



The IndianEXPRESS

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RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

Business case for governance

A balance can be found — between demands of shareholders and interests of society



VIKRAM S MEHTA

THOSE WHO QUESTION

Will government listen to Manmohan-Bajaj message, or read a conspiracy, create a spectre? Much depends on its response

On Saturday, one of India's most respected industrialists spoke about fear to power. Rahul Bajaj, at an awards function organised by *The Economic Times* in Mumbai, with ministers Amit Shah, Nirmala Sitharaman and Piyush Goyal on stage, spoke of corporates afraid to criticise government, of an environment of impunity for phenomena like lynchings, of terror-accused Pragya Thakur's political journey to Parliament with the BJP's full backing and support. A day earlier, from another public stage, former Prime Minister Manmohan Singh had talked about how the precarious state of the economy is linked to the state of the society in which it operates, how a "toxic combination of deep distrust, pervasive fear" is "stifling economic activity and hence economic growth". Also on Friday, came news of the GDP growth rate for the second quarter of this financial year hitting a 26-quarter low. It is up to the Narendra Modi government now to join the dots — not to see another conspiracy in the three events, or to create another spectre to deflect and divert attention from them, but to acknowledge and respect their sobering message.

Even as they were strikingly similar in their burden, the difference of tone in the interventions of Bajaj and Singh was telling. Bajaj spoke with the self-conscious hesitancy and bravado of one breaking a taboo and a silence, rushing in where so many others visibly fear to tread. "Nobody from our industrialist friends will speak... I will say openly... we don't have the confidence that you will appreciate if we criticise you openly..." The fact is that in the hall full of distinguished industrialists in which he spoke, Bajaj stood up alone. The fact also is that if his peers and other prominent industrialists had echoed Bajaj's apprehensions in the last few years, articulated them publicly and to government, if they had, for instance, received news of the plunging GDP growth figures with a concern as audible as were their cheers for the government's corporate tax cut, his intervention on Saturday would not seem quite so extraordinary, or as courageous. Former PM Singh, on the other hand, spelt out the current predicament with an understated authority. His message was devoid of drama, but his warning was grave. He spoke of economic development stalling because of the "profound fear and distrust among our various economic participants", eroding public trust in independent institutions and of the "root cause of this" — "the government's policy doctrine that seems to suspect every industrialist, banker, policymaker, regulator, entrepreneur and citizen..." The Modi government seems to view everything and everyone through a tainted prism of suspicion... and it has positioned itself as some saviour, resorting to foolhardy moral policing..." The way out of the economic slump, the former PM cautioned, does not lie in more enlightened economic policy-making alone. It will need, also, the restoring of confidence and exuberance.

The government may, of course, dismiss Singh's words as the lament of the loser. But the extent of the economic downturn has already indicated that the strategy of delinking the political-electoral from the economic could be reaching its limits. Another message is now writ on the wall: To revive the economy, the BJP will have to review its social and political ethos and philosophy. It may well be that nothing less will do.

A TIME TO REBUILD

As Delhi and Colombo renew ties, they must proceed with wisdom, resist being pushed back to square one

AT THE end of his talks with the visiting Sri Lankan president Gotabaya Rajapaksa, Prime Minister Narendra Modi affirmed that "the security and development of our two countries are inseparable. Therefore, it is natural that we should be aware of each other's safety and sensibilities." This proposition appears self-evident. Yet the reality of recent decades has been the intense discord between Delhi and Colombo, triggered by India's involvement in the prolonged civil war in Sri Lanka. India's support for Tamil insurgent groups in the early 1980s followed by a military intervention during 1987-90 and political pressure on the rights of the Tamil minority had convinced the Sinhala majority that Delhi was hostile to the island nation. India had grievances of its own — due to Colombo's steady strategic drift towards Beijing and its lack of progress on political reconciliation with the Tamil population after a decisive victory against the insurgency a decade ago.

Efforts in the last few years to resolve these contentions went nowhere, thanks to inter-necine battles in Colombo between the president and prime minister. The decisive mandate for Gotabaya in the recent elections has opened up space for a renewed effort at rebuilding bilateral relations. In Delhi, Gotabaya affirmed that Sri Lanka will do nothing to undermine India's security interests and promised that his government's engagement with China will be strictly commercial. India, in turn, has extended strong support to Gotabaya's plans to counter the resurgence of terrorism in Lanka and to the new president's ambitious economic goals.

But the Tamil question remains a ticking time bomb that could once again wreck bilateral relations. Modi said Gotabaya briefed him on his plans to address the concerns of the Tamil minority and expressed hope that the Lanka president will meet their aspirations. Gotabaya argues that talk of devolution has delivered little to the Tamils, but only angered the Sinhala majority. He says he would like to transcend Lanka's identity politics by producing meaningful change in the economic conditions of the Tamil population. For many in Chennai, this approach will be unacceptable. But Delhi surely knows that it cannot impose external solutions to Sri Lankan problems. Colombo knows that doing nothing for the Tamils will inevitably escalate Chennai's pressure on Delhi to intervene in Lanka's internal politics and push the two nations back to square one. There is only one way to manage this complex political interdependence — for Colombo to make visible progress on the Tamil condition and for Delhi to support indigenous solutions for Sri Lanka's political reconciliation.

FREEZE FRAME

E P UNNY



GOOD GOVERNANCE IS a chant heard in every boardroom and management discussion. The phrase has not been precisely defined. It is varyingly interpreted but common to all interpretations is the understanding that it means transparent, fair and ethical corporate behaviour, the full and accurate disclosure of financial and operational information and the adherence to the letter and spirit of the law. People start arguing when the somewhat nebulous concept of "social responsibility" is added to the chant. It then falls upon corporate management to define this phrase and to find a pathway that balances the demands of the shareholders for maximum dividends and capital appreciation with the pressures to contribute to societal welfare. The search for this pathway is what has prompted this article.

The benefits of "good governance", however imprecisely defined, has been quantifiably established. The "Reputation Institute", an NGO, estimates that intangibles like reputation make up approximately 81 per cent of a company's value and a "strong reputation yields 2.5 times better stock market performance" compared to the overall market. One could debate the methodologies behind these calculations but the central message is indubitable. Well-governed companies have easier access to capital, they pay lower interest rates, secure better credit terms and attract the best and brightest of talent. Good governance is good business.

The message is further reinforced by the anecdotal evidence of the prohibitive costs of "poor governance". The whistleblower allegation of a breach in the disclosure of financial data by the management of Infosys is a case in point. The market cap of the company dropped by about Rs 50,000 crore in one trading session. The twists and turns of the IPO of the Saudi government-owned oil and gas company Aramco is another example. The Saudis had valued their company at around \$2 trillion. Their financial advisers, however, came back after testing the market with a valuation of \$1-1.2 trillion. They told the Saudis that the discount was, inter alia, because of perceptions of opacity in the

The chant of 'good governance' is fundamentally hypocritical, it is suggested. And will remain so until a process is engendered to create a balanced incentive structure that motivates the generation of financial returns through societal welfare than the current structure that regards one as a trade off for the other.



AJITA BANERJEE

THE PASSAGE OF the Transgender Persons (Protection of Rights) Bill, 2019, has caused great disappointment to the transgender community in India that had urged the Rajya Sabha to refer the Bill to a select committee.

The Bill failed to incorporate crucial recommendations of the Parliament Standing Committee and several depositions by the transgender and intersex community. According to the Bill, a transgender person "may make an application to the District Magistrate for a certificate of identity indicating the gender as 'transgender'" and a revised certificate may be obtained "if a transgender person undergoes surgery to change gender either as a male or female". This is in direct violation of *NALSA v Union of India* that had affirmed the right to self-determination of gender as male, female or transgender without the mandate of any medical certificate or sex-reassignment surgery (SRS).

Also, despite including identities such as "gender queer" and "persons with intersex variations" in the definition of "transgender", the Bill has failed to incorporate the rights of such persons, putting them in danger of being excluded by a system which certifies people based on medical examination.

While the Bill seeks to prohibit discrimination, it does not explicitly define what constitutes as discrimination. It also fails to extend protection to transgender persons who might face sexual abuse as the Indian Penal Code recognises rape in strict terms of men and women as perpetrator and victim, re-

THE FIGHT FOR DIGNITY

Transgender Persons Bill has let down the community's long struggle for self respect

The Bill also raises concerns around the government's motive behind "the rescue, protection and rehabilitation of transgender persons", which could potentially give rise to police crackdown against transgender persons, especially sex workers. This clause might also grant impunity to the police to arbitrarily arrest transgender persons under the pretext of 'rescuing' them.

spectively. While the Bill makes "sexual abuse" punishable, it does not define the acts that constitute sexual offences, making it complicated for transgender persons to report such crimes.

The Bill also raises concerns around the government's motive behind "the rescue, protection and rehabilitation of transgender persons", which could potentially give rise to police crackdowns against transgender persons, especially sex workers. This clause might also grant impunity to the police to arbitrarily arrest transgender persons under the pretext of "rescuing" them, and, use provisions of anti-beggary laws whose vagueness allows for disproportionate violence against the most marginalised communities.

On the rights of transgender children, the Bill fails to include "gender non-conforming" children and "children with intersex variations". It falls short of addressing and penalising surgeries on infants born with intersex variations with the intention of "correcting" their bodies to fit the binary gender: Many parents subject their children to medical "conversion" therapies or "correction" procedures, including shock therapy, to make them "normal". Further, the Bill states, "no child shall be separated from parents or immediate family on the ground of being a transgender, except on an order of a competent court." This poses a potential threat to the safety and well being of the child as it could give the family the leeway to harass the child and exclude them from their prop-

erty. It also makes the courts the moral guardians for deciding the fate of the transgender persons by sending them to rehabilitation homes where they could face abuse at the hands of their peers or the staff. The Bill puts the young person in a conundrum — of choosing between the violence of the family and that of state rehabilitation centres.

Another major flaw of the Bill is that it does not provide for reservation in education and employment for transgender persons, going against the mandate in *NALSA*, which had clearly stated that the state must take measures "to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments". The Bill does not tackle the question of realisation of civil rights — such as marriage, civil partnership, adoption and property rights, thereby continuing to deprive transgender persons of their fundamental rights and the constitutional guarantee provided by the Supreme Court in *NALSA*.

The Bill has made a mockery of transgender persons' lives and by passing it, Parliament has let down the community that fought for their rights for decades. But the transgender community is resolute in their will to continue the fight against this injustice that's been done to them.

The writer is chairman and senior fellow, Brookings India

DECEMBER 2, 1979, FORTY YEARS AGO

CONGRESS-I MANIFESTO THE CONGRESS-I ELECTION manifesto, which was released by Indira Gandhi in New Delhi, can be summed up in a single sentence that occurs in the manifesto: "The Indian National Congress-I is the only party and Mrs Cndira Gandhi is the only leader who can save the country, after its recent traumatic experience." To back up this thesis, the manifesto asserts that the experience of the last two-and-a-half years has clearly shown that only a stable and progressive government can fulfil the expectations of the masses and lift the country out of the chaos created by the Janata and the Lok Dal governments. The stable government envisaged in the mani-

festos would have a majority in Parliament. And it would have a "leadership that has been tested in times of internal and external upheavals and pressures".

ALLIANCE DISRUPTION

THE LOK DAL-CONGRESS electoral alliance seemed on the brink of disruption with Lok Dal General Secretary Narendra Singh admitting that both parties will contest against each other in a number of seats. Singh said his party was trying to reach an accord on as many seats as possible but if differences persist, there would have to be "some friendly contests". Though he would not admit it, it was also learnt that the Lok Dal's differences

with the Congress were not confined to seat distribution alone. A reliable Lok Dal source admitted that there was disagreement over the manifesto also.

KOYA QUILTS

KERALA CHIEF MINISTER Mohammed Koya called on Governor Jyothi Vencatachellum and tendered the resignation of his 51-day-old ministry. The governor accepted the resignation and requested Koya to continue in office till alternative arrangements were made. Koya, after submitting the resignation, said that the parties presently with him would jointly fight the Lok Sabha poll and state assembly elections likely to be held soon.





# 11 THE IDEAS PAGE

## Power from nothingness

Gandhi, like the Buddha, found that concern for the well-being of all was an antidote to fear, angst about death



IN GOOD FAITH

By K P SHANKARAN

WHILE RECENTLY REREADING Erik Erikson's 1969 psychoanalytical political biography of Gandhi, *Gandhi's Truth*, I was particularly struck by the following statement: "Freud, in one of his 'economic' moods might well have said that, psychologically speaking, such men (people like Gandhi) save others not so much from their sin but from the fantastic effort not to see the most obvious of all facts: That life is bounded by not-life." Gandhi, according to Erikson, allows us to face the fact that we are "bounded by not-life" and tempts us to draw power from such efforts as exemplified in Gandhi's life struggle.

Our fascination for men like Gandhi, the Buddha or Socrates "rests on the need of all men to find the few who plausibly take it upon themselves to reveal — and give meaning to — what others must deny at all times but cannot really forget for a moment" — death/nothingness. Those of us who are familiar with Gandhi's philosophical, political and intellectual struggles know that he, perhaps more than the Buddha or Socrates, tried his level best to reduce himself to "zero", as he announced in the last paragraphs of his autobiography. Erikson believes that Gandhi almost succeeded in this endeavour and because of this singular achievement, Erikson presents Gandhi as a heroic figure who drew power from "nothingness". Lesser mortals if they ever had the courage to attempt anything similar, Erikson cautions us, would have most likely ended up being crushed between megalomania and self-destruction.

A reading of Gandhi, from a purely philosophical point of view, would tempt one to see him as someone who — like the Buddha — was asking us to replace our unselfconsciously and uncritically held metaphysical beliefs through a series of "experiments with truth". We know that the Buddha did say this in the "Kalama Sutra" and many other sutras. Gandhi's life was a work in progress till it was terminated by his assassin Nathuram Vinayak Godse's bullet.

In the rest of this article, I make an attempt to bring out the significance of Gandhi's desire to reduce himself to "zero" by using some subcontinental philosophical concepts.

Individually speaking, one's own birth is not an enigma. Life as such, although we don't have any clear cut explanations about it, is not an enigma for many since we can marshal some semi-intelligible explanations. But what about death? A person can only infer, like in the case of her own birth, that she will cease to exist just by inductive reasoning. Everything ultimately loses its integrity in the familiar world of ours. The same thing happens to one's own current biophysical integrity. It happens to all inanimate as well as all animate beings. From the point of view of the physical and the biological, there is no enigma here. But from an agent's point of view, she could anticipate a "world lost" that is not enigmatic but could be traumatic psychologically. The natural disintegration "deprives" one of the familiar world of meaningful scenarios in which one is constantly engaged in. This anticipated deprivation of the "world" is what is disturbing emotionally. The "world" is an enigma because it is not explainable biophysically. It is, therefore,



C R Sasikumar

not "natural" but "conventional" — we can at the same time be both, entities capable of a biophysical explanation as well as agents functioning against a background of standards of correctness. The "world" is related to the latter.

That is why the "world" is termed by Nagarjuna as "vyavaharika". It is akin to the other subcontinental idea of "leela". It is correctly described by some of the subcontinental philosophers as "anirvachniya" — inexplicable because it is neither real nor unreal. Indeed, it is like any other game we are familiar with (nether real or unreal) but it is conceptually/historically prior to them all and all of them supervene on it. That is why (we) take it as more fundamental (conventionally) than the ordinary scenarios we call "games". We also acknowledge (under metaphysical compulsion) that the "world" itself supervenes on an "X", which is taken as the "real" — Matter; God, Brahman, Nothingness...

The conventionality of the world can be gauged from the presence of binary oppositions which we deal with regularly. These oppositions are indicators of standards of correctness. The standards are what makes conventional, conventional. Nevertheless, we cannot break out of the conventional/vyavaharika, we can only have useful/useless interpretations of it from within.

The Buddha thought that the fear of death and all other unsatisfactoriness emerge from our metaphysical affectedness. Because we are socialised to treat the "world" as supervening on a "ground everlasting" we habitu-

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ally presuppose and look for something permanent, if it is not visible in the world, but within us. Because of this, the anticipated loss of the "world" which is undeniable threatens us as inexplicably meaningless and hence makes us angst ridden.

The Buddha's solution for this predicament is to learn to live without metaphysical props like Matter (White or Dark), the Unified Theory of Physics, God and all its versions, Brahman and all its versions, nirvana included. The Buddha himself thought that some ad hoc versions of metaphysics were initially needed to replace the one that we have been socialised into. He suggested for his disciples a "Right View" — an ad hoc metaphysics for temporary use, till they get rid of selfishness significantly enough to make all metaphysical props totally unnecessary. He, like his contemporaries Socrates, Vardhamana Mahavira, and 20th CE admirer Gandhi, prescribed a series of ethical practices for us to cultivate virtues in order to significantly reduce the play of selfishness in our lives. As selfishness reduces (Gandhi's "zero") significantly through ethical practices, all fears, including the fear of death, which are due to the immoderate selfishness in us, disappear. This automatic disappearance of all fears, in other words, is because of the cultivation of all-inclusive "sarvodaya" (concern for the well-being of all) a term Gandhi like the Buddha kept on repeating tirelessly.

The writer taught philosophy at St Stephen's College, Delhi University

### WHAT THE OTHERS SAY

"In recent years, China's economic might has silenced many critics and muted others... the new US law and renewed protests over the treatment of Muslim minorities in the wake of the leaked files suggest things may be evolving."

— THE GUARDIAN

## Grass for lions

Restoring Saurashtra's grasslands is key for the big cats to thrive in their natural habitat



DHEERAJ MITTAL

RECENTLY, A VIDEO showing an Asiatic lion eating grass went viral on social media in Gujarat. Many wondered if lions indeed eat grass! As a matter of fact, wild carnivores often eat grass when they have a stomach upset so as to vomit undigested food, and in some cases, to encapsulate shards in bony food.

Though lions are carnivores, there is an umbilical link between grass and the big cats. Grass is the starting point of all major food chains. Wild ungulates like spotted deer, blue bulls (nilgai), sambar, wild boars etc, which form the main prey-base of Asiatic lions, dependent on good grass. Their habitat comprises grasslands and open patches.

The Saurashtra region is interspersed with 106 reserved *vidis* (grasslands) maintained by the forest department and 434 non-reserved *vidis* controlled by other agencies. They are spread over 1,810 sq km, making up 20 per cent of total grassland cover in Gujarat. Private *vidis*, *gauchars* (community grazing-lands controlled by village panchayats) and government wastelands supplement these *vidis*. Most of these *vidis* are part of the 22,000-sq km Greater Gir landscape, the last abode of Asiatic lions.

A good lion habitat must have a good prey-base. For a healthy prey-base, grasslands are the key. Lion conservation efforts are focused on habitat improvement and, by extension, on improvement of grasslands. Dispersal of lions from the core Gir forest was possible due to a matrix of grasslands and open patches in the Greater Gir area. It is imperative, therefore, to initiate landscape-level interventions to ensure that the lion population keeps thriving. Since these big cats coexist with local agropastoralists, minimising competition for natural resources between wildlife and local communities is crucial. Productive grasslands can help achieve this. They can make a very good habitat for lions while also meeting requirements of the locals.

Lions have been dispersing out of the core Gir forest for the past 15 years. According to the 2015 census, out of total 523 Asiatic lions, 167 were living outside protected forests. That is one-third of their population. The lions living outside protected forests have made these grasslands in revenue areas their home. Hence, these grasslands will be critical to lions' further dispersal and sustaining their robust population growth seen over the past couple of decades.

Over a period of time, however, these grasslands have degraded owing to invasion of woody and shrubby species and have turned into somewhat unproductive woodlots. Hardly any grass grows in them now. Instead, growth of species like lantana, prosopis, van tulsi and cassia defines their vegetation. This vegetation is unpalatable for wild ungulates and domestic animals.

The progressive degradation of grass-

lands has exacerbated some of the present problems like shortage of fodder, lack of good grazing grounds for maldharis (a semi-nomadic pastoralist community), increase in crop depredation by wild herbivores etc. Eventually, it can prove detrimental to animal husbandry, which, after agriculture, is the other major occupation in Saurashtra. As grasslands on forest fringes become unsuitable for wildlife and local livestock, the fringe further shifts towards agricultural fields and human settlements. This, in turn, is aggravating human-wildlife conflict. In the long run, such a scenario may sour the unique sentiment and goodwill the local communities have for wildlife in general and lions in particular.

This gradual, unattended shift has affected both ecology and economics of the region. Village panchayats are unable to maintain their *gauchars* for lack of resources. Nor do they consider managing their *gauchars* and wastelands a priority. The continued apathy is resulting in large-scale encroachment on such swathes and soil mining from such patches. There aren't many management interventions by the forest department either in the non-reserved *vidis*. The net result is that the landscape is suffering the tragedy of commons and a vicious self-perpetuating circle of unproductiveness.

For long-term ecological and economic security, all stakeholders need to make a collective effort. The forest and revenue departments and panchayats need to take up a joint mission to restore these grasslands. Good productive grasslands are extremely important for fodder security. For instance, the more than 1.6 crore kg of grass collected by the forest department from reserve *vidis* in 2018-19 will be available for distribution in the event of a drought. Grasslands are important for water security too as they serve as great watersheds. The conflict due to crop depredation and lions venturing into human habitations can also be mitigated if grasslands are maintained and managed properly. Wild herbivores naturally prefer open and productive patches and thereby keep carnivores interested in such areas. Grassland restoration will also help in the conservation of bustards, floricans, wolves, blackbucks and many other wild species that share a similar habitat.

Wildlife conservation and sustainable utilisation of grasslands are not mutually exclusive pursuits. Grassland restoration will not only have positive ecological effects on long-term lion conservation, it will also yield significant socioeconomic benefits to the locals. Just like with lion conservation, grassland restoration can also be done with the participation of local communities. They can help in tending grasslands and clearing any woodlots, if required. Part of the proceeds from wood clearing can be shared with the panchayats.

The recent UN-led conference to combat desertification committed to achieving land degradation neutrality by 2030. At this conference, India committed to restoring at least 26 million hectares of degraded land by 2030. Gujarat can begin with restoration of the grasslands in Saurashtra.

The writer, an IFS officer, presently serves as deputy conservator of forest, Gir West Forest Division in Junagadh. Views are personal

### LETTERS TO THE EDITOR

#### EQUALITY FIRST

THIS REFERS TO the article, 'On a new footing' (IE, November 29). Like any bilateral relationship, India and Sri Lanka have their fair share of convergence and disruptions. With the Rajapaksas back in office, it would now be sensible to expect coherence in Sri Lankan policies — unlike the past five years. While India is apprehensive of Sri Lanka's strategic links with China, the island nation may get anxious if India meddles in its domestic affairs.

Anirudh Parashar, Solan

#### BJP, LIKE CONGRESS

THIS REFERS TO the article, 'New look BJP, old Congress' (IE, November 28). The BJP's poor performance in the Maharashtra and Haryana Assembly elections must serve as a wake up call for the party's brass. It is common knowledge that far from being a party with a difference, the BJP has been following in the footsteps of the Congress. Throwing open doors to rebels of other political parties and rewarding them with tickets during election times is a trait of the Congress.

Ravi Mathur, Ghaziabad

#### WRONG POTION

THIS REFERS TO the editorial, 'No cheers for Jagan' (IE, November 26). Prohibition does not address the real problem of addiction. Besides, it also leads to significant revenue losses. It is unfortunate that a serious matter has been reduced to a farce. At times, a political leader of

#### LETTER OF THE WEEK AWARD

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a state wins an election by campaigning for prohibition. And when this leader loses at the hustings, his successor often reverses the policy citing revenue losses.

Dilip Kumar Datta, Midnapore

#### RJD'S NEW LEADER

THIS REFERS TO the editorial, 'A new cast' (IE, November 29). The elevation of Jagdanand Singh, a Rajput, as Bihar unit president of RJD is a departure for a party which has never made bones of championing the cause of Yadavs and Muslims. The BJP's high pitched nationalism has upset the caste-driven politics of Bihar as seen in the RJD's drubbing in the general elections. This has forced the party to course correct.

Kamna Chhabra, Gurugram

### VIEW FROM THE NEIGHBOURHOOD



A weekly look at the public conversations shaping ideas beyond borders — in the Subcontinent. Curated by Aakash Joshi

#### A NEW ACCORD

AS THE newly-elected Sri Lankan president, Gotabaya Rajapaksa was on a visit to India, the Sri Lankan press, like its Indian counterpart, assessed the bilateral relationship. The November 29 editorial in *The Daily Mirror* seems to place great stock in Prime Minister Narendra Modi and Rajapaksa's personalities, and their effect on bilateral ties. This framework of analysis, increasingly common in India as well, seems to set great store by a leader's charisma, ideology and worldview, rather than political-economy and historical and geostrategic factors.

The editorial, for example, says that "Gotabaya Rajapaksa would no doubt touch on issues that are of concern to both nations" and "Prime Minister Modi is a man of conviction and courage". There also appears to be a subtext in the editorial which seems to imply that the Modi government may be more "understanding" of the Rajapaksa brand of politics — presumably, its attitude towards minorities and a federal devolution of power: "He (Modi) has the backing of his people. He does what he believes is best for India, whether or not the world understands or appreciates. He would not hesitate to advocate such thinking for friends in his neigh-

bourhood. This should not be lost on President Gotabaya Rajapaksa."

The thrust of the editorial is against the 1987 Indo-Sri Lanka accord, which called for disarmament during the civil war and greater rights for Tamils, including in a federal structure: "Prime Minister Modi is not Prime Minister Rajiv Gandhi. President Gotabaya Rajapaksa is not President Maithripala Sirisena. There's reason to hope that a 'Modi-Gota' agreement would make 'Indo-Lanka' something that will not feel, smell and taste bad."

#### LAW FOR THE CHIEF

PAKISTAN'S SUPREME Court, according to the November 29 editorial in *Dawn* "has helped the government come out of the corner it has painted itself into". The governments move, via a notification, to increase the term of army chief General Qamar Bajwa was challenged in the country's apex court and threatened an impasse between the three organs of the state — the government, army and judiciary. The court, however, rescued the government by allowing an extension of six months for Bajwa. In that time, it has enjoined the legislature to come up with a suitable legislation "to determine the length of the army chief's

tenure — and the question of its extension" and rid the current legal framework of any ambiguity in this matter.

By all accounts, it appears that the government's notion was bad in law, and framed poorly. Yet, according to the editorial, Prime Minister Imran Khan is shirking responsibility: "It is therefore disappointing to note the prime minister's tweets blaming foreign enemies and domestic 'mafia' whereas the real culprit is the government's own legal team that was unable to write a notification that could withstand judicial scrutiny."

The editorial also argues that "given the central role played by army chiefs in Pakistan", it is important that the law regarding the office is framed carefully, after due deliberation and with the Opposition participating. Interestingly, the editorial ends by talking of the role of institutions, which some may construe as a moral plea to General Bajwa: "This paper believes in the strength of institutions. Although the court may have felt it necessary to prevent a sudden vacuum in the army leadership, General Bajwa has been given a face-saving opportunity to decide on a course of action that will serve the interests of his institution and the system as a whole — and not that of a single individual."

#### CRICKET ANALOGY

MAZHER MIR, an advisor to the ASEAN council and columnist, makes an interesting — if slightly over-stretched — analogy between cricket and the state of an economy. The recent loss in the pink-ball Test form the core of his argument in *The Dhaka Tribune*: "The majority of Bangladeshi people do not hesitate to express their gratitude in India's contributions to their motherland's independence. Still, India's disregard for the environmental impacts and creating a water crisis in Bangladesh due to building water dams have created bitter feelings against India among Bangladeshi people. This sentiment is now leaking into sports matches."

Mir then goes on to argue that "cricket has become an indicator of how well Bangladesh has been shining for the last two decades. There are indeed many positive economic markers, but a large part of the population is dealing with chronic poverty." India, he argues, has become a cricketing powerhouse because of private sector involvement. He argues that Bangladesh's economy — and its cricket — needs training, education in technology to compete on the global stage. This must be taken forward, according to the article, by the private sector.







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## TELLING NUMBERS

## 1,275 Gangetic dolphins in UP, another 962 in Assam rivers

AT LAST count, the rivers of Assam and Uttar Pradesh respectively had 962 and 1,275 Gangetic dolphins, India's national aquatic dolphin. These numbers were tabled in Parliament recently by Minister of State for Environment and Forest Babul Supriyo. BJP member Rajiv Pratap Rudy had asked whether the government has carried out an assessment of the population and habitation areas of the Gangetic dolphin in the country; Supriyo replied that such assessments are done by respective state Forest Departments and the data are not collated in the Union ministry. He tabled the figures for Assam and UP based on information received from the two state governments.

The population assessment in Assam was done between January and March 2018, while the UP count of 1,272 is for 2015, up from 671 in 2012. In Assam, the assessment was carried out in three rivers, with the Brahmaputra accounting for 877 of the 962 dolphins. In addition to the species being India's national aquatic animal, the Gangetic dolphin has been notified by the Assam government as the state aquatic animal, too. Silting and sand lifting from rivers in Assam has been stopped to maintain its population.

The International Union for Conservation of Nature has listed the Gangetic dolphin as an endangered species in India. According to the



Gangetic dolphin, or *Platanista gangetica*. Wikipedia

## GANGETIC DOLPHINS IN ASSAM RIVERS, 2018...

Brahmaputra river	877
Subansiri river	48
Kulsiriver	37
<b>Total</b>	<b>962</b>

## ... AND IN UP, 2012 &amp; 2015

2012	671
2015	1,272

WWF, the main threat to the Gangetic dolphin is the creation of dams and irrigation projects. The ministry reply said the Conservation Action Plan for the Gangetic Dolphin, 2010-2020, identified threats to these dolphins that include the impact of river traffic, construction of irrigation canals and depletion of their prey-base.

## TIP FOR READING LIST

## IS THE MENTAL HEALTH SYSTEM FLAWED?

IN A controversial experiment in 1973, Stanford University psychologist David Rosenhan recruited seven healthy volunteers and made them feign symptoms of mental illness to get admitted to hospitals. This undercover mission was to test the legitimacy of some psychiatric labels. The results left a lasting influence on the field, with some psychiatric hospitals shutting down and psychiatry trying to reinvent itself thereafter. The experiment is the subject of the second book from award-winning author Susannah Cahalan, who ends up questioning the legitimacy of the pathbreaking study itself.

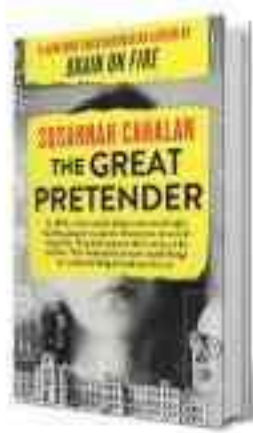
*The Great Pretender* has Cahalan, an investigative journalist, tracking down the volunteers, about whom nothing was known so far other than their pseudonyms. In the process, she gives the reader a glimpse into the workings of the mental health industry, refers to its diagnostic

system as "flawed and arbitrary", notes contradictions in Rosenhan's work, and questions the extent to which the world understands madness and mental illness.

Cahalan's interest in the theme of madness is drawn from her own experience with several mis-diagnosis of auto-immune disorder and her journey through the recovery phase. "Despite all of our medical progress — of which I am a direct recipient — the sickness among us are getting sicker," Cahalan writes. Referring to the author's realisation about the contradictions in Rosenhan's work, the promotional note on Amazon says, "It may also serve

as a reminder that it's not always good for us to meet our heroes."

Cahalan's first book was *The New York Times* bestseller *Brain on Fire: My Month of Madness*, a memoir that dealt with her struggle with a rare auto-immune disorder of the brain.



## ABANTIKA GHOSH

NEW DELHI, DECEMBER 1

OVER THE last one week, the government has been making a pitch for fundamental duties. In his Constitution Day address to a Joint Session of Parliament last week, Prime Minister Narendra Modi stressed the importance of constitutional duties, while making a distinction between *seva* (service) and these duties. On the same occasion, President Ram Nath stressed the difference between rights and duties, while Vice President M Venkaiah Naidu called for fundamental duties to be included in the school curriculum and the list of the duties to be displayed at educational institutions and at other public places. Also on Constitution Day, Union Law Minister Ravi Shankar Prasad, writing in *The Indian Express*, called for citizens to remember their fundamental duties as they remember their fundamental rights.

Fundamental Duties are described in the Constitution — an Emergency-era provision that was introduced by the Indira Gandhi government. Days before the pitches made on Constitution Day, *The Indian Express* had reported how the government has been dusting off this provision and asking ministries to spread awareness about Fundamental Duties.

## How were Fundamental Duties incorporated in the Constitution?

The Fundamental Duties were incorporated in Part IV-A of the Constitution by the Constitution 42nd Amendment Act, 1976, during Emergency under Indira Gandhi's government. Today, there are 11 Fundamental Duties described under Article 51-A, of which 10 were introduced by the 42nd Amendment and the 11th was added by the 86th Amendment in 2002, during Atal Bihari Vajpayee's government.

These are statutory duties, not enforceable by law, but a court may take them into account while adjudicating on a matter. The idea behind their incorporation was to emphasise the obligation of the citizen in exchange for the Fundamental Rights that he or she enjoys. The concept of Fundamental Duties is taken from the Constitution of Russia.

## What are the Fundamental Duties?

The 11 Fundamental Duties are:

- To abide by the constitution and respect its ideals and institutions, the National Flag and the National Anthem
- To cherish and follow the noble ideals which inspired our national struggle for freedom
- To uphold and protect the sovereignty, unity and integrity of India — it is one of the preeminent national obligations of all the citizens of India.
- To defend the country and render national service when called upon to do so
- To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women
- To value and preserve the rich heritage of our composite culture — our cultural heritage is one of the noblest and richest, it is also part of the heritage of the Earth
- To protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures

## SIMPLY PUT QUESTION &amp; ANSWER

## What Fundamental Duties mean

Over last few days, the Prime Minister, President, Vice President and Law Minister have been stressing Fundamental Duties. A look at what these duties are, and how they were included in the Constitution



Then Prime Minister Indira Gandhi with commemoration volumes of the 25th anniversary of the Constitution. It was her government that introduced Fundamental Duties in 1976. RK Sharma/Express Archive

- To develop the scientific temper, humanism and the spirit of inquiry and reform
- To safeguard public property and to abjure violence
- To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement
- Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

It is the one on children's education that was added in 2002 by the 86th Amendment that provided for the Right to Free and Compulsory Education for children in the age group 6-14, with the insertion of Article 21A. It also cast an obligation on parents to provide such opportunities under Article 51A(K).

## Under what circumstances was the 42nd Amendment passed?

The amendment came at a time when elections stood suspended and civil liberties curbed. The government arrested thousands under MISA (Maintenance of Internal Security Act) and carried out anti-poverty programmes, slum demolition drives, and a forced sterilisation campaign. "With the opposition MPs locked away, a series of Constitutional amendments were passed to prolong Mrs Gandhi's rule," writes historian Ramachandra Guha in *India after Gandhi*.

Apart from adding the Fundamental Duties, the 42nd Amendment also changed the Preamble to the Constitution to include the words 'Socialist and Secular' to describe India, in addition to its being 'Sovereign

Democratic Republic'.

New 'Directive Principles' were added and given precedence over Fundamental Rights. Jurisdiction of the Supreme Court and High Courts to review constitutionality of the laws was curtailed. High Courts were prohibited from deciding on the constitutional validity of central laws. A new Article 144A was inserted, prescribing a minimum of seven judges for a Constitution Bench, besides stipulating a special majority of two-thirds of a Bench for invalidating central laws.

## How many of the changes made under the 42nd Amendment are still in effect?

In the 1977 elections, the manifesto of the Janata Party promised to restore the Constitution to its pre-Emergency form. However, after being voted to power, the Morarji Desai government did not have the numbers for a complete reversal. Reversal happened only in bits and pieces.

In 1977, the 43rd Amendment restored the jurisdiction of the Supreme Court and High Courts to review the constitutional validity of laws. The following year, the 44th Amendment changed the grounds for declaring Emergency under Article 325, substituting "internal disturbance" with "armed rebellion", besides requiring of the President that he shall not do so unless the decision of the Union Cabinet is communicated in writing to him.

Right to Liberty was strengthened by stipulating that detention under the Preventive Detention Act shall not be for more than two months. Right to Property was converted from a Fundamental Right to a legal right, by amending Article 19 and deleting Article 31.

## OTHER KEY AMENDMENTS TO CONSTITUTION

## FIRST AMENDMENT, 1951

Article 15 was amended by inserting Clause 4, empowering the state to make any special provision for the advancement of any socially and economically backward classes or categories of SCs and STs notwithstanding anything in this Article or in Clause 2 of Article 29. Article 19 was amended to secure constitutional validity of *zamindari* abolition laws and to provide for new grounds of restrictions to the Right of Freedom of Speech and Expression and the right to practice any profession or to carry on any trade or business. Articles 31A and 31B, and the Ninth Schedule were inserted to give protection to land reform laws from being questioned on the ground that they are not consistent with Fundamental Rights.

## 24TH AMENDMENT, 1971

Articles 13 and 368 amended to remove doubts about Parliament's power to amend the Constitution including Fundamental Rights further to the judgment of the Supreme Court in the *Golaknath* case. The President was obligated to give assent to any Constitution Amendment Bill presented to him.

## 26TH AMENDMENT, 1971

It repealed Articles 291 and 362 dealing with privy purses, sums of rulers and rights and privileges of rulers of former Indian states.

## 52ND AMENDMENT, 1985

Anti-Defection law was provided for in the Tenth Schedule by providing for disqualification of legislators, vacation of seats and splits and mergers.

## 64TH AMENDMENT, 1989

Minimum voting age reduced from 21 years to 18, by amending Article 326.

## 77TH AMENDMENT, 1995

Provided for reservation in promotion in services under the state for SCs and STs by inserting clause (4A) in Article 16.

## 91ST AMENDMENT, 2003

Put a ceiling on number of ministers at the Centre and in states as 15% of the strength of Lok Sabha or the Assembly, and not less than 12 in the states.

## 99TH AMENDMENT, 2014

Provided for National Judicial Commission to broad-base method of appointment of judges of the Supreme Court and High Courts. This amendment was however, declared unconstitutional by the Supreme Court in 2015.

## 101ST AMENDMENT, 2016

It facilitated the introduction of GST with concurrent taxing powers to the Union and the States and Union Territories with legislatures to make laws for levying GST on every transaction of goods and services.

## Understanding Pak SC ruling on Army chief, and why it matters for India

## SHUBHAJIT ROY

NEW DELHI, DECEMBER 1

LAST WEEK, a three-member Bench of the Pakistan Supreme Court, headed by the country's Chief Justice Asif Saeed Khosa, made a carefully calibrated move to question the Imran Khan-led government, seeking that it explain and justify the extension of the tenure of Army chief General Qamar Javed Bajwa by three years. It is being seen as a challenge to the Army chief's position, which is rare in a country that has been ruled by the Army for more than half of its seven decades, and where the saying goes that that it's not a country with an Army but an Army with a country.

## The move &amp; the challenge

On November 26, the Pakistan Supreme Court Bench took up a petition challenging the extension. It was filed by lawyer Riaz Rahi, known in Pakistan's court circles as a "serial petitioner" who has moved court against former Prime Minister Nawaz Sharif, former President General Pervez Musharraf, and former Supreme Court judges, without much success. Although Rahi tried to withdraw this petition, Chief Justice Khosa did not allow him to do so.

Over the next three days until November 28 — the date of Army Chief Bajwa's scheduled retirement — the Bench questioned the government on the manner

in which it had granted the extension. Prime Minister Imran Khan had announced the extension in August, just two weeks after India had revoked Article 370 concerning Jammu & Kashmir, and had cited the "regional security situation" as the reason behind Bajwa's extension by three years.

## The arguments &amp; the verdict

The chief law officer of the state could not give definitive answers when the Bench asked for specific laws that permitted extension or reappointment of the Army chief. The Bench found that Imran Khan had issued the notification on August 19, only to be told later that, under the Constitution, only Pakistan's President could issue a notification of the Army chief's extension. To rectify the error, the Prime Minister's Office moved a fresh summary — a note. This was quickly approved by the President, but it emerged later that the Prime Minister could not send the summary to the President without his Cabinet's approval. The summary was then circulated among Cabinet members, but no fresh notification was issued.

When the court found that the government had not even followed the proper legal procedure, the government issued notifications but got caught in jargon — whether it was an "extension" or a "re-appointment".

The Pakistan government's legal team argued that the extension was done under Article 243 (Command of Armed Forces) of the Constitution. But a simple reading of



Pakistan SC has reduced Army Chief General Qamar Javed Bajwa's tenure extension to six months. AP File Photo

Article 243, the Bench said, showed it did not deal with extension. Article 243(4)(b), which deals with appointment of the Army chief, says: "The President shall, on advice of the Prime Minister, appoint..."

Finally, the Bench ordered — just hours before Bajwa's midnight retirement — that the extension be granted, for another six months, and that the government bring out legislation to regularise such an extension (which has been happening without any legal backing for seven decades in Pakistan).

## The Army's influence

So powerful is the Army chief that Pakistan Law Minister Farogh Naseem, also one of the country's top lawyers, resigned to represent Bajwa in the Supreme Court. After the verdict, Naseem was sworn in again as Law Minister. Another pointer to the Army chief's influence was that on the evening before the final order, Prime Minister Khan held a meeting of top legal minds which was attended by Bajwa himself.

In the last two decades, only General Raheel Shareef retired on time, while General Ashfaq Parvez Kayani and Musharraf stayed on beyond their prescribed tenures. Kayani's extension too was challenged in the Islamabad High Court in 2012; the court dismissed the petition.

## Army and judiciary

The current situation reminded many of a face-off in 2007 between Musharraf and the judiciary under then Pakistan Chief Justice Iftikhar Chaudhry, who had been removed by the military ruler. Eventually, this contributed to the downfall of the Musharraf regime.

During the hearings in the latest case, the Chief Justice observed: "We were labelled as agents of India and the CIA when we examined the Army Act." Yet he also said that "it is our right to ask questions."

Some believe that this could be an outcome of rivalry between the Chief Justice of Pakistan and the Prime Minister. Recently,

Justice Khosa had made it clear that the judiciary had nothing to do with the removal of former Prime Minister Sharif's name from Exit Control List. Again, after Prime Minister Khan had requested Justice Khosa to restore public trust in the judiciary and see why two systems existed in the country — one for the rich and the other for the poor — Justice Khosa took exception to the "taunt" and said the courts of the country had convicted a Prime Minister and disqualified another.

## The general's legacy

Under Bajwa, the Pakistan Army in February 2017 launched Operation Radd-ul-Fasad (RuF), in the aftermath of a resurgence of terror attacks. Pakistan Army media wing ISPR said RuF was aimed at indiscriminately eliminating the "residual/latent threat of terrorism", consolidating the gains made in other military operations, and ensuring Pakistan's border security. One of the major successes under the RuF has been fencing along the Pakistan-Afghanistan border.

But, with India, relations nosedived, with the Pulwama terror attack and then the revocation of Article 370 that prompted Bajwa's extension. However, Bajwa re-kindled the Kartarpur corridor proposal with his hug and conversation with Congress leader Navjot Singh Sidhu.

With China, Bajwa has cultivated a relationship. The Chinese Foreign Ministry spokesperson had said Gen Bajwa was a

"sincere and old friend" of the Chinese government. In September 2018, Gen Bajwa, on special invitation, called on Chinese President Xi Jinping to discuss the region's security challenges, and has committed to the security of the China-Pakistan Economic Corridor. He accompanied PM Khan on the state visit, which is unusual for a Pakistan Army chief.

## Takeaways for India

India has been trying to corner Pakistan at multilateral fora on the issue of terrorism, and the Financial Action Task Force will in February once again take up the issue of Pakistan's blacklisting. The current crisis in Pakistan may give some leverage to Pakistan's civilian government and political class to push the Pakistan Army to take action against the terrorist groups operating out of the territory under their control. This has been one of India's major demands and, if it happens, could unlock the bilateral space between the two countries.

On the other hand, India would be wary about whether this episode could lead to the Pakistan Army becoming more adventurous in Jammu and Kashmir, in a bid to regain its legitimacy and bolster the "regional security" argument.

Whatever be Bajwa's eventual fate, a powerful Army chief in Pakistan has consequences far beyond the territory under the Army's control. New Delhi will be watching the space very closely.