



The IndianEXPRESS

FOUNDED BY

RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

LISTEN TO THEM

This government has no language to talk to those who disagree, and more so, students. Calling them names corrodes democracy

THE IMAGES AND videos of the Delhi Police rampage on the Jamia Millia Islamia campus following students' protests against the new citizenship law in the national capital on Sunday underline an awful, dispiriting dissonance. The police force in Delhi, as in many other states in India, remains, for the most part, a heavy-footed anachronism in a democracy of the young, a brutalising left-over from a more repressive time. But the rankling gap between police and the people showcased on Sunday is about more than just lathi-happy policemen. The silence of the government in the aftermath of the outrage at Jamia — where the police barged into the campus without permission, forced its way into the canteen, mosque and library, dragged and beat up students, rounded up and detained them, using as pretext acts of arson and vandalism outside the university — is part of the problem. Now in its second term in power, the Narendra Modi government is yet to find the language to talk to those who protest and disagree. And this absence, this lack, becomes more glaring, more grave, when it is confronted with restive students.

It is not just that the government, otherwise in constant communication or propaganda overdrive, turns a hard and frigid face to them. It is also that instead of listening to them, it seeks to tar and taint, stick labels and attribute motives, invoke spectres. The distortion of words and meanings goes to the very top — or flows down from there. Listen to the Prime Minister, campaigning in Dumka, in poll-bound Jharkhand, on the day Delhi Police ran riot in Jamia. Those “spreading the fire (aag lagaane waale)” can be “identified by their clothes (kapdon se hi pata chal jaata hai)...”, the PM said. He also invoked Pakistan, likening the protests against the CAB to protests by “people of Pakistani-origin...” against the court decision on Ram-Janmabhoomi and Article 370. It was a bid to discredit the students' protest by painting their criticism of a citizenship law that discriminates against Muslims as anti-national and pro-Pakistan.

Such talk is in tune with the spirit of the law that this government has steamrolled through Parliament, a law that virtually closes India's doors to illegal immigrants who are Muslim because they are Muslim. And it is not the first time that PM Modi, a minister in his government, or a senior functionary of his party, has sought to portray dissent as anti-national. This isn't the first time dog-whistle politics has been deployed. And yet, each and every time it happens, it is cause for concern. Because it does not behove a government in a country of India's diversities and democratic standing to sound so insensitive, either to the apprehensions of its minority or to the voice of its young. On Monday, the Prime Minister said no “vested interest group” would be allowed to “divide us and create disturbance.” Hopefully, those words are meant to reassure all — irrespective of what they wear.

CoP THAT FLOPPED

Madrid meet's failure to address differences over carbon markets, funding, invites questions over UNFCCC efficacy

THE 25TH Conference of Parties (CoP) of the UN Framework Convention on Climate Change (UNFCCC) was scheduled as a 12-day summit. Delegates from the 200-odd nations, who had assembled at the Spanish capital of Madrid for the meet, ended up working two more days. But for all their efforts, the negotiators only managed to highlight the disconnect between global climate diplomacy and the imperative of bringing down GHG emissions. The longest meet in the UNFCCC's history concluded on Sunday with an “agreement” mired in generalities and which lacks a roadmap to meet the goals of the Paris Climate Pact. The main item on the meet's agenda — framing rules for setting up a new carbon market under the Paris Agreement — has been deferred to next year.

The Madrid talks were expected to nudge all countries to scale up their commitments under the Paris Pact — Nationally Determined Contributions or NDCs — in view of recent studies which show that the world is not doing enough to prevent the extreme impacts of climate change. The Small Island Nations have been pushing for strong directives to all countries to upscale their NDCs in light of the changed realities. At Madrid, they were supported by the EU countries. The developed countries, including the EU, were, however, non-committal when it came to honouring their previous pledges on funds and technology transfers to the developing countries. The talks hit a roadblock when India, China and Brazil argued that they would not support strong language on raising ambitions without a similar call for rich countries to honour their past commitments. CoP 25's final declaration does “invite new climate pledges that represent a progression beyond previous pledges and the highest possible ambition”. But it doesn't stipulate a schedule for updating NDCs. And, the demand of the developing countries for a two-year programme to assess the performance of developed countries — reflected in the draft Madrid agreement — does not find a place in CoP 25's final declaration.

The spirit of solidarity that tinged the Paris summit has been witnessed only sporadically after the landmark pact was inked. Individual NDCs have not added up to the pact's goal of keeping global temperatures below 2 degrees celsius above pre-industrial levels. Framing the treaty's rules has been a tortuous process that has re-animated past differences over funding and technology transfers. Meanwhile, protests in different parts of the world have called out environmental negotiators for their inertia. CoP 25 was an opportunity to answer the questions that have been raised over the UNFCCC's processes. Unfortunately, the two weeks of negotiations at Madrid have been an opportunity lost.

PLAYING POLITICS

Ozil is not the first or the last player to lob the ball while scoring a political point

ON FRIDAY, OZIL, the Arsenal footballer, instagrammed a message about Uighurs, a Muslim minority group in north-western China, as “warriors who resist persecution”. All hell broke loose in China where Ozil is fondly known as “272”, numbers which when pronounced sound like his name. The foreign ministry said he was “deceived by fake news”, and a broadcast of an Arsenal game was cancelled.

Born in Germany, Ozil is a practising Muslim of Turkish origin, the son of poor second-generation immigrants, and has faced criticism before from the far-right over his preference to recite prayers from the Quran instead of singing along to the national anthem before matches. In 2016, when he posted a picture from Mecca, a leader from an anti-immigrant party asked if he wanted to send a political message. In the 2018 football world cup, two Kosovo-Albanian footballers in the Switzerland team, Xherdan Shaqiri and Granit Xhaka, created a furore when they did an eagle salute after scoring goals, mimicking the black eagle on the Albanian flag.

Before Ozil, football's most famous politically conscious player was the Brazilian Socrates, who once said: “They don't want me to drink, smoke, or think? Well, I drink, smoke, and think.” Famous footballers, adored by the masses, he believed, have a social responsibility to “transform society”. All one needs, is “a social conscience, a political understanding, and a desire to fight” — to be an “MP without a seat”.



SANJIB BARUAH

THE *RAISON D'ÊTRE* for the Citizenship Amendment Act, 2019 is fundamentally ideological. Home Minister Amit Shah's claim in the Rajya Sabha that “crores of people” belonging to religious minorities are persecuted for their faith in neighbouring countries, does not exactly sound like a statement based on his supporting officials' analysis of information from some hitherto unknown database on religious persecution.

Bangladesh's foreign minister, AK Abdul Momen, has said the “allegations of minority repression in Bangladesh” are false. However, Momen's challenge to Shah that he visit Bangladesh for a few months to see for himself the amity between religious groups is naïve. Facts and figures that are figments of an inflamed ideological imagination cannot be refuted by empirical evidence.

The idea that even 70 years after the Partition, Hindus who find themselves on the “wrong” side of the border must be recognised as people crossing into India to join the nation to which they “naturally” belong, is a foundational tenet of Hindu nationalism. Dutch historian Willem van Schendel calls it the narrative of homecoming.

The idea of India as a *homeland* for Hindus can be traced back to some of the earliest ideological tracts that many in the current political establishment consider sacred. The RSS chief, Mohan Bhagwat, has often asserted that, “no Hindu can be a foreigner in India”. He has said this even in Assam, where both migration from eastern Bengal and opposition to it began well before the Partition — an important bit of regional history that does not interest many Indians.

This is not the first time that a major country has adopted an ideology-driven refugee policy. There are lessons to be drawn from the experience of countries that had adopted similar policies before. Ideologically-driven refugee policies seem especially prone to be plagued by the law of unintended consequences. Unfortunately, our country's current snap, uninformed, and policy-illiterate style of law-making does not allow for learning from the experience of others.

The pitfalls of such policies are well understood by those who study them. The best examples come from the US during the Cold War. For nearly three decades, the Cold War shaped the very definition of a refugee in US law. A refugee was defined as a person fleeing “from a communist-dominated country or area”.

The Cuban Revolution of 1959, when Fidel

Protesters' fears about new citizenship law are founded on history, accumulated experience

This is not the first time that a major country has adopted an ideology driven refugee policy. There are lessons to be drawn from the experience of countries that had adopted similar policies before. Ideologically driven refugee policies seem especially prone to be plagued by the law of unintended consequences. Unfortunately, our country's current style of snap, uninformed, and policy-illiterate style of law-making does not allow for learning from the experience of others.

Castro's guerrillas ousted the US-backed military dictatorship of Fulgencio Batista, prompted a large-scale emigration of Cubans to the US. Not unlike India's recent Citizenship Amendment Act, the Cuban Adjustment Act of 1966 was adopted to give permanent resident status to Cubans who had lived in the US for a year even if a person had entered the country illegally. Like India's Citizenship Amendment Act, it put Cubans on a fast track to citizenship.

During a time when there was little public support for immigration, anti-communism provided the ideological rationale for these policies. Cubans were supposedly voting with their feet. Their making an exit choice testified to the failures of communism and the moral superiority of capitalism and American democracy. US Ambassador Arthur Goldberg told the UN General Assembly that “many thousands of Cubans have seized every available means of transportation which will take them from Cuba to the United States, but no crowds are pounding on Cuba's gates and seeking admission”. Cold War ideologues expected Cuban exiles to become strategic assets for the US, that they would commit themselves to the task of overthrowing the Castro regime, and would one day return to Cuba.

Things didn't quite turn out that way. The Cuban population in the US multiplied nearly six-fold between 1960 and 1970 — from 79,000 in 1960 to 4,39,000 in 1970. It soon became clear that very few of them were refugees in the strict sense of the term; they were not escaping persecution, nor were they leaving Cuba because of “a well-founded fear of persecution”. Most Cubans who arrived in the US after the Cuban Adjustment Act were, according to Cuban-born anthropologist Virginia Dominguez, “consumer refugees”.

“Cooperating with the Enemy” was the title of an article on this subject by former Harvard University professor Jorge J Dominguez. Unlike the East German government that built the Berlin Wall to prevent emigration, Castro allowed people to leave the island from time to time. He even claimed that far from inflicting damage on his country, “the US had taken from this country many lumpen proletarians and many lazy people”. While that can be dismissed as political rhetoric, there is ample evidence to suggest that the Castro government used emigration as an escape valve — to export surplus labour as well as political opposition. Meanwhile, since

the Cuban Adjustment Act allowed Cuban immigrants to become permanent residents, which put them on a path to US citizenship, as time went on, Cuban exiles had little reason to remain activists seeking the overthrow of the Castro regime. Thus, the US policy toward Cuba, said Dominguez, was rarely made by the US alone. Castro in effect “forced the US government to surrender to Cuba some US sovereign prerogatives to set US immigration policies.”

What are the chances of the Citizenship Amendment Act fueling new waves of Hindu emigration from Bangladesh, as people in Assam and Northeast India now fear? Signaling plays an important role in encouraging or discouraging migration flows. The CAA will be a powerful signal to the remaining Hindu population of Bangladesh to choose the exit option.

Simply to assert that the resistance is misinformed because the law has the cut-off date of December 31, 2014 is a misunderstanding of the history of seven decades of post-Partition migratory flows. After all, with the CAA, Delhi has just got rid of the cut-off dates that were agreed upon in the Assam Accord.

A previous amendment to our citizenship laws was a response to the reality that when Bangladesh became independent in 1971, it refused to take responsibility for migrants who had moved to India during the Pakistan years. Bangladesh agreed to take responsibility only for those who entered India after March 25, 1971, when the Pakistani military crackdown of the liberation struggle in East Pakistan began. India was then faced with a accomplish. It had to accept those who entered India before 25, 1971.

Is this a case of a smaller neighbour forcing India to surrender some of its sovereign prerogatives to set immigration policies? That an important date in the annals of Pakistan has acquired such a crucial place in the law and practice of citizenship in India — most recently in the context of the National Register of Citizens — is quite telling.

The protesters are right to fear that by the time the cut-off date of December 31, 2014 becomes irrelevant — giving way to another provisional cut-off date — it will be too late for Assam. Past history and the accumulated wisdom of academic literature is on the side of the protesters.

Baruah is the author of the forthcoming book In the Name of the Nation: India and its Northeast (Stanford University Press, 2020)



GURU PRAKASH

BRAMBEDKAR'S DEATH anniversary was observed on December 6. It is, therefore, an appropriate time for serious introspection. As the chief architect of the Constitution, Ambedkar ensured an equitable atmosphere in every sense, which was essential due to the years of institutional oppression faced by more than a quarter of the Indian population at the time of Independence. Some progress has definitely been made but there still remains a significant distance for us to cover as a society to create the kind of atmosphere that Ambedkar and his colleagues imagined.

The debate on reservation is highly polarised and, usually, brings out the worst in us. Arguments made by all the sides are logical and extremely passionate. It can be challenging to evolve a middle path that includes opposing perspectives. On the one hand, there is a school of thought that derides reservation and advocates a merit-based order. On the other hand, there are ferocious supporters of reservation who consider any debate around reforms as blasphemous. Merit is contextual and means different things to different people. Caste creates networks and upper castes, through years of institutional linkages, have established an infrastructure that invariably

FITTING TRIBUTE TO AMBEDKAR

Reservation needs fresh approach to align with times, empower marginalised

helps in mentorship and handholding. This is missing for the Dalits. Even the exceptionally skilled and competent Dalits are first treated as Dalits, everything else becomes secondary.

A study by Sukhadeo Thorat and Paul Attewell in 2010 had reportedly observed that “for equally qualified SC and upper caste (about 4,800 each) applicants, SCs had 67 per cent less chance of receiving calls for an interview. What is more disturbing is that the high percentage of less qualified high castes (undergraduate) received calls compared with the more qualified SCs (post-graduates).”

However, this does not absolve the people on the other side of the spectrum who become absolutists when it comes to reservations. Political reservation was never intended to perpetuate the interests of a single family. The case of Lok Janshakti Party is peculiar. Ram Vilas Paswan, Pashupati Paras (brother), Chirag Paswan (son) and Prince Raj (nephew) are in Parliament from reserved constituencies. The community can see through this hypocrisy.

There are a lot of difficult questions that we need to confront as a community. Reforms to reservation have become the need of the hour. A section of SCs and STs have benefited,

and are constantly benefitting from reservation. It is time we transcend our selfish interests and advocate a rethinking of reservation that is more inclusive.

The contours of reforms in reservation must be developed through a consultative process involving real and potential stakeholders within the Dalit community. The idea of preferential treatment in sectors that are still underrepresented must be explored objectively. The civil society, industry, media, higher judiciary and the upper echelons of bureaucracy still lack social diversity and, therefore, the empathy required to address the concerns of the community. The Ministry of Human Resource Development, through a recent notification, has asked the IITs, IIMs and other premier institutions, to follow the reservation norms in faculty recruitment: People from marginalised communities did not have any leadership role in these institutions for so long.

We need fresh dialogue and thinking on reservation. Including the excluded will be the real tribute to not just Ambedkar, but the Constitution of India.

The writer is an assistant professor at Patna University



DECEMBER 17, 1979, FORTY YEARS AGO

INDO-BANGLA TALKS BORDER TALKS BETWEEN India and Bangladesh have failed. The Bangladesh delegation flew back to Dhaka this morning amid growing doubts over Bangladesh's intention to adhere to the 1974 land boundary agreement between the two countries. After the three-day talks the two delegations issued a brief joint statement in which both sides have agreed to exercise maximum restraint and avoid provocation to ensure the return of normalcy in the Muhuri Char area of the Belonia sector on the Tripura Bangladesh border. This merely means that the two sides will not resort to exchange of firings or invectives on the disputed 44-acre

stretch of land.

NEPAL ELECTIONS

KING BIRENDRA OF Nepal said “regardless of whichever side — partyless panchayat with reforms or a multiparty system — won as a result of people's verdict, in the coming referendum, from now onwards all elections to the different tiers of the proposed political system would be on the basis of adult franchise.” In a broadcast to the nation on the King Mahendra memorial and constitutional day, the king said that the prime minister of Nepal would be elected by a popularly elected panchayat or a national parliament. He also said the council of min-

isters would be responsible to the national level-panchayat.

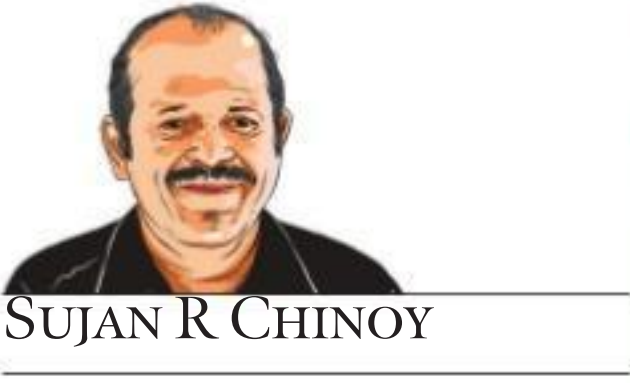
IRAN CRISIS

IRANIAN FOREIGN MINISTER Sadegh Ghotbzadeh hailed the departure of the deposed Shah from the US as a “first step to victory”. He told reporters it was possible that some of the US hostages would be freed by Christmas and — despite angry declarations by students holding the US embassy — said the authorities were not currently debating setting a trial date for the hostages. Ghotbzadeh said: “I hope that things are now rolling in a positive way. We will try to do our best to defuse the crisis.”



Navigating the Indo-Pacific

India must negotiate growing Chinese presence in the region. Its relationship with Japan, the Quad, will also remain central to Act East policy



SUJAN R CHINOH

“INDO-PACIFIC” IS today a buzzword that has been interpreted differently by various countries in their outlook or vision documents. Back in 1971, when Sri Lanka proposed the notion of an Indian Ocean Zone of Peace (IO-ZOP), it was more about the presence of Western powers and establishment of foreign bases. Ironically, China then stood with countries like India in opposing bases in the Indian Ocean Region (IOR). Its position was that it did not have, nor did it seek bases anywhere. That is a far cry from its strategy now of actively for-aying into the Indian Ocean and seeking bases in Gwadar and Djibouti and special arrange-ments elsewhere. India’s position has also evolved. If India earlier opposed the presence of foreign powers in the Indian Ocean, it now carries out joint exercises with a number of them to promote interoperability. It welcomes the presence of the US, Japan and other partner countries in the Indian Ocean as a counter to the growing Chinese presence.

In the Pacific Ocean, the debate was never about the presence per se of great powers. There, the US military presence on land and sea was taken for granted after World War II. The French and British too, as in the Indian Ocean, continued to have their colonies. The debate was about nuclear tests in places such as Bikini Atoll, French Polynesia and Christmas Island.

As a legacy state of the Soviet Union, Russia has never ceased to be an Indo-Pacific power. It avenged the humiliating destruction of its navy in the 1904-05 Russo-Japanese war by driving Japan out of the northern Korean Peninsula and taking South Sakhalin and the Kuril Islands in 1945. It enjoyed a key base in Cam Ranh Bay during the Cold War. Today, it holds joint exercises with China in the South China Sea and a trilateral exercise with China and South Africa in the Indian Ocean.

The situation in the South China Sea is more complex. Various claimants are pitted against one another, with China’s irredentist nine-dash line engulfing the Exclusive Economic Zone of several others. China has yet to produce a clear line with exact co-ordinates on a large-scale map in support of its claims. Earlier, in 1974, China took the Paracel Islands from South Vietnam, with a US in re-treat turning a Nelson’s eye. Later, China took Scarborough in 2012 and used swarming tac-tics involving fishing boats at Thitu Island against the Philippines in 2019, the defence treaty between the US and the Philippines notwithstanding. In general terms, the scram-ble in the SCS is more about fishing rights, nat-ural resources and the domination of trade and energy sea lines of communication.

There are many contradictions in the con-text of the emerging construct of the Indo-Pacific. For example, the US, like India, Japan, Australia and many others, advocates freedom of navigation and over-flight, and respect for the rule of law and international norms. It ad-heres to many tenets of UNCLOS without hav-ing ratified the treaty. China’s adherence to UNCLOS is more honoured in breach than in observance.

Arguably, the US concept of “freedom of navigation” is hard on friend and foe alike. The US conducted freedom of navigation opera-tions (FONOPs) in 2017 against a large num-ber of countries, including friendly nations like India, Indonesia, Vietnam and the Philippines. Similarly, the US Asia Reassurance



C R Sasikumar

Initiative Act (ARIA) of 2018, which embraces the Indo-Pacific as against Asia Pacific, de-scribes China as a strategic and economic com-petitor. Yet, it also has an entire section that seeks to “promote US values in the Indo-Pacific region”. There is a reiteration of the US com-mitment to upholding rights and promoting democratic values. Not only is China cited in this context along with Myanmar, but an al-liance partner such as the Philippines is also in the cross-hairs.

On the other hand, China now justifies its increasing forays in the IOR, including with nuclear submarines, by claiming that it has “always” had a historical right to the Indian Ocean, citing the few voyages of Admiral Zheng He’s fleet more than five centuries ago. In fact, there was no Chinese presence in the intervening period because after the brief mar-itime interludes during the Ming dynasty, China was not a maritime power until recently.

The Belt and Road Initiative (BRI) is sup-posed to endure for half a century. Yet, the ab-sence of a key neighbouring country like India, for very valid reasons, eroded its credibility. Now, many others are questioning the BRI.

The world today is undergoing a funda-mental transformation. There are several facets to the emerging uncertainty. Traditional and non-traditional security threats have grown in magnitude. The spectre of terrorism, especially cross-border terrorism, continues to challenge peace and prosperity. Geopolitical considerations are increasingly driving trade and investment decisions; on the other hand, the geo-economic forces unleashed by China’s economic rise are redefining the geostrategic landscape of the Indo-Pacific.

There is no doubt that the US-China trade war has been disruptive. It has coincided with the waning of the global economy. No two rival powers are as interlinked by trade and in-vestment as China and the US. Never before have all other countries been as intertwined in a web of relations with both China and the US. This makes for difficult choices. Power, whether economic, political or military, is frac-tured. No single country can dominate on all issues. Trade and technology are fiercely con-tested. Nationalism and regionalism are on the rise. There is less multilateralism but greater multi-polarity. Hedging and multi-alignment are part of every country’s strategic toolkit. The old consensus is fraying and a balance is yet to emerge. This calls for readjustments.

The “Asian Century” appears inevitable, but the question remains if it will be unipolar, bipolar or multipolar? Will it be a century of peace and development, or will it involve long-drawn contestations?

Asia is witnessing the simultaneous rise of several powers. Global engines of economic growth have shifted to Asia, first to the Asia-Pacific, and now, more widely, to the Indo-

Asia is witnessing the simultaneous rise of several powers. Global engines of economic growth have shifted to Asia, first to the Asia-Pacific, and now, more widely, to the Indo-Pacific that includes South Asia. The continent, home to 60 per cent of the global population, has emerged as the new fulcrum for geo-economic and geostrategic realignment. One could argue that the natural evolution of trade, investment and energy flows favour the broader definition of the Indo-Pacific as against the narrower confines of Asia and the Asia-Pacific. The term Indo-Pacific is certainly more inclusive and better accommodates the growing aspirations of a wider constituency.

Pacific that includes South Asia. The continent, home to 60 per cent of the global population, has emerged as the new fulcrum for geo-economic and geostrategic realignment. One could argue that the natural evolution of trade, investment and energy flows favour the broader definition of the Indo-Pacific as against the narrower confines of Asia and the Asia-Pacific. The term Indo-Pacific is certainly more inclusive and better accommodates the growing aspirations of a wider constituency. However, the economic success in the Indo-Pacific region has not been matched by stable security architecture. The region has some of the highest military expenditures. Trade, ter-ritorial disputes and geo-strategic contesta-tions are rampant. This places limitations on the region’s ability to engage in a process of give and take as seen in the RCEP negotiations.

There are fundamental disruptions to the existing equilibrium in the three sub-segments of the Indo-Pacific. The emergence of the US as a major energy exporter to Asia has eroded the importance of the Gulf oil produc-ers in the Western Indian Ocean. In the South China Sea, the dependence of ASEAN on China for its prosperity and security assurances is growing. In the Pacific, there is a new con-estation, which pits US programmes such as the BUILD Act, ARIA and Asia EDGE against the in-ducements offered by China to small island nations. Japan and Australia have also joined hands with the US in the Blue Dot network to promote infrastructure and connectivity.

The Chinese harbour suspicions about both the Indo-Pacific and the Quad as US de-vices to contain its rise. It regards trilateral compacts involving US, Japan and India and US, Japan and Australia as adjuncts to strengthening the Quad. However, Chinese scholars and officials are beginning to resort to a wait-and-see approach, since ASEAN cen-trality is an opportunity to lean on them to shape favourable outcomes through the BRI project and the draft Code of Conduct.

India will have to manage its relations with China, no matter the challenges. Ties with Japan would remain a key component of India’s vision for a stable Indo-Pacific and a cornerstone of its Act East policy. The Special Strategic and Global Partnership between India and Japan will be further strengthened during Prime Minister Shinzo Abe’s visit. However, India at this juncture does not have to make a binary choice in the Indo-Pacific be-tween a development-centric agenda with ASEAN centrality and a security-centric out-look revolving around the Quad. Both are likely to remain parallel tracks with some overlap for the foreseeable future.

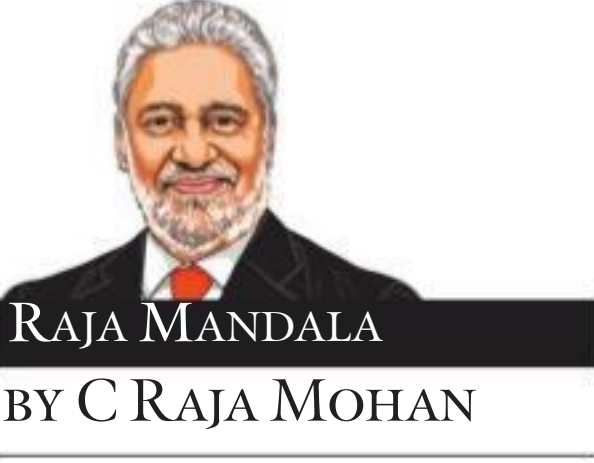
The writer was India’s ambassador to Japan and currently director general, IDSA, New Delhi. Views are personal

WHAT THE OTHERS SAY

“The Labour party’s traditional coalition of voters has collapsed. A comeback is only possible if it develops a new, more subtle politics of place”
— THE GUARDIAN

Look beyond the diaspora

India must avoid making Pakistan a preoccupation in relationship with UK. It must take advantage of shift in Britain’s international orientation



RAJA MANDALA

BY C RAJA MOHAN

DELHI IS SURELY relieved that Jeremy Corbyn did not win the recent general elec-tions in the United Kingdom. The Labour Party’s hostility towards India on the ques-tion of Kashmir, and its political tilt towards Pakistan under Corbyn, galvanised a large section of the Indian diaspora to rally behind the Tories. While Delhi welcomes the return of Boris Johnson as Prime Minister of Britain, it knows that there is much distance to cover before problems with London on Kashmir and Pakistan are overcome.

At its annual conference in Brighton in September, the Labour Party had approved a resolution criticising India’s decision to change the constitutional position of Kashmir, expressing support for the Kashmiri “right to self-determination” and calling for “international intervention” and “mediation” between Delhi and Islamabad. South Block reacted sharply to the resolu-tion and the High Commission in London conveyed its dismay and disapproval to India’s friends in the Labour Party.

As Labour’s unhelpful tone carried over to the Party’s election manifesto that fol-lowed a few weeks later, Delhi knew that dealing with a Labour government, whose return to power seemed a serious possibil-ity then, would be a major headache. Meanwhile, nearly 130 Indian community organisations in Britain sent strong mes-sages of protests to the Labour Party, and as the elections approached, the diaspora seemed ready to shed its traditional prefer-ence for Labour.

Boris Johnson, who was locked in a do-or-die political battle, grabbed the opportu-nity to tap into the Indian diaspora’s resent-ment against Labour. He devoted some quality time for a temple-run during the campaign to reassure the Indian diaspora that the Conservative government will be mindful of its concerns.

Whether or not the Indian diaspora made a decisive difference to the overall electoral outcome in favour of Johnson, there is no doubt that Labour’s Kashmir policy helped unite the Indian community in Britain. At nearly 1.4 million, the Indian dia-spora in Britain is one of the largest and its contributions to civic life — economic, polit-ical and social — have steadily grown over the decades. But, it is only now that it is emerging as an assertive force.

While the Indian diaspora might have tasted the first political fruits of its assertion, and though Delhi is pleased at the outcome of the election, the problem of British in-volvement in Kashmir and other India-Pakistan issues is unlikely to disappear any time soon. Three problems stand out.

First, whether it wants or not, India is be-ing sucked into an unfortunate competition with Pakistan in diaspora mobilisation in the United Kingdom and beyond. This is not very different from the recent developments in the US, where Pakistan has stepped up the effort to direct its diaspora against India’s Kashmir policy. Pakistan may have every rea-

son to extend and deepen its sphere of con-testation with India into the domestic poli-tics of the Anglo-Saxon world, where the South Asian diaspora is in large numbers, and more broadly in the West. While Delhi needs to fend off Pakistan’s tactics, it should avoid the danger of turning this competition with Pakistan as the central preoccupation in deal-ing with the West and its domestic opinion.

Second, while the Indian diaspora out-numbers the Pakistani diaspora, Delhi may find it increasingly hard to cope with the larger alliances that are beginning to coa-lesce and question India’s current domestic policies. The new coalitions bind the Pakistani diaspora with the broader com-munities of Muslim organisations and hu-man rights groups. Delhi will also need to reassure a lot of friendly constituencies in the West that are concerned about the na-ture of recent developments in India.

Third, and more specifically, India has dealt with the British problem on the Kashmir question for decades now under different governments, both Labour and Conservative. It generally had bigger prob-lems with Labour governments. One might recall, in the first term of Prime Minister Tony Blair, Foreign Secretary Robin Cook’s inter-ventionist policy on Kashmir wrecked Queen Elizabeth’s visit to India in 1997 to celebrate the 50th anniversary of Independence. Conservative prime min-isters before Johnson, most notably David Cameron, sought to move Britain decisively away from Labour’s tilt towards Pakistan on Kashmir. But it has been a lot harder to change the attitudes of the British establish-ment or the “deep state”.

It is useful to remember that Delhi’s most recent political spat with London was under the Conservative government of Boris Johnson. It was over the British role in the United Nations Security Council discussions that followed Delhi’s decision to alter the constitutional status of Jammu and Kashmir in August. The scrap certainly ended in Delhi’s favour, but the structural problem certainly endures.

Delhi must surely pay attention to and manage the tactical shifts in the British es-tablishment’s attitude to Kashmir and other bilateral issues between Delhi and Islamabad. It must also recognise, however, that Britain, like so many other countries, has its own interests in Pakistan and faces pressures to respond to them.

In the end, mobilising the diaspora can only be a small part of India’s strategy in get-ting Britain to change its approach towards its issues with Pakistan. If India’s economy is nearly 10 times larger than that of Pakistan and there is a much larger swathe of shared interests between Delhi and London, then there surely are other ways of persuading the British establishment to rethink its stance on India.

To get there, Delhi must now focus on the new possibilities with Britain presented by Boris Johnson’s victory. For Delhi, this can’t be about a tactical play on Kashmir with Britain; nor should it be about Boris Johnson’s personal commitment to improv-ing relations with India. For India, the ques-tion is about taking full advantage of the his-toric shift in Britain’s international orientation — economic and political — that is about to unfold.

The writer is director, Institute of South Asian Studies, National University of Singapore and contributing editor on international affairs for The Indian Express



D RAJA

An attack on the Republic

Those who care for democracy, freedom, secularism and equality must resist CAA

AFTER A CHARGED debate, the Constituent Assembly settled for a “jus soli” approach to citizenship. The first Home Minister of India and a key contributor to the debates, Sardar Patel, while arguing for a broad based, non-discriminatory criterion for citizenship, said “There are two ideas about nationality in the modern world, one is broad-based national-ity and the other is narrow nationality. It is not right for us to take a narrow view.” Even after being witness to the horrors of Partition, the framers of our Constitution did not budge in favour of religion-based criteria. After the Constitution was enacted, Patel again ap-preciated the framers for adopting an “enlight-ened modern civilised” approach to citizen-ship while stating the ethnicity-based citizenship as outdated. Unfortunately, the duo from Gujarat who swear by Patel is de-stroying the vision of the Constitution.

The principle of equality before law, irre-spective of one’s religion, race, sexuality and gender, is a necessary precondition for the functioning of a just society. Making religion a criterion for offering citizenship and ex-cluding one religion from it is an insult to the legacy of this country’s freedom struggle, a fraud on our constitution and most impor-tantly, a nefarious attempt to institutionally

otherise Muslims and plunge them into pre-carity and fear. Many have opposed the Citizenship (Amendment) Act, 2019 (CAA) on the basis of this criterion. This Act, along with many other previous decisions of the central government, is part of a larger design of the RSS-BJP combine to make India a Hindu-Rashtra. It should be pointed out re-peatedly, that every freedom fighter, from Maulana Hasrat Muhani to Subhas Chandra Bose, from Bhagat Singh to Chandrashekar Azad, made sacrifices and devoted their lives for the cause of a secular democratic India, not for Hindu-Rashtra.

By discriminating between migrants on the basis on their religious affiliation, the CAA divorces India from its rich humanitarian tra-dition of giving shelter to whoever is perse-cuted. The choice of three countries — Afghanistan, Bangladesh and Pakistan -is ar-bitrary. If the central government is really con-cerned about persecuted minorities, then why not extend this gesture for the Tamils from Sri Lanka and Rohingya from Myanmar? Similarly, Hazaras in Afghanistan, and Ahmadiyyas, Shias and Balochs in Pakistan are being persecuted. Atheists are regularly targeted in many theocratic countries. The Act will only distort India’s humanitarian cre-

dentials. The CAA is drawing flack interna-tionally already, including from the UN.

Persecution due to following a certain sect is not the only reason of migration. A growing concern worldwide is about climate refugees. The greed of capitalism and the ten-dency to over-produce has depleted the nat-ural resources of many regions in the world, forcing people to migrate. Unlike the RSS-BJP combine, nature and poverty do not discrim-inate. The CAA is silent on this vital issue.

The CAA is in complete violation of Article 14, as our Constitution specifically prohibits any kind of discrimination on the basis of re-ligion. At the founding of the republic, the question of religious minorities was among the more sensitive ones. Many in the Constituent Assembly wanted to wait and see how Pakistan decides to treat its min-orities before making a decision on minorities in India. When this issue of relative rights to minorities came up, B R Ambedkar vehe-mently rejected it saying “I must deprecate any such idea. Rights of minorities should be absolute rights.” He added further “If we find that certain minorities in which we are in-terested and which are within the jurisdic-tion of another State have not got the same rights which we have given to minorities in

our territory, it would be open, for the State to take up the matter in a diplomatic man-ner... But no matter what others do, I think we ought to do what is right in our own judgement.”. This distinction between India and Pakistan has served India. But the CAA, coupled with the home minister’s claim that there will be a nationwide NRC, breaches this commitment to minorities irreparably.

The current government’s violent Brahmanical ideology is attacking the very foundation of our democracy. The economy is in the doldrums with mass unemployment and inflation making lives miserable for ordi-nary people. From Kashmir to Assam, reports of civil unrest and violence are common and the indifference of the government is on dis-play. It is high time that all sections of society who care for democracy, freedom, secularism and equality come together to resist this as-sault on the idea of a humane, pluralist and egalitarian India. We must oppose and rise against the CAA and NRC. As a country, we should not be left with the guilt the Germans had after they supported the execution of state-sponsored hate and Nuremberg Laws.

The writer is General Secretary, Communist Party of India

LETTERS TO THE EDITOR

DIVISIVE LAW

THIS REFERS TO the editorial, ‘At great cost’ (IE, December 16). The decisions on Article 370, NRC and now the Citizenship Amendment Bill go against the promise made by Prime Minister Narendra Modi in his Independence Address in 2014. The PM had talked of a 10-year moratorium on caste and communal issues so as to focus more on “vikas”. The CAB has pitted citizens against citizens. In the process, it has also tagged Pakistan, Bangladesh and Afghanistan as countries that are inher-ently inimical to non-Muslims. It is bound to have repercussions on inter-national relations.

L R Murmu, Delhi

REVAMP HEALTHCARE

THIS REFERS TO the editorial, ‘Band aid’ (IE, December 16). It is the responsibil-ity of the government to ensure that life saving drugs are accessible, affordable and available. Merely launching flag-ship programmes will not serve the purpose. The public healthcare system warrants revamping. R&D is seen as a white elephant and companies are cut-ting corners. Let these companies also invest in R&D. The booming start up sector needs to come forward.

Deepak Singhal, Chennai

LETTER OF THE WEEK AWARD

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

TOP DOWN NEEDED

THIS REFERS TO the article, ‘Realisation, not reform’ (IE, December 16). The writer has argued that changes should not be foisted on the Muslim commu-nity from above. However, that is ex-actly what the Supreme Court does in thw normal course. Had the Muslim community acted against the discrim-inatory triple talaq practice on its own, the SC wouldn’t have had to step in. If the change does not come from within, the law should take its course.

Chinmay Jain, Delhi

TELLING NUMBERS

Recent incidence of breast and cervical cancer in India

THE ESTIMATED incidence of breast cancer in India rose 6% from 1.42 lakh in 2016 to 1.51 lakh in 2017, and another 6% to 1.6 lakh in 2018, the government informed Lok Sabha last week. Over the same three years, the estimated number of cases of cervical cancer increased from 99,000 to 1 lakh to 1.01 lakh, the government said, quoting data from the National Cancer Registry Program of the Indian Council of Medical Research (ICMR).

MOST CASES OF BREAST CANCER			
State	2016	2017	2018
Uttar Pradesh	21,376	22,737	24,181
Maharashtra	14,726	15,522	16,358
West Bengal	10,902	11,550	12,234
Tamil Nadu	9,486	9,870	10,269
Madhya Pradesh	8,334	8,858	9,414
Karnataka	8,029	8,527	9,055
Gujarat	8,001	8,504	9,039
Rajasthan	7,536	7,996	8,483
Kerala	5,682	6,189	6,748
Andhra Pradesh	5,901	6,251	6,620
TOTAL	1,42,283	1,50,842	1,59,924

MOST CASES OF CERVICAL CANCER			
State	2016	2017	2018
Uttar Pradesh	17,156	17,420	17,687
Bihar	9,454	9,638	9,824
Maharashtra	8,741	8,811	8,882
West Bengal	7,450	7,509	7,568
Madhya Pradesh	6,222	6,322	6,423
Rajasthan	5,791	5,861	5,933
Tamil Nadu	5,452	5,443	5,432
Karnataka	5,020	5,074	5,130
Gujarat	4,810	4,868	4,928
Andhra Pradesh	4,124	4,149	4,173
TOTAL	99,099	1,00,306	1,01,536

Note: Figures are for the top 10 states in 2018 only, with corresponding figures for 2017 and 2016. However, totals of all three years are for all states and Union Territories. Projected cases were computed using projected incidence rates and the population (person-years). Source: Government response to Lok Sabha question on December 13, quoting data from the National Cancer Registry Program of ICMR.

TIP FOR READING LIST

THE SCHOLARLY CONFESSIONS OF A PROFESSIONAL GLUTTON

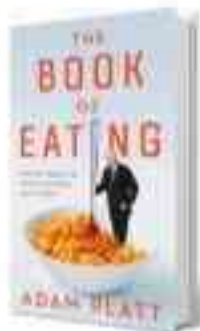
MANY PEOPLE envy food critics — they get to eat out all the time, while the rest of us have to be content with posting reviews on food ordering apps. Some of the more influential reviewers in the West try to be anonymous so as to give their readers an idea of what a restaurant is likely to really serve up to the ordinary punter.

But what is it like to be someone who eats — and writes about it — for a living? A part of the answer has now come from Adam Platt, food reviewer for the *New York* magazine since 2000, in his memoir published last month, *The Book of Eating: Adventures in Professional Gluttony*. It's a book that food lovers in general and food reviewers who aren't paid for their efforts would enjoy — Platt, as the review of the book in *The New York Times* says, "does not pretend... to be a super-foodie", and manages to serve good stories "because he doesn't

over-batter them".

Among the things that being a professional glutton does to Platt's body, as listed by *The NYT* are: "He gets gout. He gobbles 'horse-pill-sized tablets of antacid'. He begins to wear the kind of 'expandable webbed leather belt favoured by rotund country club golfers, which grew and shrank with the size of one's trousers'. He worries about hitting 300 pounds..."

Among the other occupational hazards that Platt recounts are eating the engorged sperm sac of the potentially poisonous fugu fish, which led to a tingling tongue and fears that he was dying. "He gets 'pork bloat'. At one meal someone accidentally spits a speck of gristle into his eye and his vision is blurred for weeks. He's often absent at night, and his wife works to maintain a semblance of regularity in their daughters' lives."



KARISHMA MEHROTRA
NEW DELHI, DECEMBER 16

ON MONDAY, the Software Freedom Law Center (SFLC), the global tracker for Internet shutdowns, was inundated with messages of shutdowns across the country — a frequently recurring phenomenon in India over the past several years.

The world's fastest growing Internet market is also the global leader by far in cutting off access to small and large sections of its population. It is now commonplace during moments of tension for law enforcement and government officials to cut off the Internet as both an early and a preventive response — as much to stymie communication between restive groups to prevent them organising, as to block the spread of rumours and fake news.

The Department of Telecommunications does not maintain data on shutdowns ordered by states — this has been the government's stock response to questions in Parliament on the number of Internet shutdowns. SFLC, which gets most of its data from national and regional newspapers, cautions that "our data is as reliable as the sources it comes from"; however these data are virtually the only ones available on Internet shutdowns, and are referred to widely.

The economic cost to shutdowns is immense: Over the past five years, some 16,000 hours of Internet shutdowns cost the economy a little over \$3 billion, according to estimates in a report by the Indian Council for Research on International Economic Relations (ICRIER).

SFLC also found frequent shutdowns in Pakistan, Bangladesh, Myanmar, Egypt, Congo, Syria, Sudan, Burundi, Iraq, and Venezuela.

Major events in 2019

CITIZENSHIP ACT: On Sunday, as protests against the Citizenship Amendment Act raged in West Bengal, Internet services were stopped in the state's North Dinajpur, Malda, Murshidabad, Howrah, North 24-Parganas and parts of South 24-Parganas dis-

tricts. In previous days, shutdowns had been enforced in several districts of Uttar Pradesh and in the Northeastern states.

While there were shutdowns in the Northeast at the beginning of the year as well (when the passage of the Citizenship Amendment Bill by the previous Lok Sabha triggered unrest), the first shutdown in the current phase was reported to the SLFC on December 10 — in Arunachal Pradesh and Tripura — the day after Lok Sabha passed the Bill.

In Assam, services were suspended on December 11, when Rajya Sabha too, cleared the Bill, and continued on December 12.

The same day, Meghalaya suspended services for 48 hours because, according to an official memo, "messaging systems like SMS and Whatsapp and social media platforms like Facebook, Twitter, and YouTube are likely to be used for the transmission of information through pictures, videos and text that have the potential to cause civil unrest and exacerbate the law and order situation".

On December 13, protests in Aligarh prompted a shutdown, and on Sunday in Meerut for "law and order maintenance". Access to the Internet was cut off in Saharanpur on both Sunday and Monday, officials said.

Ahead of a planned protest by students in Aligarh Muslim University on Sunday, the administration acted again to prevent the "spreading of rumours and misinformation using social media platforms... which can hinder peace and law and order".

AYODHYA VERDICT: The current sweeping shutdowns come after access to the Internet was cut off as a preventive measure in several states last month ahead of the Supreme Court's Ayodhya verdict, when there were apprehensions of tension and violence. Rajasthan and Uttar Pradesh saw the largest numbers of suspensions of Internet services.

JAMMU & KASHMIR: Monday marked the 134th day of the continuing shutdown in Jammu and Kashmir, which began on August 5, the day the erstwhile state was

SIMPLY PUT

Shutting down the Internet

There are no detailed official data on Internet shutdowns in India. However, India is widely considered to be a world leader in cutting off access to the Net. This is how, when, and where it has been happening

stripped of its special status under Article 370 of the Constitution. This is the longest ever continuous Internet shutdown in the country. Jammu and Kashmir had earlier experienced a 133-day shutdown between July 8 and November 19, 2016; Darjeeling went 100 days without access to the Internet between June 8 and September 25, 2017.

States with most shutdowns

The most active 'shutdown states', by frequency of shutdowns, have been as follows:

JAMMU & KASHMIR: The erstwhile state has seen 180 Internet shutdowns since 2012, according to SFLC. The most commonly offered reasons for cutting access have been "encounter between security forces and militants", "massive search operations", "gun-fights", and "attack on CRPF men". A case to have the Internet restored in the region is currently ongoing in the Supreme Court.

The Internet was suspended around the death anniversary of the slain Hizbul Mujahideen commander Burhan Wani, and on Independence Day 2017, Republic Day 2016, and Eid 2015. The visit of Prime Minister Narendra Modi in February also triggered a shutdown.

RAJASTHAN: The state has had 67 shutdowns since 2015, from hyper-local ones to those extending to districts or specific areas. Several have been "preventative measures after communal tensions broke out" or "to prevent the spread of rumours". On August 13, "mobile Internet services were snapped... in 10 police station areas in Jaipur... to prevent rumours as tense situation prevailed after a minor scuffle broke out between two communities".

Rajasthan has also seen shutdowns in order to prevent cheating in examinations — it happened for two days in most districts from July 14, 2018 during examinations to recruit constables; and in Bikaner, Sikar, and Karauli districts during the REET exam on February 11, 2018.

Some districts have enforced shutdowns



FACT CHECK, GROUND REALITY

Does the 'OK' now signify 'white power'?

an investigation to determine whether some young cadets and junior naval officers who were seen making the sign during a football match between the Army and Navy on Saturday were trying to convey a racist message.

The origin of the sign

A connection has long been made between the gesture and "OK", the Americanism for approval, agreement, or assent that went into currency in the 19th century. Some believe it started with a humorous piece that the journalist Charles Gordon Greene wrote in 1839 in *The Boston Morning Post*, a newspaper that he founded, using "OK" as an abbreviation for "Oll Korrekt" ('all correct', misspelled). People started to make the gesture, seen as vaguely resembling an 'O' and 'K'.

Connection to 'White power'

According to a report in *The New York Times*, it started in early 2017 when some users on the anonymous online message board 4chan began "Operation O-KKK" — to see if they could lead American liberals and the mainstream media to believe that the gesture was actually a secret symbol of White power.

"We must flood Twitter and other social media websites with spam, claiming that the OK hand signal is a symbol of white su-



A masked man makes a hand signal that signifies "white power" at a White supremacist rally in the US in July this year. Dave Sanders/The NYT

premacyp," one of the users posted, according to *The NYT* report. The prankster suggested that everyone should create fake social media accounts with "basic white girl names" to spread the notion wide.

Soon, however, the 4chan hoax ceased to be one: Neo-Nazis, Ku Klux Klansmen, and assorted White supremacists began to use the gesture in public to signal their presence and to spot potential sympathisers and re-

on the occasion of Ambedkar Jayanti, during protests by Dalit groups, and during celebrations by Hindu organisations.

UTTAR PRADESH: UP has seen 19 shutdowns since 2015. "Internet services were suspended to defuse the tension prevailing due to protests by Muslims against lynching of a man. According to some sources the protests turned violent after police lathicharged the protesters," the tracker said on July 5, 2019.

Other reasons for shutdowns include: "following brutal murder of a toddler", "following an altercation between some students and a TV channel over reports of a visit by AIMIM lawmaker Asaduddin Owaisi at AMU", "following the killing of Bhim Army leader's brother", and "following the violent clashes between supporters of the Bharat bandh and a pro-reservation group comprising OBCs and Dalits".

Relevant 'shutdown laws'

Home Departments in the states are mostly the authorities that enforce shutdowns, drawing powers from The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017. The decisions are reviewed by a state government review committee. The central government also has powers under this law, but has not used it.

Other relevant laws are Section 144 of the Code of Criminal Procedure, 1973 and The Indian Telegraph Act, 1885.

Section 144 has enabled many of the shutdowns in the recent past, especially until the time the telecom suspension Rules came into force in 2017. Section 144 CrPC gives the District Magistrate, Sub-Divisional Magistrate or any other executive magistrate empowered by the state government the power to issue orders to "maintain public tranquility".

Less frequently used is The Indian Telegraph Act, 1885, whose Section 5(2) allows central and state governments to prevent the transmission of messaging during a "public emergency or in the interest of public safety", or "in the interests of the sovereignty and integrity of India, the security of the state", etc.

cruits. "For them, the letters formed by the hand were not O and K, but W and P, for 'White Power,'" *The NYT* report said.

As the popularity of the gesture grew, it added on more symbols — the Southern Poverty Law Center, an American nonprofit legal advocacy that is focussed on civil rights and public interest litigation especially against White supremacist groups, has identified memes featuring the alt-right mascot Pepe the Frog (*in picture left*), among others.

Users of the gesture

Other than random White supremacists, American media reports have named several high-profile far right figures as having flashed the sign openly in public. These include Milo Yiannopolous, the British provocateur who was once an editor for Breitbart News, and Richard B Spencer, a promoter of the 2017 White Power rally in Charlottesville, Virginia.

In 2018, Roger Stone, a veteran lobbyist and friend of President Donald Trump's, was photographed showing the sign alongside a gang of White supremacists. The Anti-Defamation League said the gesture had graduated to a "sincere expression of white supremacy" after the Christchurch mosques terrorist Brenton Tarrant was seen showing the sign at a court hearing in March this year.

Destruction of public property: what law says, what top court directed

APURVA VISHWANATH
NEW DELHI, DECEMBER 16

WHILE AGREEING to hear petitions on alleged police excesses on students in Jamia Millia Islamia and Aligarh Muslim University, a Supreme Court Bench headed by Chief Justice of India S A Bobde on Monday expressed displeasure over rioting and destruction of public property. The CJ said the protesters were free to take to the streets, but if they did, they would not be heard by the court.

Despite a law against the destruction of property, incidents of rioting, vandalism, and arson have been common during protests across the country.

What the law says

The Prevention of Damage to Public Property Act, 1984 punishes anyone "who commits mischief by doing any act in respect of any public property" with a jail term of up to five years and a fine or both. Provisions of this law can be coupled with those under the Indian Penal Code.

Public property under this Act includes "any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy; any oil installation; any sewage works; any mine or factory; any means of public transportation or of telecommunications, or any building, installation or other property used in connection therewith".

However, the Supreme Court has on several earlier occasions found the law inadequate, and has attempted to fill the gaps through guidelines.

In 2007, the court took *suo motu* cognizance of "various instances where there was large scale destruction of public and private properties in the name of agitations, bandhs, hartals and the like", and set up two Committees headed by former apex court judge Justice KT Thomas and senior advocate Fali Nariman to suggest changes to the law.

In 2009, in the case of *In Re: Destruction of Public & Private Properties v State of AP and Ors*, the Supreme Court issued guidelines based on the recommendations of the two expert Committees.



Vehicles were set on fire in Delhi on Sunday. Gajendra Yadav

What the SC said

The Thomas Committee recommended reversing the burden of proof against protesters. Accepting the suggestion, the court said that the prosecution should be required to prove that public property had been damaged in direct action called by an organisation, and that the accused also participated in such direct action.

"From that stage the burden can be shifted to the accused to prove his innocence," the court said. It added that the law must be amended to give the court the power to draw a presumption that the accused is guilty of destroying public property, and it would then be open to the accused to rebut such presumption.

Such a reversal of the burden of proof is

applicable in cases of sexual violence, among others. Generally, the law presumes that the accused is innocent until the prosecution proves its case.

The Nariman Committee's recommendations dealt with extracting damages for destruction. Accepting the recommendations, the court said the rioters would be made strictly liable for the damage, and compensation would be collected to "make good" the damage.

"Where persons, whether jointly or otherwise, are part of a protest which turns violent, results in damage to private or public property, the persons who have caused the damage, or were part of the protest or who have organized it will be deemed to be strictly liable for the damage so caused, which may be assessed by the ordinary courts or by any special procedure created to enforce the right," the court said.

Apart from holding rioters liable and imposing costs, the court also issued guidelines including directing High Courts to order *suo motu* action, and to set up a machinery to investigate the damage caused and award

compensation wherever mass destruction to property takes place due to protests.

Impact of guidelines

Like the law, the guidelines too, have had a limited impact. This is because the identification of protesters remains difficult, especially in cases where there is no leader who gave the call to protest.

Following the Patidar agitation in 2015, Hardik Patel was charged with sedition for inciting violence that led to loss of life and property; however, Patel's lawyers argued in Supreme Court that since there was no evidence that he had called for violence, he could not be held liable for loss of property.

In 2017, a petitioner who claimed he was forced to spend more than 12 hours on the road on account of an ongoing agitation, moved the Supreme Court seeking implementation of the 2009 guidelines. In its verdict in *Koshy Jacob vs Union Of India*, the court reiterated that the law needed to be updated — but it did not grant the petitioner any compensation since the organisers of the protest were not before the court.