrant workers underlines the mounting challenge in the Valley

IT HAS BECOME clear that militants in the Valley are now targeting migrant workers. Several non-Kashmiri workers have been killed since the August 5 revocation of Jammu & Kashmir's special status, five in just one episode in Kulgam last week. These men from Uttar Pradesh, Bihar and West Bengal, working to feed families in their homes states, were evidently soft targets for Kashmiri militants to make the point that "outsiders" need not think that Article 370's abatement would make it easier for them to move in. For years, non-Kashmiris have worked in Kashmiri fields and orchards as farm labour, in Kashmiri homes as carpenters and masons, and on the streets of Srinagar as petty vendors, earning money in the summer months and going home in the winter, to return unflinchingly the next year, with more in tow. They do not displace Kashmiris from their jobs or land, only eke out a living in the belief that their work is their best life insurance. It was these men who carried out much of the reconstruction work after the 2014 floods. So far, they had believed no harm would come to them because they were no one's political sword arm, they were unarmed and no threat to anyone. It was because of the trust reposed in them by the people of Kashmir that even during the unrest and turmoil of 2016, hardly any migrant worker left the Valley before the customary winter departures.

That these killings began after the government's August 5 decisions could be a pointer to how the Centre's move may have unleashed Kashmir's deep-rooted fears about identity and demography. It would seem that the government's narrative — that the changes were made to bring the state up to speed with the rest of the country on development indices — has not found many takers in the Valley, especially as J&K is better developed than many other states. By all accounts, many Kashmiris are, instead, looking at the ideological underpinnings of the decisions, to find confirmation of their worst fears and apprehensions about an agenda of demographic change in the Muslim-majority state, even though such change is not going to be easy. Some of those gunned down over the last few weeks were Muslim, which might indicate that this battle for Kashmiri identity is not about religion, and that anyone deemed to be an outsider could become a target.

While the government has projected its move in J&K as having integrated the state with the rest of the country, it seems to have set in motion new divisions and fears on the ground. It is now three months since the Centre decided to revoke J&K's special status and bifurcate it into two Union Territories; the two UTs came into being on October 31. The government has still to prove its claim that life in J&K will be better than it was before August 5. The stakes are high, and there is little time to lose.

CHASING THE CURE

New Alzheimer's drug offers hope for treating a difficult disease. It must be backed by more substantive trials

FOR NEARLY TWO decades, doctors treating Alzheimer's patients have been frustrated by the lack of advance in medical research. The most advanced drug that is used to treat the disease was developed in 2003. Now news from China has provided a ray of hope for curing a disease that has been one of the biggest headaches for healthcare systems globally since it was first identified in 1906 by the German physician, Alois Alzheimer. On Monday, the Chinese drug regulator approved a medicine that improves cognitive functions in patients with mild to moderate levels of the disease. This is a significant breakthrough because drugs currently in use treat the neuro-degenerative disorder symptomatically at best, leaving doctors almost helpless about elderly patients who may forget familiar facts and, at times, even the faces of family members.

The new drug, Oligomannate, a sugar derived from a Chinese seaweed, works by modifying gut bacteria to reduce inflammation in the brain. Green Valley, the Chinese biotech company that has developed the drug, claims that a clinical trial on 818 people "demonstrated solid and consistent cognition improvement among those treated versus a control group". The method adopted by the Chinese researchers is a departure from Alzheimer's drug development that has focussed on attacking the plaque that forms in the brains of patients; this protein build-up interferes with neural signaling. Last year, pharma major El Lilly threw in the towel during the final stages of trials of a drug that targets the plaque accumulation in brain cells, leading researchers to think of alternate disease pathways — the microbiome, for instance.

There is, however, good reason for tempering the optimism around the new drug. In China, the regulatory agency has asked Green Valley to conduct more research on Oligomannate's safety — it has, however, allowed the company to market the drug by the last week of December. The complete data on how exactly the cognitive function improved for patients on the drug versus those on placebo — and how meaningful that was in the patients' lives — is still not known outside select circles in China. Moreover, Oligomannate must be tested on diverse groups of people to be affirmed as a panacea for Alzheimer's globally. And, these trials need to include many more than 818 individuals. Once knowledge on the mode of action of the Chinese seaweed spreads among medical researchers worldwide, more potent compounds could be developed to target Alzheimer's — and mitigate a difficult challenge to the health and dignity of at least 50 million elderly people.

ALL TOO HUMAN

Priests in a Varanasi temple place pollution masks on idols, create a telling image

EVEN THE GODS, it seems, cannot bear the smog. At the Shiv-Parvati temple in the Sagra area of Varanasi, temple authorities have sought to protect the idols of the eponymous divinities from the ravages of PM 2.5 with white pollution masks, the kind that have become ubiquitous in Delhi. The head priest's logic for the move is sound: If gods can be presented blankets during winter, why shouldn't they be protected from the man-made pollution crisis that has engulfed north India now?

It is also a fact that the many deities who populate the Subcontinent are all too human. The stories around them describe anger, love, passion as well as moral and social virtues. They are loved in all their variety, and their needs are taken care of. Clothes, food and even weddings are provided for them by devotees in temples across the country, establishing a vivacious two-way relationship between the worshipper and the worshipped.

The gods may give us a fair wind, but they did not fill it with toxins. And since they are so much a part of our lives, the sight of the divine being restricted by unthinking human indulgence is also meant to shake people out of their complacency about bursting crackers in the Diwali season, for instance. The sight of their gods wearing masks, according to the head priest, has created awareness among children and adults visiting the temple, who have also started wearing pollution masks. But one goddess, Kali, remains unadorned. Covering her face hides her anger, which is considered inauspicious. While the protective gear for other gods is meant to evoke compassion and concern, she's there to remind believers of divine wrath.



BHUPESH BHAGEL

AT TIMES, SITUATIONS press us into a corner where we need to face the challenges head on and reach a long-term solution. Pollution caused by burning of *parali* (crop residue) is one such unprecedented crisis. We must act not only because it is choking Delhi or there is a 50 per cent rise in respiratory illnesses, be it COPD or asthma cases, in the National Capital Region (NCR) area, but also because we are losing soil fertility and there is a rise in incidents of cancer in Punjab and Haryana.

Farmers in Haryana and Punjab burn up to 35 million tonnes of *parali*, which is responsible for significant percentage of Delhi-NCR's air pollution levels. One study estimates that crop residue burning released 149 million tonnes of carbon dioxide, nine million tonnes of carbon monoxide, 0.25 million tonnes of sulphur oxides and 1.28 million tonnes of particulate matter.

Let us look at the background of this issue. Farmers in Haryana and Punjab have to move to the next winter crop in a very short interval, following the Rabi crop sowing. If they are late, due to short winters these days, they might face considerable losses. If *parali* is left in the field, pests like termites may attack upcoming crop. Already in an economically-precarious situation, farmers go for the cheapest option for stubble disposal — burning. A farmer knows about the pollution crisis. But we also need to know his problems —

WEALTH FROM THE STUBBLE

Chhattisgarh model for disposal of agri-waste offers a solution to pollution crisis

What we need is to utilise every product in the process and return it to the soil in one form or another. From 35 million tonnes of *parali*, we can obtain 21 million tonnes of high-grade organic fertiliser. The total amount of nitrogen, phosphorous, potassium and sulphur in the 23 million tonnes of *parali* annually burnt in Northwest India is about seven lakh tonnes, valued at Rs 1,000 crore. This apart, organic carbon is also destroyed during stubble burning. Thus, *parali* offers an important source for meeting the nutrient requirements of crops and improving soil health. These nutrients also reduce the risk of cancers in Punjab by reducing the levels of carcinogens in soil.

Farmers cannot do this alone. The state needs to step in and engage already-existing mechanisms like the MGNREGA for this purpose. To do this, the Centre needs to allow states to include activities like harvesting and composting in MGNREGA. This has been a longstanding demand of many states. *Parali* can be mixed with cow dung and few natural enzymes under MGNREGA to generate high-grade compost, and also reduce air pollution in North India.

In Chhattisgarh, we have already undertaken this innovative experiment by setting up *gauthans*. A *gauthan* is a dedicated five-

pests, markets and soil fertility.

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Farmers cannot do this alone. The state needs to step in and engage already-existing mechanisms like the MGNREGA for this purpose. To do this, the Centre needs to allow states to include activities like harvesting and composting in MGNREGA. This has been a longstanding demand of many states. *Parali* can be mixed with cow dung and few natural enzymes under MGNREGA to generate high-grade compost, and also reduce air pollution in North India.

In Chhattisgarh, we have already undertaken this innovative experiment by setting up *gauthans*. A *gauthan* is a dedicated five-

acre plot, held in common by each village, where all the unused *parali* (*pairain* Chhattisgarhi) is collected through *parali daan* (people's donations) and is converted into organic fertiliser by rural youth. This provides them a living. Our government supports only the transportation of *parali* from the farm to the nearest *gauthan*. The state has successfully developed 2,000 *gauthans*.

Now, since the Supreme Court has taken a cognisance of the pollution crisis, it is high time to offer the best possible solutions. I presented this concept to the Niti Aayog recently. It involves an integrated regenerative rural development model of *narwa* (rivulet regeneration), *garuwa* (cattle conservation), *ghuruwa* (composting) and *baari* (kitchen garden) through a participatory process using MGNREGA. I request the Supreme Court to constitute a committee consisting of economists, agricultural experts, farmer delegates and bureaucrats to evaluate the *parali* burning crisis and explore the possibilities of expanding schemes like the MGNREGA to harvesting and composting.

A collective intervention using traditional wisdom and local resources and facilitated by sound administrative support can upturn this national problem.

The writer is Chief Minister of Chhattisgarh



NOVEMBER 7, 1979, FORTY YEARS AGO

**US HOSTAGE CRISIS**  
IRANIAN DEMONSTRATORS THREATENED Tuesday to execute some 60 Americans held hostage at the US embassy in Teheran if the US Government tried to rescue them, reports AP. "Any military or non-military attempt by the US or its agents in Iran to free the American spies held as hostages in their embassy will cause their immediate execution," the demonstrators said. A West German radio broadcast from Teheran also said other Americans, employed by private US firms in Iran, were being rounded up by armed Iranians and taken to the US embassy grounds. The US government had ruled out any military intervention.

**CASTE AND CONGRESS**  
THE CONGRESS-I ELECTION exercise seems to be going full steam. Almost immediately after the dissolution of the Lok Sabha, Shankar Dayal Sharma, Congress-I leader, made a detailed personal assessment, state by state. According to a Congress-I source, Uma Shankar Dixit and Yashpal Kapoor have worked out "the caste factors" in different constituencies, especially in Uttar Pradesh and Bihar. These caste calculations are likely to be taken into consideration when the candidates' names are finalised. The Congress-I parliamentary board, which will finalise the names, is meeting for three days, starting today and again on November 13, 14 and 15.

**IRAN PM RESIGNS**  
IRANIAN PRIME MINISTER, Mehdi Bazargan, resigned today, an official of the prime minister's office said. Ayatollah Ruhollah Khomeini accepted the resignation and ordered the Revolutionary Council to take the reins of government. "Bazargan cited both developments over the past few days as well as his physical tiredness as the reason for his resignation," he added. Khomeini also ordered the council to prepare preliminaries for a referendum on the Constitution for elections to a national consultative assembly and for appointing a president. Khomeini said, "I assign the Revolutionary Council to run the country's affairs during the transition."



# Quad in the spotlight

Beijing remains worried about the advantages the quadrilateral dialogue process might offer to India in the Indo-Pacific



SUJAN R CHINOY

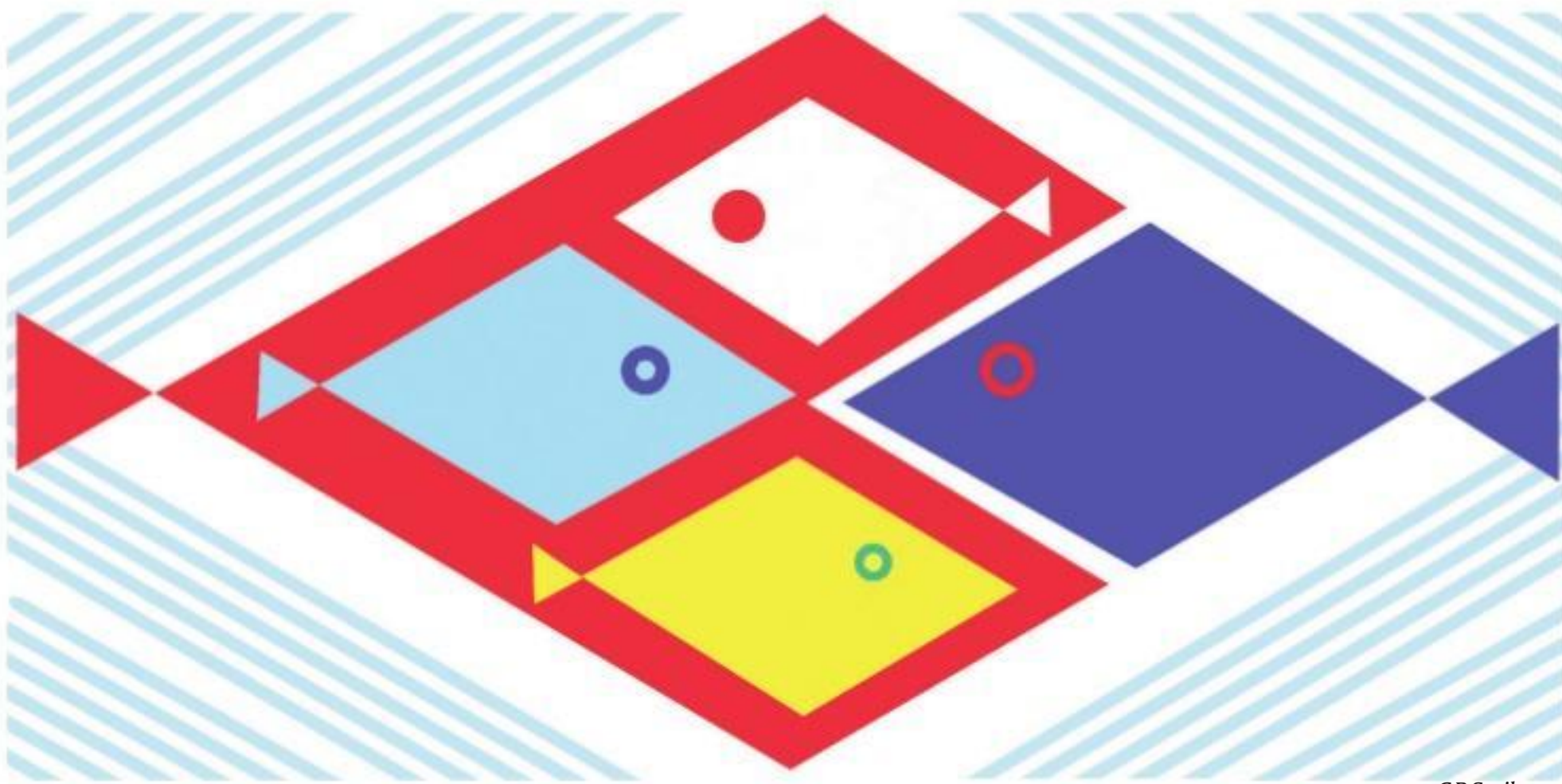
IN A SPEECH at the Heritage Foundation on October 22, the US Secretary of State Mike Pompeo said that the "Quad" between Japan, Australia, India and the United States would ensure that "China retains only its proper place in the world". The Chinese Foreign Ministry spokesperson Hua Chunying retorted on October 25 to condemn the American plainspeaking as habitual lies and malicious slandering. Such a war of words between the US and China is now routine. Yet, the spotlight is on the future of the Quad, which convened again on November 4 at the level of senior officials on the margins of the EAS in Bangkok a little over a month after the high-profile meeting on September 26 in New York. The September meeting was the first at the level of the foreign ministers.

A proposal by Japanese Prime Minister Shinzo Abe in early 2007 to hold a Quadrilateral Security Dialogue was endorsed by US Vice President Dick Cheney and the governments of India and Australia, leading to the first meeting at the official level. There was a general understanding, even when the four countries engaged, along with Singapore, in a maritime exercise in 2007, that it would not take on a military dimension against any country. The strategic community in China, nevertheless, had branded it an emerging "Asian NATO". Beginning with maritime-centric concerns, it was gradually seen by China as a means to an end, involving the use of the wider Indo-Pacific theatre to target China. That year, Abe's "Confluence of Two Seas" address to the Indian Parliament gave a fresh impetus to the nascent concept. Abe had spoken of a new definition of a "broader Asia" taking shape at the confluence of the Indian and Pacific Oceans. It recognised the economic rise of India and brought Japan and India together as part of an immense network spanning the entirety of the Pacific Ocean, the US and Australia. It was seen as an open and transparent network that would allow people, goods, capital, and knowledge to flow freely.

The Quad dissipated when Australia, under PM Kevin Rudd, walked away on account of Chinese sensibilities. Yet, China's suspicion resurfaced with Abe's reference in December 2012 to Asia's "Democratic Security Diamond" involving Australia, India, Japan and the US to safeguard the maritime commons from the Indian Ocean to the western Pacific. President Obama's rebalance or pivot to Asia policy, never implemented, only had the effect of spurring China, under President Xi Jinping after 2013, to immediately act on its irredentist claims in the South China Sea and also vigorously promote the Belt and Road Initiative (BRI).

Nuanced differences among the Quad countries seem to have narrowed down in the last two years. There are common references to the creation of a free, open and inclusive regional architecture, rules of the road, freedom of navigation and over-flight, and, ASEAN centrality. There is pragmatic appreciation that not all nations grappling with the rise of China are democracies.

Even as the US has upped the ante by describing China, along with Russia, as a revisionist power and a strategic rival in its National Security Strategy, National Defence Strategy and the Pentagon's report on Indo-Pacific Strategy, Japan has quietly dropped the word "strategy" from its own Free and Open Indo-Pacific in deference to better ties with China. Taking into account its overwhelming eco-



C R Sasikumar

nomie dependence on China for prosperity, Australia's White Paper has been careful to highlight continued commitment to a Comprehensive Strategic Partnership with China and to describe China as a major geopolitical player with the capacity to influence virtually all of Australia's international interests.

China believes that the concept of the Indo-Pacific, and more particularly the Quad, is a sinister plot hatched by the US aimed at containing its rise, opposing the BRI, questioning its developmental finance and connectivity projects, disparaging what it regards as its highly successful political, economic and cultural narratives, and, laying the foundation for a military alliance to undermine its future. It believes that trilateral compacts involving the US, Japan and India and the US, Japan and Australia are the thin end of the wedge, aimed at strengthening the Quad.

China remains wedded to "Asia-Pacific" for building an inclusive regional cooperative structure. For China, a switch to "Indo-Pacific" implies erosion of its pre-eminence. Recently, Chinese scholars and officials appear to have changed tack and are beginning to discern between the Indo-Pacific and the Quad. Vice Foreign Minister Kong Xuanwu attended a high-level dialogue on Indo-Pacific Cooperation in Jakarta on March 19, where he too underscored ASEAN centrality, and, of course, China-ASEAN cooperation. It is increasingly clear that China is now adopting a wait-and-see approach towards the Indo-Pacific instead of opposing it, since ASEAN centrality affords it an opportunity to dilute narratives in the Indo-Pacific that could prove inimical to Chinese interests.

That China sees ASEAN centrality as an opportunity to steer the Indo-Pacific away from a security agenda focused on China is supported by Chinese State Councilor and Foreign Minister Wang Yi's remarks to foreign and Chinese journalists on July 31, following the China-ASEAN foreign ministers' meeting in Bangkok. His five-point formula entailed making greater efforts to work together on the BRI, forging China-ASEAN digital cooperation, including in 5G, fully implementing the China-ASEAN FTA, finalising regional rules-of-the-road based on the negotiating text of the Code of Conduct (proposed by China), and engaging in joint maritime exercises (already undertaken between China and ASEAN in October last year).

China's spokesperson said that during the China-ASEAN Summit on November 3 in Bangkok, Premier Li Keqiang and ASEAN leaders agreed to join hands in upholding peace and stability in the South China Sea and advance the Code of Conduct consultations following an agreed schedule. Premier Keqiang also pitched for synergies between the BRI and ASEAN's development. Three outcomes documents were released, including the Joint

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Statement on the Master Plan on ASEAN Connectivity 2025 and the Belt and Road Initiative. China has signed bilateral agreements with ASEAN countries to advance transportation routes, including the existing economic corridors, China-Thailand Railway, China-Laos Railway and Jakarta-Bandung high-speed Railway.

India's commitment to "strategic autonomy" has generally proved reassuring to China. It suggests that India would never agree to fully align itself with the US against China. This impression has been reinforced by India holding up Australia's participation, so far, in the annual Malabar naval exercise, currently limited to just three of the four Quad nations. India did not join the Indo-Pacific Business Council. This, and Prime Minister Narendra Modi's speech at the Shangri-La event were viewed positively in Beijing. Equally, China would not have failed to note that it is India's decision that permitted the Quad to meet at the ministerial level. Notably, the decision came quick on the heels of China's egregious, though unsuccessful, attempts to support Pakistan on Jammu and Kashmir and Article 370 at the UN Security Council and the UN Human Rights Council in Geneva.

The recent Mamallapuram summit between President Xi Jinping and PM Modi is a positive development, valued by both sides as key to giving strategic guidance to stakeholders on both sides. With Japan, the opportunity for China lies in working together on agreed-upon projects in third countries and using the proposed visit of Xi Jinping to Japan in 2020 as a high watermark. Australia, also an alliance partner of the US, is involved in freedom of navigation operations in the South China Sea. China would want to leverage its deep economic engagement and extensive cultivation of opinion makers to balance the hard line now being taken by Australia's security and intelligence establishment.

China remains wary of the Quad and its future contours. It remains worried about the advantages that the Quad process might offer to India in the Indo-Pacific. Naturally, it will seek to use its considerable bilateral engagement with Japan, Australia as well as India to ensure that the Quad does not flip over from a regional coordinating mechanism focused on connectivity and Infrastructure, capacity-building, HADR and maritime security and cyber security and counter-terrorism to become an "Asian NATO". Much, though, will depend on China's actions and how others perceive her capabilities and intentions.

The writer, a former Indian Ambassador to Japan, has served in China, USA and Australia. He is currently Director General of the Institute for Defence Studies and Analyses in New Delhi. Views are personal

## WHAT THE OTHERS SAY

"India has decided not to join the RCEP for now, but it has nothing to do with the Indo-Pacific Strategy, but is based on India's own economic interests."

— GLOBAL TIMES, CHINA

# Above the law

Due process, the imperative to follow it, was missing in the Tis Hazari incident



MEERAN CHADHA BORWANKAR

I WAS PROMPT. I got in my police jeep and asked my driver to take me immediately to AIIMS, New Delhi, where I was told Inspector Chougule had been admitted. He was on duty at the Tis Hazari court when there was an altercation with local lawyers over the parking of vehicles. I am not clear about the details but a video clipping I was watching showed a constable being beaten up. Some lawyers were also shown hurling chairs and kicking the person in uniform who had fallen down on the floor. I was aghast and that's when I received the phone call, and realised that Inspector Chougule too was on duty at the court and was injured.

I rushed out of the jeep to the Emergency where Chougule lay helpless under the influence of anesthesia. The doctor on duty informed that he was brought to the hospital with multiple fractures and in great pain. His family had been informed and they were on their way. I was told, I decided to wait for them and took a seat in the waiting room. The TV blared about a judicial enquiry having been ordered against the police. That senior police officers would record the statements personally and the enquiry against the police must be completed within a specific timeframe.

I am shocked. My police officer is seriously injured here, and there are many more, I have been informed. Why has an enquiry been ordered against them? Why is the enquiry not about the incident? I am also wondering how the court has pre-judged the issue? I am seething with anger at an unjust system that has decided against the uniform without giving it a chance to defend itself.

I remember an incident where an officer from my cadre, faced with an angry crowd, ordered firing but the police staff on duty did not. He thought it was a case of grave indiscipline and reported it to the seniors. During the enquiry that ensued, the inspector in charge gave his statement that he felt if he or his staff fired, they would not be protected. That the administration would side with the agitators who had political support. That he would be suspended too, so he took a conscious decision to not use any force. In his statement, he cited cases of many recent agitations where it had been decided not to use force despite heavy damage to life and property. He specifically mentioned that

this was despite the fact that women had been molested during one such agitation. I remember having discussed these cases with Inspector Chougule and his staff during an evening roll call at his police station.

And I was very embarrassed when a constable got up and sought permission to share his views frankly. His contention was that the officer not using force in the above incident was right. Most policemen feel that the uniform and police discipline does not permit them to air their views, but it is also a fact that the use of even minimal force leads to disciplinary action against them. That it is safe not to act. That even their families advise them against it as police action brings public wrath — however justified the police action may be. That nobody supports the police in their hour of need. I found almost all the policemen agreeing with him and nodding their heads in affirmation. I was shocked at this near-unanimous opinion, but after detailed discussions we decided that we shall not allow ourselves to be "mere spectators". We resolved to be the true custodians of law in the capital and support each other in our hour of need. We also resolved never to use more force than required as the agitators are, after all, our own countrymen and women. They are not enemies. Their demands and agitation are justified in their perception. So, we shall use force strictly as per the demand of the situation, we had decided.

At AIIMS, our past discussions and resolutions were replaying in my mind. I was reminded of the lesson on "use of force proportionate to the violence" that had been drilled into us during "mob drill" rehearsals in the Police Academy. I was taught that, as a police officer it is my duty to safeguard public property. During the law classes in the same academy, I was also taught not to come to any conclusion without hearing both sides. The instructor used to repeatedly talk about "natural justice". He would hammer in the notion in class that it meant that both sides deserve to be heard, and must be given an opportunity to present their case. He would talk, teach and preach about "due process of law" and explain that it meant following the established procedure of hearing the opposing sides before arriving at a decision.

As I waited for Inspector Chougule to gain consciousness, and for his family to reach the hospital, I wondered if some law instructor in the judicial academy skipped this chapter on the "due process of law"? I also wondered if in the law college that I attended to secure a Bachelors of Law, we were taught that lawyers are above the law. Maybe I missed that lecture, while others attended it and took it to heart.

The writer is an IPS officer who retired as DG and holds a degree in law from the University of Pune

## LETTERS TO THE EDITOR

### WRONG PRIORITIES

THIS REFERS TO the editorial, 'Lost opportunity' (IE, November 6). The decision to opt out of RCEP is not surprising. Export-led growth does not figure in our list of priorities. In contrast, Bangladesh has achieved an 8 per cent GDP growth on the back of rising exports. Asian tigers led by Indonesia and Vietnam have left us far behind in grabbing the opportunities provide by the US-China trade dispute. Now, with RCEP countries accounting for one third of foreign trade, an export revival is highly unlikely.

S Bhalerao, Mumbai

THIS REFERS TO the editorial 'Lost opportunity' (IE, November 6). India's concerns about RCEP are valid. But they are compelling only in the short-term. The country's policy makers need to realise how economic power is shifting from the West to the East and the RCEP might be the future of the world. We should become part of this trading bloc, while simultaneously sorting out our domestic issues.

Divya Singla, Patiala

### LAW BREAKERS

THIS REFERS TO the editorial, 'Shaming the law' (IE, November 6). The incident involving police and advocates is not unusual. A similar incident happened at an Howrah court April 24. The lawyers believe they are the sentinels of the law. And, the police think along similar lines. In the process both flout their mandate while the concerns of the common people get ignored.

Abhijit Chakraborty, Howrah

### CLEAR THE BACKLOG

THIS REFERS TO the article, 'Raise the bar' (IE, November 6). The writer mentions the huge backlog of cases in courts all over the country. Isn't reducing the

### 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.

backlog a part of the judiciary's mandate? Most political and economic problems are law and order problems, and on several times, they signal the failure of the justice system. Entrepreneurship is limited because legal resources are few for victims of fraudulent deals. Lynchings and communal violence happen because the perpetrators know it will be a lifetime before they face punishment. On domestic issues people don't even go to court.

Jagruti Desai, Mumbai

THIS REFERS TO the article, 'Raise the bar' (IE, November 6). Since the executive and the legislature have been failing the country, the top judiciary is the only hope — the head of any organisation does make all the difference. B R Ambedkar had cautioned that a chief justice is also susceptible to human failings, much like common people. Going by the unbiased, non-political and justice-oriented approach of the next CJ, as brought out in the article, we can certainly hope that there will be no such occasion to remind us about the apprehension expressed by Ambedkar.

S N Shukla, Nirala Nagar, Lucknow



RAJNI BAKSHI

# On Ayodhya, listen carefully

Beyond either-or views, many want temple but don't want to hurt mosque

DHARAMVEER BHARATI, THE legendary writer-editor, once had a conversation in the shadow of the Babri Masjid which needs to be retold. At the time of Bharti's visit to Ayodhya, the Ram temple movement was already in full swing. One attempt to demolish the structure had already been made.

Among the people Bharti interviewed was an old woman, from a nearby village, on a pilgrimage to Ayodhya. Pointing to the Babri Masjid, Bharti asked the woman if she wanted a Ram temple to be built there. With a simplicity devoid of any rancour the woman said: "It would feel good to have a Ram temple at the birth place of Sri Ram."

Then, Bharti pointed to the minarets of the other mosques in Ayodhya and asked her: "What about those mosques? What about the mosque in your village?"

Since the woman seemed puzzled by this question, Bharti explicitly asked whether she felt those mosques should also be demolished. "Certainly not", came the emphatic reply. That woman saw no connection between the wish to see a Ram temple at what she believed to be the birthplace of Ram and the existence of mosques where

her Muslim neighbours offered worship. As a member of campaigns for communal harmony, in the early 1990s, I failed to grasp this distinction. I did see everyone who wanted a Ram temple "on that spot" as a threat to India's plural ethos and particularly as anti-Muslim.

There were strong reasons to feel this way. Voices like that of the woman were drowned out by the hate-filled propaganda of those who mobilised the Ram Janmabhoomi campaign. When Gandhian Sarvodaya workers went to Ayodhya to sit in a quiet satyagraha appealing for brotherhood of all religions, they were physically attacked by some advocates of the Ram temple campaign.

A quarter century later, it is futile to hope that the Supreme Court verdict on Ayodhya, whatever it might be, will somehow mark a closure. Healing the social fabric is far more important. That work is in the hands of people who, like Bharti's interviewee, are neither "secular" nor "communal", but may have been swept along in the flood of emotions unleashed by political ambitions.

There will be those who argue that the Indian *samaj* is now so polarised that such

people have become an irrelevant minority. Such a claim is not just defeatist and cynical, it is also an offence to the spirit of democracy.

True commitment to democracy would mean a willingness to respect that woman's desire for a Ram temple and her desire to honour and preserve the mosques where her neighbours worship. Reducing her multi-layered wishes to an "either or" binary is not merely a travesty of democracy, it is anti-life.

We do live in a time when more and more people feel pressured to make "either or" choices. They harbour doubts about the possibility of brotherhood with people from "other" communities due to a sense of darkness generated over social media, and in face-to-face encounters with naked hatred. But, what if the seemingly immovable hatred is more of a cloak — worn by people whose actual affliction is fear, and a sense of insecurity?

Listening to the underlying anxieties and fears of those who seem susceptible to being swayed by hatred may be the most important aspect going forward. Such empathic listening can be painful, but there is some catharsis at the end of the tunnel. If such lis-

tening does nothing more than prevent us from hating the hater, that is a significant gain.

This cannot happen as long as we quarrel over historical details — be it about Ayodhya or any other disputed site. Those details are significant at another level but the need of the hour is to understand, and to process, the raw feelings being aroused and inflamed. For instance, once that woman had expressed her desire for the Ram temple, Bharti could easily have ignored her and walked on. It was his eagerness to understand her worldview in more detail that revealed the distinction between her aspiration and how it was being shanghaied for a toxic political design. There is indeed moral and poetic beauty in the old slogan, "Prem se kaho hum insaan hain". That emphasis on our shared humanity is precious.

Our collective future now depends on an open-hearted engagement with those who shout "Garv se kaho hum Hindu hain". We need to try and ask them to explore how their own life, and the society around them, might benefit instead with "Prem se kaho hum Hindu hain".

Bakshi is a Mumbai-based writer