

# Payment for destruction of property: what High Court order said

**KAUNAIN SHERIFF M**  
NEW DELHI, DECEMBER 30

IN ITS crackdown on protesters against the Citizenship Amendment Act, the Uttar Pradesh government has directed district administrations to serve notices on persons allegedly involved in arson and damage of public property, and direct them to pay a penalty. The quantum of the penalty is being determined according to the total cost of the damaged property, according to the FIR lodged by the police.

While issuing these notices, the administration has said it derives such powers on the basis of an Allahabad High Court order of December 2, 2010 in *Mohammad Shujauddin vs State of Uttar Pradesh*. It has said the police are empowered to take penal action under The Prevention of Damage to Public Property Act, 1984. The High Court order, due to lacunae in the 1984 Act, has also empowered the civil administration to take action against the accused.

## What was the High Court case about?

The order, passed by Justice Sudhir

Agarwal, relates to a scuffle between two persons from different political parties that had resulted in injuries and loss of public property. Justice Agarwal asked the state government to file an affidavit on the number of cases filed by the police under the 1984 Act. The police replied that in 26 years, only 585 cases had been filed, and only 11 cases had been disposed of.

"It appears that everybody believes that public property has no custodian. It is like orphan. It is the birthright to destruct and damage it in a manner they like without any sense of responsibility... What is more disturbing is that law enforcement machinery mostly is a silent spectator watching destruction of public property," Justice Agarwal observed.

The High Court then referred to a 2009 judgment of the Supreme Court relating to the destruction of public and private properties. The Supreme Court had issued guidelines on the basis of recommendations made by two committees, headed by former Supreme Court Justice KT Thomas and senior advocate Fali Nariman. In particular, the Nariman Committee's recommendations had dealt with extracting damages for de-



Anti-CAA protesters in Lucknow on December 19. Vishal Srivastav

struction. Accepting the recommendations, the Supreme Court had said that 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 Supreme Court said.

## What directions did the HC issue?

On the basis of the Supreme Court observations, the High Court directed that:

- As and when any incident of damage of public property takes place, if such agitation has been called at the "invitation of a political party or a sitting or former people's representative", a "report" shall be registered by the police against the political party/person by name.
- A "concerned department, local body,

public corporation" — that is, the owner of the property — would assess the damage and shall file a claim for realization of such amount before a "competent authority". The competent authority will be nominated by the government, and claims have to be filed within seven days after the nomination.

■ "Any person" belonging to the area where the public property is damaged can also approach the competent authority. However, when the money is awarded, it has to be furnished only to the concerned department to whom the property belongs.

■ There will be an "opportunity of hearing" against whom the claims is filed; and the competent authority is mandated to pass the "appropriate order" with a month after the hearing is complete.

■ If the person is found guilty by the competent authority (an official of the rank of Additional District Magistrate will be responsible for collecting the amount), and if the guilty is unable to pay the entire amount in a single instalment, the district magistrate has to issue a certificate, by which the person is made to pay in arrears under the relevant provisions of the the Revenue Recovery Act.

## SIMPLY PUT QUESTION & ANSWER

# What next in Afghanistan?

Preliminary poll results have returned President Ghani to power but have been challenged by his rival. What questions does it raise over the next government's stability, with or without US-Taliban talks?

**NIRUPAMA SUBRAMANIAN**  
MUMBAI, DECEMBER 30

SINCE DECEMBER 22, Afghanistan has been debating the preliminary results of its election. Amid this uncertainty, the Taliban were reported to have agreed on Sunday to a temporary ceasefire in Afghanistan, before they denied these reports on Monday. A look at the controversial election, and what a Taliban ceasefire and US withdrawal — if that happens — could mean for Afghanistan:

## Why is there uncertainty about the results of the election?

The results announced on December 22 gave President Ashraf Ghani 50.64 per cent of the 18,24,401 votes counted (which means a second round runoff would not be required); he managed to cross the halfway mark by fewer than 12,000 votes. His main rival, Abdullah Abdullah, polled 7,20,990 votes or 39.52 per cent, and was in second place.

But these are "preliminary" results. The elections were held on September 28. The preliminary results were scheduled to be declared on October 18, and the final results on November 7. The schedule could not be kept as the Independent Election Commission (IEC) of Afghanistan undertook an "audit and recount" process in 8,255 polling stations, later increased to 8,494 polling stations, for the following reasons: a discrepancy between votes cast on the basis of Biometric Voter Verification, and the paper trail at these polling stations; missing paper trail or "result sheets"; and other irregularities.

The recount and audit went slowly. Abdullah wanted 3 lakh votes invalidated (including over 1 lakh cast after polling hours and nearly 1.5 lakh set aside initially because of various suspected irregularities) and 2,423 polling stations excluded from the count. His supporters led street protests in many provinces and succeeded in getting the process suspended for a few days in November. The IEC has been accused of siding with Ghani.

Abdullah has declared that he does not accept the "fraudulent result" declared without excluding the 3 lakh "unclean" votes. He has equated the damage caused by the result to that caused by a suicide bombing.

Other candidates, including Gulbuddin Hekmatyar, have also opposed the result. Hekmatyar, the head of Hizb-e-Islami, who got 70,247 votes (3.85 per cent), has denounced the results as "false" and accused the IEC of "stealing" votes cast for him.

## So what happens now?

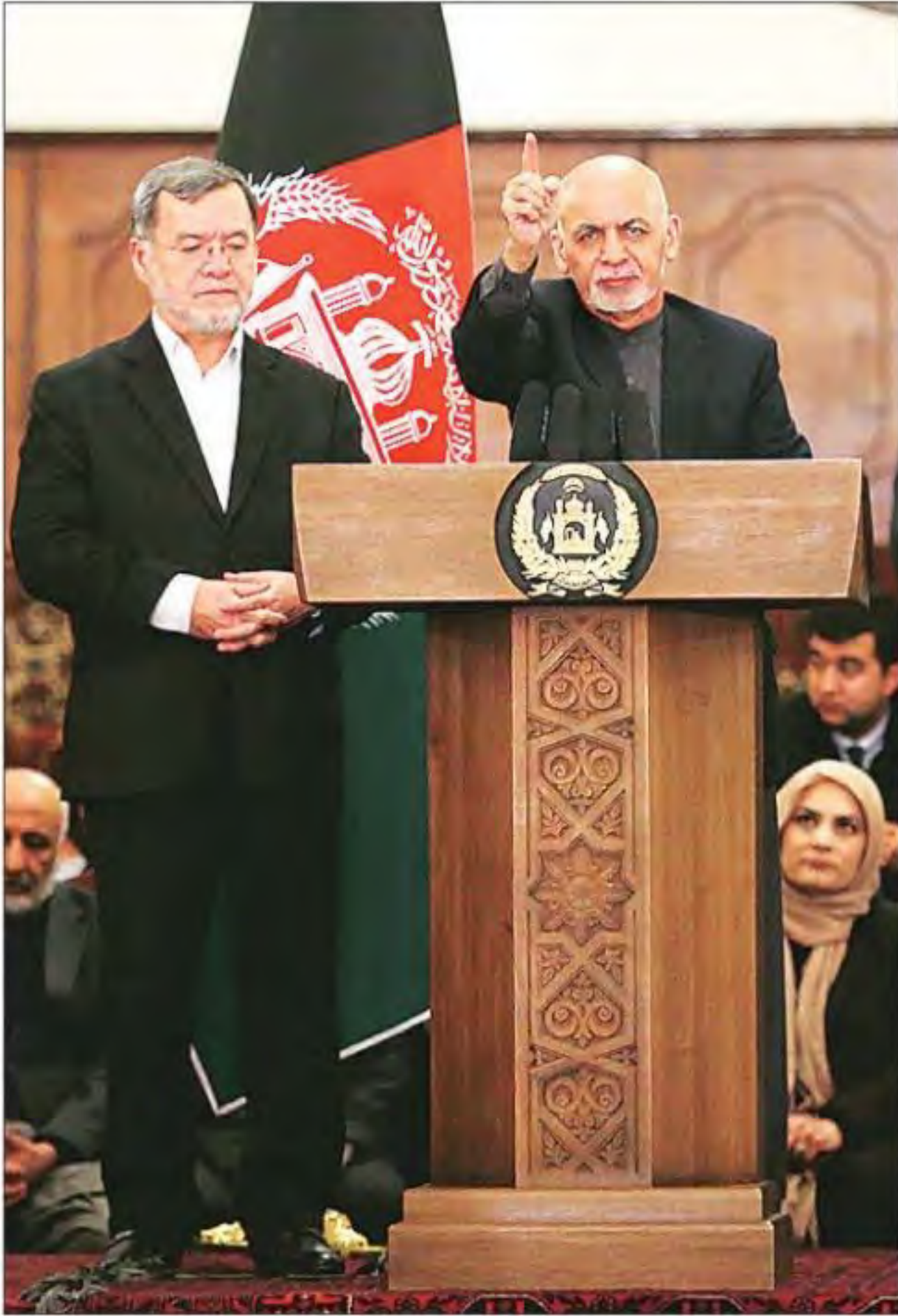
The final results may be declared only towards the end of January. The Election Complaints Commission has received 16,500 complaints, of which 8,000 are from the Abdullah camp. Ghani's side has filed 3,000 complaints. If Abdullah's complaints are rejected, Ghani will be declared the winner.

If the Commission takes on board Abdullah's concerns, especially about the invalidity of a large chunk of votes, it would bring down Ghani's vote count and pave the way for a second round runoff between the top two contenders — a runoff takes place when no candidate secures a simple majority. Neither scenario promises the formation of a stable government.

## Why will the government not be stable?

Abdullah has already pledged that he will not allow "rootless fraudsters to rule over Afghanistan". This is *deja vu* — in 2014 a contested result after the second round had to be resolved by then US Secretary of State John Kerry, who flew in to hold talks with both Ghani and Abdullah. The two men then came together in a National Unity Government. Ghani became President and Abdullah was given the newly created role of Chief Executive.

Both Ghani and Abdullah have rejected



another national unity government. Ghani has said the country "needs one President, not two", and the idea was no more acceptable to him. Abdullah believes he was cheated out of becoming President twice earlier — before 2014, he had been narrowly defeated by Hamid Karzai in 2009. And the US, keen to hightail it out of Afghanistan, is focused on reviving the talks with the Taliban that President Donald Trump called off abruptly in September.

A second round may only bring more uncertainty as it did in 2014. The losing side is sure to see the electoral process itself as compromised.

Besides the low turnout — out of 9.6 million registered voters, the IEC pegged it at 2.8 million, but later revised it to 1.8 million — the election has thrown up a sharp regional divide. A vote map of the country's 34 provinces put out by the IEC shows that Ghani, a Pashtun, has won all the southern provinces, while Abdullah, of mixed Tajik-Pashtun ethnicity from the northeastern province of Panjshir, has won all the non-Pashtun northern provinces. If Abdullah and Ghani were partners in government, they would be seen as a bridge over the divide; as rivals, they would make it look dire.

## Where do the Taliban and their talks

## with the US figure in all this?

That is a big part of the uncertainty. In September, President Donald Trump had called off a talks process after nine formal rounds that began in January 2019. Zalmay Khalilzad, the US Special Envoy on Afghanistan, said just before the cancellation that the two sides had finalised an agreement that only required the President's signature.

As abruptly, during an unannounced Thanksgiving Day trip to Afghanistan on November 28 to meet US troops, Trump declared talks with the Taliban were on again. Ten days before this announcement, the Taliban released an American and an Australian who were teaching at the American University in Kabul, and had been taken captive in 2016. In an apparent exchange, the Afghan government released Anas Haqqani, brother of the Haqqani group leader Sirajuddin Haqqani, and two Taliban militants.

From December 7 to 12, Khalilzad met with Taliban representatives in Qatar again, just as he had until September. Just a day before this round of talks ended, the Taliban carried out a 12-hour attack at the Bagram airbase, north of Kabul. The attack began with a car bomb, after which gunmen entered a medical facility. Two Afghan civilians were killed and 73 were injured. Just before



President Ashraf Ghani (left) won just over half the votes in "preliminary" results; the camp of his main rival Abdullah Abdullah (above) has filed several complaints. Reuters & AP

the talks began, the Taliban carried out another deadly attack, this time on a security post in Kunduz, killing 11 Afghan soldiers. There were several other bombings and other violent attacks during the rest of December that killed civilians, Afghan soldiers and militants.

There have been no formal talks since. On Monday, the Taliban denied reports that they were ready to call a ceasefire in preparation for an agreement with the US on withdrawal of American troops from Afghanistan. "The Islamic Emirate of Afghanistan (the name by which the Taliban call themselves) has no ceasefire plans", the Taliban said in a statement. The Taliban's refusal to commit themselves to a ceasefire has been the main reason why President Ghani, other politicians and Afghan civil society have been filled with disquiet and dread about the US-Taliban talks.

## Is there a chance that the new government will be included in the US-Taliban process?

It is unlikely. The Taliban have said they do not recognise the elections and have denounced all governments in Kabul as "puppets" of the US. The US kept the previous government out of the talks that ended in September, in deference to the Taliban's wishes. There isn't a new government in Kabul yet. Going by Khalilzad's statements during the pre-September talks, dialogue between the Taliban and Afghan "representatives" (not government), would follow a US-Taliban agreement, and it would be for this "intra-Afghan" dialogue to discuss the roadmap ahead, including perhaps a ceasefire. Back in September, the imminent US-Taliban agreement had cast uncertainty on the election itself. There was a view that the election would serve no purpose, and that instead, the "intra-Afghan dialogue" should negotiate the setting up of an interim government that would include Taliban representatives.

The cancellation of the US-Taliban process meant there was no more talk about not holding the election. Ghani, who had been determined from the start that the democratic exercise should not be disrupted, hoped he would return with a strong mandate, which in turn would help him face the Taliban with a better hand. But his slender majority from a low turnout, and the contested result may not help. If the election goes into a second round, a new government would potentially take months to form, raising the possibility that the US-Taliban talks may even conclude in an agreement before that, presenting the new dispensation with a changed ground situation in which its own role may be reshaped by circumstances outside its control.

## TELLING NUMBERS

### How the states, UTs scored on various goals in SDG Index

#### TOP 12, THE STATES

Kerala	70
Himachal	69
Andhra	67
Tamil Nadu	67
Telangana	67
Karnataka	66
Goa	65
Sikkim	65
Gujarat	64
Maharashtra	64
Uttarakhand	64
Punjab	62

#### BOTTOM 5, THE STATES

Bihar	50
Jharkhand	53
Arunachal	53
Meghalaya	54
UP, Assam	55

#### TOP 5, THE UTs

Chandigarh	70
Puducherry	66
Dadra & NH	63
Lakshadweep	63
Delhi, A & N Islands, Daman & Diu	61

#### GOAL BY GOAL, THE STATES

Sustainable development goal	Top score	2nd place	Bottom rank
SDG 1: No poverty	Tamil Nadu (72)	Tripura (70)	Jharkhand (28)
SDG 2: Zero hunger	Goa (76)	Mizoram (75)	Jharkhand (22)
SDG 3: Good health	Kerala (82)	Andhra (76)	Nagaland (29)
SDG 4: Quality education	Himachal (81)	Kerala (74)	Bihar (19)
SDG 5: Gender equality	Himachal (52)	Kerala (51)	Telangana (26)
SDG 6: Clean water & sanitation	Andhra (96)	UP (94)	Tripura (69)
SDG 7: Affordable & clean energy	Sikkim (97)	Goa (95)	Odisha (50)
SDG 8: Decent work & economic growth	Telangana (82)	Andhra (78)	Manipur (27)
SDG 9: Industry, innovation, infrastructure	Gujarat (88)	Kerala (88)	Mizoram (8)
SDG 10: Reduced inequalities	Telangana (94)	Manipur (81)	Goa (19)
SDG 11: Sustainable cities & communities	Goa (79)	Himachal (79)	Meghalaya (22)
SDG 12: Sustainable consumption & production	Nagaland (100)	Tripura (92)	Rajasthan (30)
SDG 13: Climate action	Karnataka (71)	Andhra (70)	Jharkhand (27)
SDG 14: Marine ecosystems	Coastal states only, not counted in overall SDG		
SDG 15: Life & land	Manipur (100)	Sikkim (100)	Haryana (40)
SDG 16: Peace, justice & strong institutions	Andhra (86)	Gujarat (86)	Assam (52)

#### High-performing Union Territories

Sustainable development goal	High UT scores
SDG 4: Quality education	Chandigarh (80)
SDG 5: Gender equality	J&K (53), Ladakh (53)
SDG 6: Clean water & sanitation	Chandigarh (100), Daman & Diu (96)
SDG 7: Affordable & clean energy	Puducherry (97), Delhi (96)
SDG 9: Industry, innovation, infrastructure	Dadra & NH (100), Daman & Diu (100), Delhi (100)
SDG 10: Reduced inequalities	A & N Islands (94), Lakshadweep (93), Puducherry (92)
SDG 11: Sustainable cities & communities	Chandigarh (83)
SDG 13: Climate action	Lakshadweep (100), A & N Islands (72)
SDG 15: Life & land	Dadra & NH 100, Lakshadweep 100
SDG 16: Peace, justice & strong institutions	Puducherry 96, Chandigarh 89

NITI Aayog has released its latest SDG India Index 2019, which assesses each state and Union Territory's achievement on 16 sustainable development goals (SDGs). Kerala is in the top slot with a score of 70, while Bihar is at the bottom with 50.

Each of the 16 SDGs — ranging from good health to quality education, gender equality, and climate action — comprise several indicators, with the number of these varying from SDG to SDG. Scores are given for a state or UT on each SDG. The composite score for each state or UT is computed by aggregating their performance across these goals, and then by taking the arithmetic mean of individual goal scores. A score of 100 implies that the state/UT has achieved targets set for 2030.

Among the 16 SDGs, marine ecosystems is for coastal states only, and scores on this one were not counted in the composite total. In the other SDGs, the best performers were Tamil Nadu for 'no poverty'; Goa for 'zero hunger'; Kerala for 'good health'; Himachal Pradesh for

'quality education'; Himachal again for 'gender equality'; Andhra Pradesh for 'clean water and sanitation'; Sikkim for 'affordable and clean energy'; Telangana for 'decent work & economic growth'; Gujarat for 'industry, innovation and infrastructure'; Telangana for 'reduced inequalities'; Goa for 'sustainable cities and communities'; Nagaland for 'sustainable consumption and production'; Karnataka for 'climate action'; Manipur for 'life and land'; and Andhra Pradesh and Gujarat for 'peace, justice, strong institutions'.

Following Kerala's composite score of 70, Himachal Pradesh took the second spot with a score of 69 while Andhra Pradesh, Tamil Nadu and Telangana shared the third spot with each scoring 67. There are eight states in the highest bracket, called frontrunners, with scores in the range 65-99. Behind Kerala, Himachal Pradesh, Andhra Pradesh, Tamil Nadu and Telangana, the other states in this category are Karnataka (66), Sikkim (65) and Goa (65). Two UTs, Chandigarh and Puducherry, scored in this range.



# FREEDOM FROM 3Cs

Finance Minister does well to reach out to bankers, but government needs a roadmap to boost their confidence

IT IS A reflection of the state of the Indian banking industry today, specially state-owned banks which dominate the landscape and are marked by a virtual freeze in lending, that the country’s finance minister had to reach out to bankers to assure them that they need not fear the three dreaded Cs — Central Bureau of Investigation, Central Vigilance Commission and Comptroller and Auditor General. At a meeting with bankers over the weekend, Nirmala Sitharaman while conceding that decision-making in banks was getting impacted because of the fear of the 3Cs attempted to assuage the apprehensions, saying that the government and its investigative agencies have put in place measures to address their concerns. Notably, Sitharaman’s predecessor, Arun Jaitley, in early 2019, had cautioned against the overzealousness of state agencies, warning of the dangers of the banking system grinding to a halt.

The Indian Banks Association, too, had protested a while ago after senior officials of the Bank of Maharashtra were arrested by the state police and following several cases dating back a decade or more being filed by agencies. Former Prime Minister Manmohan Singh has blamed what he termed as the “malafide unless proven otherwise” doctrine of governance of the NDA Government for the breakdown of trust between institutions and the government. Bankers may tend to agree, especially when basic questions such as the definition of a bonafide decision and who should sit in judgement on loan approvals granted by banks years ago remain unclear even now. Little will be achieved through incremental moves. An enduring solution requires a significant lowering of state holding by the government in scores of banks — well below the threshold of 51 per cent — to free bankers from the purview of the three Cs, or privatisation.

A government with a strong mandate like the Modi-led NDA 2 hasn’t signalled so far that it has the desire or the appetite to go down that road. The second best but sub-optimal solution would be to empower bankers and professional bank boards to decide on whether a decision to approve a loan was bonafide or malafide. It is a fact that the seeds of the current mess in Indian banking were sown during UPA 2 but that doesn’t absolve the Modi government which was late in addressing the crisis during its first term. The perceived morality play reflected in punishing so-called rogue bankers and businessmen — a political response to Rahul Gandhi’s suit boot sarkar jibe — has already hurt banking and industry. With India set to end the fiscal with a multi-decade low in bank credit, the longer the government takes to unveil a roadmap and walk the talk to boost the confidence of bankers, the more elusive will be the economic recovery.

# VENGEFUL STATE

UP government’s decision to demand compensation from protesters, arbitrarily targeting one community, is a new low

ON DECEMBER 19, soon after protests broke out across Uttar Pradesh against the Citizenship Amendment Act (CAA), Chief Minister Yogi Adityanath promised, or threatened, that his government would take “badla (revenge)” against the protesters and “auction off their properties”. Last week, people across the state were served notices demanding monetary damages for alleged acts of vandalism of public property. In Sambhal, as reported by this newspaper, civil society leaders, educationists and political workers are among the 59 people who have been issued notices by the UP government for the payment of Rs 15.35 lakh. The UP government’s message of revenge has, in fact, gone out unambiguously from Adityanath’s official Twitter handle, which exults: “Every rioter is shocked. Every demonstrator is shocked. Everyone has been silenced after seeing Yogi Adityanath government’s stern intentions... Every violent protester will cry now because there is a Yogi government in Uttar Pradesh.”

Two things are clear in Sambhal: First, civil society leaders who happen to be Muslim have been targeted. Second, it appears that there is little or no evidence of their involvement in the destruction of public property. The notices will, of course, be challenged in the courts. But the UP government’s “stern intention” to ensure that “every protester will cry out” will have been fulfilled by the tedium and cost of the legal process itself. Damage to public property must, of course, be condemned, but the current protests are not the first, even in recent times, where such damage has taken place. But there are no instances of compensation being demanded from the protesters. While protest must not descend into violence, and efforts must be made to prevent them from doing so, and there must be some penalties when they do, UP is witnessing a more dangerous phenomenon — the state is pitting itself against those who express dissent.

In UP, especially in the Adityanath regime, law and order has been flawed in its implementation, and fraught for the political ends it is apparently made to serve. Who can and cannot register an FIR has long been a barometer of which communities have a dominant voice in government — the police chowki is the most visible and immediate face of the state in the remotest parts. But even by UP’s poor standards, the Adityanath government has touched new lows — from “anti-romeo squads” to the celebration of “encounters”. Now, the chief minister seeks to style the law and order machinery as an agent of revenge. For the government to fulfill its role, law must not be selectively used, or weaponised.

# SHE THE CHAMPION

Koneru Humpy gets the moves right.  
Her best is yet to be

FOR THE FIRST two months after returning from a two-year maternity break, Koneru Humpy was struggling for concentration. Not that she had drifted from the game during the layoff — she kept reading about the games and talking to her close friends on the circuit — but she realised she was too slow in deciding her moves. Her apprehensions were vindicated when she endured a torrid set of games in her comeback tournament at the Olympiad in Georgia at the end of last year. Another setback followed — a second-round exit in the World Championship. But just when she felt lost, her idol Judit Polgar soothed her: “Don’t worry, just a play a few more games, you will regain your speed. Your best years are yet to be”.

The Hungarian chess icon’s words came true as Humpy not only dusted up her form but also went on to become the world rapid champion in a breathtaking play-off final. On the morning of the final day, all she wanted was to be in the top three. But then followed a sequence of favourable circumstances, not least her opponent in the final, Lei Tingjie, losing a round to Ekaterina Atalik, while Humpy pushed and gambled for an unlikely victory over Tang Zhongyi. Buoyed, she went for the kill against Tingjie, still recovering from the shock defeat to Atalik. There was more drama, as she lost the first round, but then restored parity, and eventually forced her Chinese opponent to settle for a draw, thus becoming the second Indian to clinch a World Rapid Championship after Viswanathan Anand.

Humpy, too, first made her name in the rapids format, where she used to beat her father, a state-level chess player himself, and his friends, when she was barely five. But gradually, as her focus shifted to the classical versions, participation in rapids became a mere pastime. But the instincts remained. A world title was the dream that fuelled her during the break, and it should gratify her now that it came in a format where quick-thinking is the most fundamental principle. Now that it has arrived, her best years are yet to be.



SUJAN R CHINOY

THE APPOINTMENT OF General Bipin Rawat, the current Chief of Army Staff, as India’s first Chief of Defence Staff (CDS) comes quick on the heels of the historic decision taken by India’s Cabinet Committee on Security on December 24 on the appointment of a CDS, bringing to fruition a matter that has been hanging fire for close to two decades.

Prime Minister Narendra Modi had announced on August 15 the creation of the CDS. He had cautioned that “India should not have a fragmented approach” in regard to the three services. He was referring to the fundamental principle of jointness and integration of the armed forces and the need to ensure that India keeps abreast of global trends in military strategies and is capable of facing new threats and challenges in the multi-dimensional hybrid war scenarios of the 21st century.

The decision to appoint a CDS is a huge step towards achieving seamless coordination and greater effectiveness in higher defence management structures by creating an enabling architecture that permits fuller expression on the part of our professional armed forces. The Kargil War in 1999 may have been a victory for India, thanks to the valour of our armed forces, but it came at a steep cost due to lack of jointness and integration. The Kargil Review Committee’s report in 2000 and the Group of Ministers’ Report of 2001 had recommended that serious steps be taken towards integration of our armed forces.

The momentous decision involves the creation of a new post of CDS in the rank of a four-star general (or equivalent) with salary and perquisites equivalent to that of a service chief. This is the first time in the history of independent India that a uniformed individual will head a government department. The CDS is not a ministerial position. He will be empowered under the Allocation of Business Rules to run his department. The highest form of supervisory mandate that can be delegated to him is at the level of a secretary. The defence secretary and the three chiefs occupy important positions in the government’s pantheon. This will not change when a fourth officer joins as CDS at the four-star level.

Both the defence secretary and the CDS will report to the raksha mantri. If required, the raksha mantri could ask any or all of the



SANDEEP PANDEY

ON DECEMBER 19, the day nationwide protests against the Citizenship Amendment Act and National Register of Citizens were planned, me and my close friends — advocate Mohammad Shoaib and retired IPS officer S R Darapuri, were put under house arrest in Lucknow. Today, both of them are in jail. Shoaib was not produced before any magistrate before being sent to jail and the first magistrate before whom Darapuri was produced had refused to send him to jail. They were picked up by the police from their respective homes much before the arrests were officially made. When they were under house arrest, how could they have participated in any violence outside?

Shoaib was already a member of the youth wing of the Socialist Party when I was born in 1965. He first went to jail for a month in the late 1960s, as a student in Gonda, for violating CRPC Section 144. During his university convocation, Shoaib burned his degree in the presence of then President V V Giri for raising a slogan that the youth want jobs not degrees. He was fined Rs 50 and debarred from future admission. Presently, he is the state president of Socialist Party (India). Committed to socialist values, he has been taking up cases of people who find it difficult to engage a lawyer for financial and political reasons. In his later years of practice, he also took up cases of youth who were implicated



# The first chief

Appointment of CDS is a crucial step towards achieving seamless coordination in higher defence management



The new CDS will be the head of a newly-minted Department of Military Affairs within the existing architecture of the Ministry of Defence, which already has four departments — Department of Defence, Department of Defence Production, Department of Defence Ex-Servicemen Welfare and the DRDO. All matters that are purely military affairs involving the army, navy and the air force, including the territorial army, especially jointness in tri-service matters pertaining to training, transport, staffing, logistics, communications, repairs and maintenance and even jointness in procurement, would henceforth be handled by the CDS.

departments to give their comments on matters that require a coordinated position to emerge from the MoD.

The key point is that the new CDS will be the head of a newly-minted Department of Military Affairs within the existing architecture of the Ministry of Defence, which already has four departments — Department of Defence, Department of Defence Production, Department of Ex-Servicemen Welfare and the DRDO. All matters that are purely military affairs involving the army, navy and the air force, including the territorial army, especially jointness in tri-service matters pertaining to training, transport, staffing, logistics, communications, repairs and maintenance and even jointness in procurement, would henceforth be handled by the CDS.

The CDS will also be a member of the Defence Planning Committee and the Defence Acquisition Council, besides functioning as the military adviser to the Nuclear Command Authority. He would ensure optimal utilisation of infrastructure, facilitate restructuring of military commands including establishment of joint/theatre commands, promote indigenisation and work on “out of area contingencies”. Preparation of strategy papers and rationalisation and reforms in the functioning of the armed forces would be part of his mandate.

The CDS will be dual-hatted. As the permanent chairman of the Chiefs of Staff Committee (COSC), the CDS will be expected to promote jointness and integration and be the principal military adviser to the raksha mantri. In the past, this role has been attempted by the rotational chairmanship of COSC by the senior-most chief who often held the post for a short tenure, with no time for in-depth study of tri-service issues and integration. The CDS will now have a tenured appointment up to the age of 65 years.

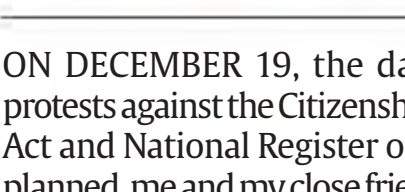
In General Rawat, the government has chosen a seasoned COAS who, as the senior-most of the three chiefs, is the incumbent chairman of COSC. He has also spearheaded far-reaching reforms in the organisational structure and war-fighting capabilities of the army — the move towards greater integration, speed of decision-making and rationalisation of manpower in the army. The idea of Integrated Battle Groups (IBGs) headed by major-generals is expected to do away with

## WORDLY WISE

OF CHESS, IT HAS BEEN SAID THAT LIFE IS NOT LONG ENOUGH FOR IT, BUT THAT IS THE FAULT OF LIFE, NOT CHESS. — WILLIAM NAPIER

# INJUSTICE IN UP

Arresting Mohammad Shoaib, S R Darapuri insults their legacy of human rights work



in terrorism or related cases. He has been successful in getting 13 such accused in different cases including Aftab Alam Ansari acquitted from the courts.

Any fair society would have honoured Shoaib rather than try to paint him as anti-national. His courteous demeanour and personality stands in contrast to what the Lucknow police would have us believe. Shoaib and his clients were alleged to have raised “Pakistan Zindabad” slogans, news about which was published in local newspapers without reasoning as to why any accused in a terror case, and his advocate, would raise a slogan that could imperil his chances of acquittal!

Most surprising was the incarceration of Darapuri, a retired inspector general of police. Darapuri has been an untiring campaigner of human rights, especially Dalit rights. He also contested the 2019 Lok Sabha election from Lucknow on behalf of the Lok Rajniti Manch, founded by the late Kuldip Nayyar in 2004. Since then, Darapuri has contested two more elections on behalf of All India People’s Front, an organisation fighting for forest rights of the tribals in Sonbhadra district of UP. He too, like Shoaib, is a source of strength for the persecuted. A lot of my colleagues working at the grass roots call him directly to seek his intervention when they face harassment by the police or powerful local figures. We have jointly worked on a number

of things — fact finding in cases of human rights violations of Dalits, Muslims and members of downtrodden communities, public hearings on the implementation of various social welfare schemes like food security etc. In 2008, he and I were part of a fact finding team which produced a report declaring Shahbaz Ahmed from Lucknow innocent when he was picked up by Rajasthan police in the Jaipur bomb blast case — Shahbaz was recently acquitted by the court too. Now, the Anti-Terrorism Squad is trying to frame him in a fresh case. Siddharth Darapuri, whom I’ve seen as a child, wrote a Facebook post about his grandfather: “Loved by his juniors and seniors, he was a person who did not shoot a fleeting miscreant at point blank range, even after the person fired at his jeep. He was a person, who went alone to make a gang surrender, and not finish them off in an encounter. He revolutionised the police-mess, which was marred and divided on caste lines. Never did he fire from his service revolver.”

I’m putting out these facts in the public domain for people to judge whether Shoaib and Darapuri, both septuagenarians, deserve to be in jail. Is the BJP government in UP being vindictive in order to cover up its failure in maintaining law and order?

*The writer, a Magsasay Award winner, is vice president of Socialist Party (India)*

## DECEMBER 31, 1979, FORTY YEARS AGO

### US Aid To PAK

THE JIMMY CARTER administration has decided to give both military and economic assistance to Pakistan in view of the latest developments in Afghanistan. Negotiations between the two countries have reportedly started. Pakistan has a huge shopping list that includes not merely light arms for guerrilla warfare against the Afghan state but heavy arms that can fire in any direction. Meanwhile, India does not even have an ambassador in Washington. The embassy is under the Charge’ D Affairs, Ashok Gokhale.

### UP CRISIS

THE MINORITY BANARSI Das government in

Uttar Pradesh is in danger with a further fall in its strength and the demand raised by the Opposition leader Raj Mangal Pandey for its dismissal. The panchayati raj minister, Jamuna Prasad Bose, and three Lok Dal members of the Vidhan Sabha, Shriram Dwivedi, Sukhpal Pande and Bharat Singh Chauhan, have resigned from the party and joined the Janata Party. Pande accused the UP government of having failed to give relief to the drought stricken people and said that the law and order situation in the state had broken down completely.

### VETO ON LEGAL AID

A PROPOSAL OF the Union law ministry to

give free legal aid to the poor in Supreme Court cases has been turned down by the finance ministry even though a token budgetary allowance of Rs 1 lakh had been made for this purpose. According to official sources, the finance ministry turned down the proposal on the ground that it involved a policy decision that could not be taken at this point of time.

ALL’S WELL WITH RAM JAGJIVAN RAM TOOK exception to the AIR report that he was unwell and advised rest by doctors. Addressing an election meeting in Bhubaneswar, he said its a mystery how AIR found me ill.





# 13 THE IDEAS PAGE

## The freedom to speak up

The test of a healthy democracy is that anybody, from any strata of society, can question the government over any decision



KABIR KHAN

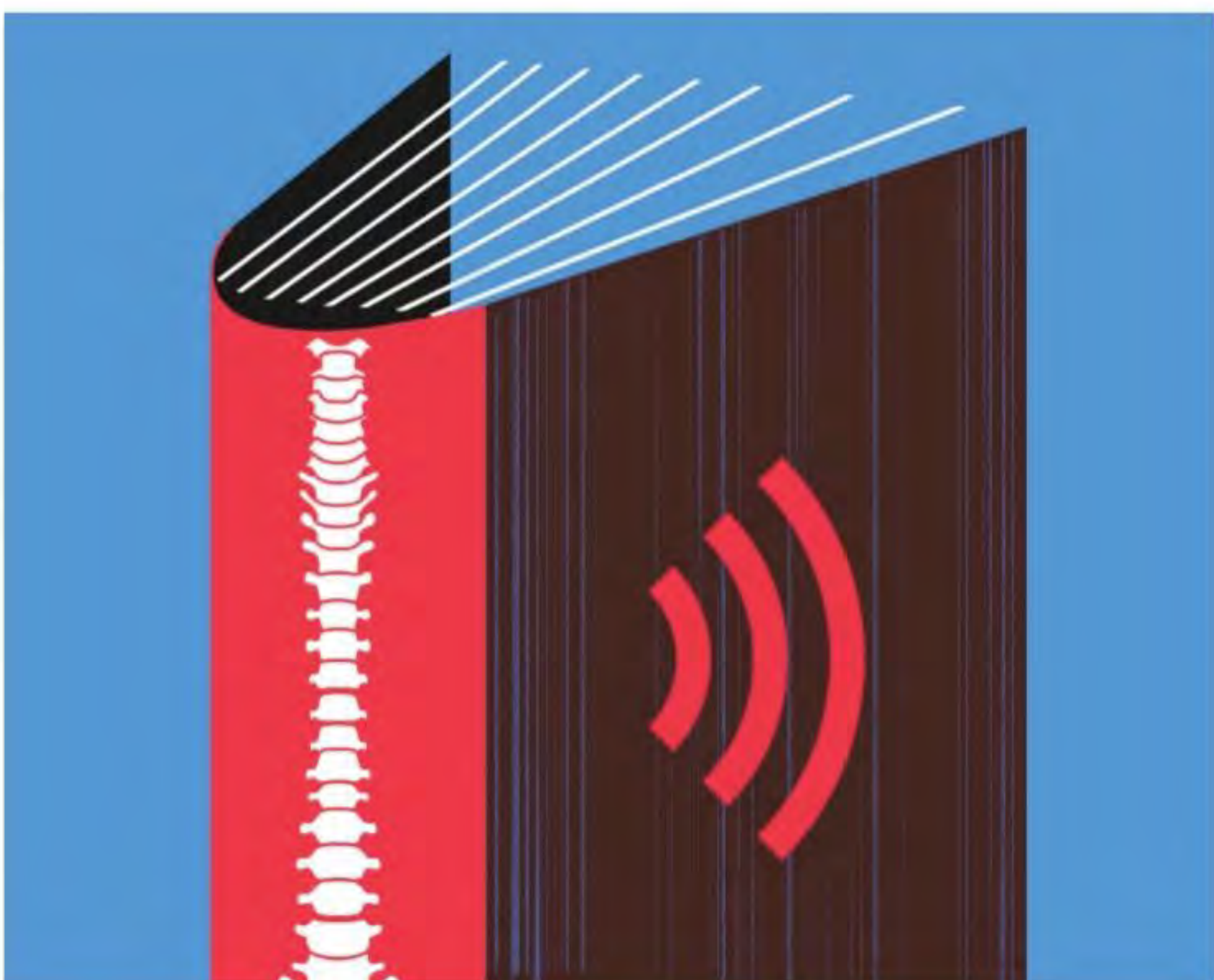
MY MEMORIES OF university life are associated with two institutions. I grew up on the campus of Jawaharlal Nehru University (JNU) as my father (Rasheeduddin Khan) was one its founding professors. In JNU, I witnessed a culture of political debate and dissent. The evenings would be spent at the Ganga dhaba where two people would stand up and debate some issue. At the Mass Communication Research Centre (MCRC) at Jamia Millia Islamia, where I did my masters, we didn't interact much with the rest of the university but the MCRC itself had a very political atmosphere. We were documentary filmmakers in training and being aware of politics was a very important element of our education.

So, now when I see visuals of Jamia students walking with their hands up, it's something I can't get out of my mind. For me, that's like a tipping point. How can you prevent students from protesting peacefully about what they feel is wrong? There is this whole debate about outside elements being there, but we've seen students being pulled out of libraries and beaten up. It's unbelievable. And why is it happening in one university after another university in India — JNU, Jamia and Aligarh Muslim University?

Students are the conscience keepers of the country. As we grow up, we all get a little corrupt, blasé, laidback and indifferent about issues. But students don't. They have idealism. Often, we fear that our youth is becoming apolitical, that they are losing interest in the world around them. Now when you see them reacting to political developments, you should be happy that they care about our country. How can you not let them protest? You should be able to debate with them, and not send the police to beat them up, ransack hostels and libraries. If you don't promote protests among students, then it's going to be a sad day for the country because the youth is our country's tomorrow. The Jamia incident is the culmination of so many wrongs that we've been witness to.

The greatness of a country is reflected in how good its universities are. One of the strengths of the US, even though they have a host of other problems, is its strong university culture and its ability to breed leaders. Similarly, in India generations of leaders, nation builders, opinion makers, thinkers and administrators have come out of JNU, AMU and DU. We have to make sure that an enabling atmosphere flourishes in universities instead of labelling students as part of a "tukde tukde gang" or putting them in jail.

At present, there appears to be an atmosphere where dissent is not welcome — it's seen as anti-national. That we can all criticise and question our government means that we are a flourishing democracy. In the last six years, a narrative has been spun that a government is equal to a country; that if you question the government, you are questioning India. This is dangerous. A government has never been equal to a country. Governments will come and go. We are living in a healthy democracy till



C R Sasikumar

the day anybody, from any strata of society, can get up and question the prime minister, the home minister or any minister over any decision. Otherwise, what's the difference between democracy and dictatorship? At JNU and Jamia, we would have leaders from different parties coming and debating with the students. If a student is not able to openly stand up and put across strongly what he or she believes in, then let's not pretend that we live in a democracy.

I have never been more aware of my Muslim identity than I am today because it had never been never rubbed in my face before. I'm an atheist. For me, my religion is part of my culture and heritage. My religious identity has zero bearing on my life, as I go about doing my work and interacting with people. Religion should be very personal. Today, everything seems to be getting discussed through the prism of religion.

I grew up believing that India is an inherently secular country. Today, I question myself: Am I being naïve? I refuse to believe that the majority is comfortable with what is going on. If I start believing that, it will destroy the concept of India for me.

As a filmmaker, even when I make mainstream movies, I believe a political backdrop has to exist. Mainstream cinema is a powerful medium. I can forgive a bad screenplay, editing or cinematography, but I can never forgive bad politics. Every choice that a filmmaker makes needs to reflect its politics. This is the medium through which I will continue to make statements or ask questions in a format that is accessible to the audience. The chicken song in *Bajrangi Bhaijaan* (2015), which lots of the children love, is very political — it questions the beef ban.

**When I see visuals of Jamia students walking with their hands up, it's something I can't get out of my mind. For me, that's like a tipping point. How can you prevent students from protesting peacefully about what they feel is wrong? There is this whole debate about outside elements being there, but we've seen students being pulled out of libraries and beaten up. It's unbelievable. And why is it happening in one university after another university in India — JNU, Jamia and Aligarh Muslim University?**

Not everyone speaks out. Our celebrities are more fearful because they are more vulnerable. Many of them have political views and feel strongly about certain issues. However, I cannot sit in judgement and ask them why don't they speak up. I can only hope that more and more people will speak up. In the Western countries, maybe there are certain safeguards in their system that are actually working. Those safeguards, which we used to have in our society, are perhaps breaking down here.

A strong, independent media does not really exist in India today. The one institution that stood up for citizens was a free media. If anything made the establishment wary of coming down on anybody wrongfully, it was the fear that the media would go after it. Today, we can count on our fingers the newspapers and television channels that have a space of their own. If media, that's supposed to be the watchdog of our society, disappears or cowers down, it will be very unfortunate.

The only way that we can protect ourselves is if civil society continues to be vocal, be it by coming out on the streets and demonstrating, expressing themselves on social media, or being able to speak to the media. Students are a part of civil society. We don't all have to become political activists. We should just be able to express our opinions as normal citizens, without fear. We need to speak up whenever something goes against our country's ethos. We need to protect our country. Our country is larger than anything else.

*Khan is a filmmaker and studied at the Jamia Millia Islamia*

### WHAT THE OTHERS SAY

"With more pubs opening, Britain feels like we can overcome social isolation and cultural confusion of this age. We ought to raise a glass to good news in these dark times."

— THE GUARDIAN

## Challenge lies within

Domestic political climate affects external relations. India must recognise this urgently



RAJA MANDALA

BY C RAJA MOHAN

INDIA WILL NEED some decisive domestic course-correction in the new year to prevent the crystallisation of serious external challenges. An India that turns on itself is weaker abroad and invites external meddling. And the combination of internal strife and a faltering economy could turn out to be a dangerous recipe for India's polity. Internal political accommodation and economic revival hold the key to India's diplomacy and foreign policy in the coming days.

In the 21st century, two important factors have boosted India's international relations. One is India's rapid economic growth stemming from the reforms of the 1990s. It put India on the course to join the league of major powers. The expanding size of the economy and the attractiveness of its market was reinforced by another important factor.

India's growing economic weight, many in the world believed, would translate sooner than later into military power and that, in turn, could make Delhi an important player in shaping the regional balance of power in Asia and the Indian Ocean: This would eventually reshape the structure of the international system. The rise of India's hard power capabilities was complemented by its soft power — defined by India's democratic values, the spread of Indian culture and the positive influence of its diaspora.

It is easy to underestimate the weight of India's soft power that is both intangible and difficult to measure. The idea of shared political values with the West played a critical role in ending the decades-old high technology blockade against India and improving the country's standing in the West. India's democratic values were of little strategic consequence during the Cold War, but they helped cement India's strategic partnerships with the US, Europe, Japan and other Asian democracies in the new century.

Besides the question of democracy, India's ability to live with religious, linguistic and ethnic differences highlighted its political exceptionalism amidst the proliferation of intra-national conflicts and civil wars around the world.

If the economic slowdown and the perceived antipathy to trade might be limiting India's attractiveness as a commercial partner, the sense of creeping Hindu majoritarianism has begun to generate concern among a range of groups—from the liberal international media, the US Congress, to the Islamic world. Meanwhile, the diaspora, once seen as an asset, is now becoming part of Delhi's foreign policy problem. India's internal divisions are inevitably transmitted to the diaspora that, in turn, feeds into the emerging negative sentiment towards Delhi.

The sharpening religious divide within the country coupled with the renewed confrontation with Pakistan is generating major headaches for the conduct of India's external relations. Just when India seemed to be pulling away from Pakistan — in terms of economic performance, internal unity and international salience — and poised for a larger global role, Delhi appears to be sliding back into regional conflict with Islamabad and, more dangerously, towards

a Hindu-Muslim conflict at home.

Some in Delhi might scoff at the notion of recognising external concerns in the conduct of India's domestic politics. To be sure, the theory is that all states are sovereign and free to do what they want at home and free to conduct foreign policies as they like. The reality, though, is quite different. Through the ages, statesmen have sought ways to manage the complex interdependence between the internal and the external: Those who pretended that there is no relationship between the two had to pay a high price.

For most nations today, domestic economic policy and, increasingly, technology policy are shaped by a dynamic interaction between the internal and external. Few would contest the proposition that absolute economic sovereignty is unsustainable in a globalised world. While one can control the degree of exposure to the world, there is no room for absolute separation.

The same is also true of political sovereignty. It has never been absolute and is always constrained by size, economy, geography, demography and history. There is no country that does not have internal fault lines. Maximising political sovereignty necessarily involves limiting domestic conflict and strengthening internal political coherence.

Statecraft has long recognised the value of taking advantage of others' internal problems. When a country chooses to inflame the divisions at home, it not only disappoints its friends and well-wishers, but also provides huge opportunities for exploitation by its adversaries.

It is not just strong countries that can take advantage of the internal conflicts of others. Russia, for long dismissed in North America and Europe as a declining power, is now being accused of interference in the domestic politics of more powerful Western democracies. Tiny Qatar in the Gulf is charged by many in the Middle East of destabilising other, larger societies, in the region. Beyond governments, old and new media, trans-national groups and non-governmental organisations are quick to highlight internal conflicts in societies and then shape the international narratives on them.

Nothing draws international attention to a country more than religious conflict. This goes back to the dawn of the modern state system. As the European Christendom organised itself into nation-states, the religion of the sovereign and the citizenry were no longer the same. As governments persecuted religious groups within their territories, the demand for their protection from other states who shared the faith of the oppressed began to grow louder. This eventually led to agreed principles among the sovereigns about protecting freedom of religion.

Few countries, however, have had to bear the kind of religious burden that independent India has. The partition of India along religious lines has left Delhi with extraordinary challenges about sustaining religious harmony at home and maintaining reasonable relations with Pakistan and Bangladesh.

All governments in Delhi have struggled to cope with the bitter legacies of Partition. The very nature of these challenges inevitably produced much ambiguity, self-doubt and vacillation in India's engagement with Pakistan and Bangladesh. It will be a great tragedy if the NDA government's attempts to answer some of these challenges ends up exacerbating them.

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



RAMESH POKHRIYAL NISHANK

## An act of empathy

CAA is in line with India's ethos of fraternity

FOR CENTURIES, INDIA has welcomed visitors and refugees who brought with them their rich culture, languages, and traditions. Indians always preached universal love and peace for the universal family. Since ages, India has advocated *Vasudhaiva Kutumbakam* — that the entire earth is one family. Across the world, Indians are known for their extraordinary ability to assimilate different cultures and values.

After the British finally left the Subcontinent in 1947, India was partitioned into two independent nation-states: Hindu-majority India and Muslim-majority Pakistan. This was followed by one of the greatest and most painful migrations in human history. Millions of Muslims trekked to West and East Pakistan (Bangladesh) while lakhs of Hindus and Sikhs headed in the opposite direction. Uncertain about their future, hundreds of thousands never made it to their final destination. Prime Minister Narendra Modi has expressed the sentiments and basic spirit behind the Citizenship Amendment Act: "Citizenship Amendment Bill is not a favour; this Act will protect the interests of those who believe in Mother India." The motive of this Act is to help minority groups who have come to escape persecution in Pakistan, Afghanistan, and Bangladesh, which are Muslim-majority nations.

Mahatma Gandhi, Pattabhi Sitaramayya, J B Kripalani, Abul Kalam Azad and Syama Prasad Mookerjee or Tridip Chaudhuri — they all wanted refugees to be provided shelter

with respect. The CAA seeks to help oppressed illegal immigrants belonging to Hindu, Sikh, Parsi, Buddhist and Christian religions from Pakistan, Afghanistan and Bangladesh, who were forced to flee to India and have lived in India without documentation. In these cases, the standard eligibility criteria for citizenship — 11 years of residence in India — has been relaxed. Shah has rightly pointed out that the CAA would not have been necessary had the country not faced Partition based on religion. He further said that this law will bring a new dawn in the lives of crores of people.

It must be asserted strongly that all protests should be scrupulously peaceful and any attempt to damage public property or public servants is unacceptable. There are allegations that the CAA violates constitutional provisions. There are arguments that this Act will facilitate a huge influx of illegal migrants and that illegal migrants will be given citizenship retrospectively. India is a democratic country that ensures fundamental rights to its citizens conferred on them by the Constitution. No statute, including the CAA, can take these away. Certain anti-social elements are spearheading a misinformation campaign. The northeastern states in particular are being targeted to spread this false propaganda. A vicious campaign involving students has been launched to label this Act as anti-Muslim.

The CAA does not affect any Indian citizens, including Muslims. We have to understand

that the CAA has no role in the deportation of any foreigner. The process of deportation takes place as per the mandate of the Foreigners Act, 1946 and/or The Passport (Entry into India) Act, 1920. In any case, deportation is a judicial process based on inquiries conducted by law enforcement agencies. The home minister has reiterated that the interest of northeastern states will be safeguarded under the Sixth Schedule to the Constitution and the statutory protection given to areas covered under the "Inner Line" system of the Bengal Eastern Frontier Regulation, 1873.

We do understand that voicing concern, protest, dissent are inherent to the democratic setup but causing damage to public property and indulging in violence is unacceptable. To uphold the secular and democratic fabric of the country, we should only use democratic forums to express our difference of opinion.

It is heartening that a group of academics, intellectuals, and research scholars have come out in support of the CAA. In a statement issued by over 1,100 academics from all over the country, it was pointed that the CAA is in perfect sync with the constitutional values of India as it does not debar anyone seeking citizenship based on religion. The support not only came from premiere institutes like IITs and IIMs, Jawaharlal Nehru University, Delhi University, All India Institute of Medical Sciences but also from various international institutions including Princeton University, Oxford, Politecnico di Milano-

Milan, the University of Warwick and Imperial College London. The signatories have expressed their complete satisfaction with the way the concerns of the Northeast states have been handled.

Concerns are being raised from different quarters about the violation of Article 14 that guarantees equality and equal protection of law to everyone. We must understand that the CAA proposes to help people under distress. Oppressed minorities are being helped under special circumstances.

As per data obtained from various sources, the minority population has dwindled substantially in Pakistan and Bangladesh. Now, the question is: What happened to the minority Hindu population? Right from the beginning, they faced oppression and because of this, they were forced to flee to India. This speaks volumes about the great failure of Nehru-Liaquat pact.

Thanking all those who supported this important law, the PM said that the CAA is in complete alignment with India's centuries-old ethos and a strong belief in humanitarian values. India has always supported the oppressed, helpless and persecuted people. So, what is new in this Act? India is India because of its rich cultural heritage and its ethos. This Act is about sharing the pain of our brothers and sisters who were forced to move out of their respective countries.

*The writer is Union minister of Human Resource Development*

### LETTERS TO THE EDITOR

#### SOREN'S TASKS

THIS REFERS to the report, 'Soren sworn in as CM, stage signals show of opposition strength' (IE, December 30). The new Jharkhand government's decision to drop all Pothalgadi cases is the apt New Year gift for the state's tribal communities. Thousands of tribal people are still languishing in jails without trials for trivial offence. In many cases, these people from marginalised communities have spent more time in jail term than they would have had they been tried and convicted. The Hemant Soren government should take urgent measures to ensure long overdue justice.

**L R Murmu, Delhi**

#### AQUIFER MATTERS

THIS REFERS to the editorial, 'Not a drop to waste' (IE, December 30). It's shocking to know that around 70 per cent of the drinking water across the country fails on quality parameters. The country needs to adopt an agricultural model focused on future food security without affecting environmental and human health. Measures to improve water quality and rain water harvesting systems should be encouraged to recharge ground water and improve the water table.

**Sanjay Chopra, Mohali**

#### LETTER OF THE WEEK AWARD

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

#### ASSUAGE BANKERS

THIS REFERS to the report, 'Government soothes banks over harassment by CBI: Won't go after genuine decisions' (IE, December 29). Despite huge NPA levels across the banks, many bankers were targeted by agencies such as the CBI. There is an atmosphere of fear amongst them. The CBI, CVC, and CAG should certainly do their duties but not at the cost of harassing bank officials.

**Bal Govind, Noida**