



Subject to people's will

Disqualified rebels should not be barred from bypolls in Karnataka

With the Election Commission of India agreeing to defer byelections to 15 of the 17 vacant Assembly seats in Karnataka, the defectors from the Congress and Janata Dal (Secular) had earlier this year resigned from their respective parties and were later disqualified by the then Speaker Ramesh Kumar. Following these actions, the BJP managed to get to power with the support of 105 of the 208 remaining legislators in the Assembly. The then Speaker's actions disqualifying the legislators who had resigned till the end of the current term of the Assembly added a twist to the tale. This sent the fate of these disqualified legislators into a limbo, as it made it unclear whether they can contest following this ruling. Under the law (the Tenth schedule) though, it is not clear as to how the ex-Speaker could fix a period till which a member can remain disqualified and bar them for the rest of the assembly term. It is evident that the disqualified legislators should not be disallowed by the Supreme Court from contesting in the byelections for the seats.

However, the actions by the rebel legislators and the Speaker, cumulatively beg the question if the letter and spirit of the anti-defection law were undermined. It was clear that the legislators who quit the Congress-JD(S) coalition did so to curry favour with the BJP and to gain new loaves of power in the form of ministerial berths. The fact that the BJP government led by B. S. Yediyurappa has kept portfolios vacant in its council of ministers indicates that these seats have been kept warm for the turncoats. On the other hand, the Congress-JD(S) rigmarole of locking up legislators in resorts and hotels before trust votes, besides the machinations by the Speaker – sitting on the resignations for a long period and coming up with an unusual disqualification order – did not help matters. The fractiousness of the coalition had already led to a stasis in governance and had contributed to its loss in the Lok Sabha election and it is no wonder that the Congress and the JD(S) have decided to contest the byelections on their own. Besides deciding the future of the BJP government, which has a narrow margin of support in the Assembly, the byelections provide a good opportunity for voters of these constituencies to judge the parties and their representatives for their respective roles in the sordid drama this year. It is the people's reasoned will that could ultimately bring a change in the political culture rather than just the implementation of the anti-defection law to regulate legislator behaviour.

Trump & impeachment

He may find it hard to shrug off the charge of leaning on Kiev to meddle in domestic politics

U.S. President Donald Trump discussed former Vice-President Joe Biden in a July 2019 telephone conversation with Ukraine President Volodymyr Zelensky, allegedly in a bid to influence him to investigate the business dealings of Mr. Biden's son, Hunter. Now he faces the prospect of an impeachment inquiry. That happened, first, because of an "explosive" whistleblower complaint filed against Mr. Trump by a national security official, which also alleges that Mr. Trump used the call to "solicit interference" in the 2020 election, and that the White House then intervened to "lock down" the transcript of the call. The whistleblower added that this was "not the first time" that Trump administration officials placed presidential call transcripts in a separate, classified system. The White House further exacerbated matters when they sought to block that complaint from reaching the House Intelligence Committee. Further, Mr. Trump is said to have personally ordered his staff to freeze more than \$391 million in aid to Ukraine, before his call with Mr. Zelensky, making his conditions to the Ukrainian President an outright quid pro quo. The Congress, even the Republican-controlled Senate, was having none of this. In a rare show of bipartisanship, the Senate passed unanimously a resolution calling for the White House to release the whistleblower complaint. Capitol Hill has now got both the memo of the call between Mr. Trump and Mr. Zelensky and the complaint, whose allegations House Intelligence Committee Chairman Adam Schiff described as "deeply disturbing and very credible."

It was in this backdrop that Speaker Nancy Pelosi announced an inquiry into impeachment proceedings against Mr. Trump, to begin after she meets with colleagues next week. Neither the complaint nor the edited transcript of the call are exculpatory of Mr. Trump. Even the edited memo of the call makes clear that Mr. Trump is linking the payment of military aid to Ukraine to Mr. Zelensky agreeing to investigate Hunter Biden's role on the board of Burisma Holdings, a Ukrainian gas company. This, despite Ukraine's public prosecutor, Yuriy Lutsenko, saying that he had no evidence of wrongdoing by the younger Biden. Contrarily, Mr. Trump may find it hard to shrug off the prospect of an ignominious impeachment. At least 140 House Democrats and one Independent have said that they would support impeachment proceedings against Mr. Trump for leaning on a foreign power to meddle in domestic politics, which would constitute a betrayal of the oath of office and compromise of national security. Ultimately the inquiry leading to such an outcome would turn on whether there is, in the complaint, a "smoking gun" of the kind that brought down Richard Nixon.

Childhoods lost in a troubled paradise

Kashmir's children grow up traumatised by conflict and live in perpetual fear of being picked up by the state

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& DEVIKA S.

Every third child in Shopian district, Jammu and Kashmir (J&K), has a clinically diagnosable mental disorder, said a survey published in the *Community Mental Health Journal* earlier this year. Around 1.8 million adults in Kashmir Valley – 45% of its population – showed symptoms of mental illness in 2015, according to Doctors Without Borders. Thus, even prior to the incidents of August 5, the disastrous results of a history of violence, illegal detentions and torture in the Valley were visible on the region's children.

The horror has since continued and got magnified, as chronicled in many reports. Media has reported illegal detention of scores of children, many of them whisked away at midnight by law enforcement officers with no record of their arrests, making it difficult to trace them. A report by economist Jean Dreze in August detailed illegal detention and torture of boys. A recent report by the Indian Federation of Indian Women and other organisations gave a first-hand account of the haunting spectre of mothers standing at their doorsteps in the desperate hope of their children's return, not knowing where they are. These disappearances are in clear breach of the Supreme Court's directions in the *D.K. Basu* case, where the court said that the next of kin have to be informed of every such arrest and the reasons thereof.

Pawns in a political game

Kashmir's children have become pawns in a political game where the government wants to punish those protesting against its authority. Between 1990 and 2005, a total of 46 schools were occupied by the armed forces and more than

400 schools gutted between 1990 and 2005, according to a 2006 report of the Public Commission on Human Rights. Such destruction of educational infrastructure, in addition to the unlawful detentions, leaves a lifelong impact on children, perpetuating a cycle of trauma, fear and bitterness.

A report by the UN High Commissioner for Human Rights earlier this year found that children in Kashmir, many of whose ages were wrongly recorded, were being detained and mistreated for several days in police lock-up, without any charge, mostly under the Public Safety Act (PSA), which allows preventive detention for up to two years without any trial. The report found that the Armed Forces Special Powers Act remained a key obstacle to accountability.

In 2018, the Jammu & Kashmir Coalition of Civil Society (JKCCS) found through Right to Information applications that hundreds of children had been detained under the PSA between 1990 and 2013. In many of these cases, the police/magistrates had no procedure to verify the age of the detainees and minors were kept in custody along with adult criminals and released only after judicial intervention. About 80% of these detentions were held illegal by courts.

Such treatment of children is undoubtedly in violation of multiple laws and conventions. To begin with, all of them violate Article 14(4) of the International Convention on Civil & Political rights which states that "all proceedings against juveniles shall take into account their age and the desirability of promoting their rehabilitation." The UN Convention on the Rights of the Child, ratified by India, provides that the arrest/detention of a child shall be in conformity with the law and used only as a last resort and for the shortest appropriate period. The guidelines



of the National Commission for Protection of Child Rights clearly state that a blanket characterisation of adolescent boys as security threats during civil unrest should be avoided and authorities should investigate and take action against personnel involved in arbitrary detentions, mistreatment or torture of children.

A sledgehammer treatment

In 2003, the Madras High Court in *Prabhakaran v. State of Tamil Nadu* held that the Juvenile Justice Act is a comprehensive law and overrides preventive detention laws enacted for national security. Earlier, in 1982, the Supreme Court had in the *Jaya Mala* case condemned the preventive detention of a student and observed that young people, even if their acts are misguided, cannot be punished with a sledgehammer.

However, none of these laws and directives seem to be followed in Kashmir. Parents are now too scared to send their children to school, lest they be picked up by authorities or get caught in a cross-fire. When such disappearances take place in a conflict-torn region, who does the aggrieved party complain to? Courts seem to be

the only forums offering some promise of redressal. However, state actions since August 5, when J&K's special status was abrogated, have taken away even this limited option from Kashmiris. Following the arrest of presidents of the J&K High Court and District Bar Associations and senior lawyers under PSA, most of Kashmir's 1,050 lawyers have been on strike. Over 200 habeas corpus petitions have been filed till now. However, since most post offices are closed, lawyers are unable to serve notices on the respondents.

On August 5, all 31 cases shown in the 'orders list' of the Srinagar Bench of the J&K High Court were adjourned "due to restrictions on movement of traffic" as advocates could not be present. Weeks later, on September 24, out of the 78 uploaded cases, advocates were present for both parties in just 11, none appeared in nine cases, petitioner's counsel alone in nine cases and only the government counsel in 47 cases.

Anticipating such contingencies, our Constitution provided for the protection of the citizens' fundamental rights by empowering them to approach the Supreme Court directly in case the rights were violated. The right to constitutional remedies is by itself a fundamental right. Quite conscious of its obligations to protect the right to life of Kashmiris, the apex court has thus taken upon itself the task of inquiring into the allegations of state violence against children.

The observations made by the Inter American Court of Human Rights had observed in a 2005 case, concerning Colombia's Mapiripán Massacre, are instructive here: "One does not combat terror with terror, but rather within the framework of the law. Those who resort to the use of brute force brutalise themselves, creating a spiral of widespread violence that ends

up turning the innocent, including children, into victims."

Noting that the terror sown among the surviving inhabitants caused their forced displacement, the court observed that the omissions, tolerance and collaboration by the state and the general population amounted to aggravated human rights violations in the name of 'war on terror'.

Caged and disturbed

Children in Kashmir grow up caged and under the shadow of a gun. As the parents of many of them go missing, they are also forced to assume the responsibility of caregivers for their siblings. The strain on social structures due to the loss of family environment, safe spaces and education and health facilities severely traumatises many of them and snatches their childhood away. Gowhar Geelani, in his recent book *Kashmir Rage and Reason* says children in Kashmir learn terms like "custody killing"; "catch and kill"; "torture"; "interrogation"; "detention"; and "disappearance" – internalising a vocabulary they should not be privy to otherwise.

What kind of world can such children look forward to if they have to live in constant fear of being picked up for an unknown crime and taken to an unknown destination? Surely, this is not the *fidours* (heaven) on earth that many visualise Kashmir to be?

No curbs on democratic rights on the promise of development can justify inhumane treatment of children. We need to speak out for the children of Kashmir or we will also be complicit in the 'aggravated crime' by the state apparatus. The preventive arrests should be stopped lest the children of Kashmir go missing forever.

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Institutions weakened, economy crippled

The credibility of the RBI, the CSO and the Niti Aayog has taken a beating in recent times due to political interference



M SURESH BABU

Nobel laureate Oliver Williamson pondered over an important question, around 25 years ago: "Why are the ambitions of economic development practitioners and reformers so often disappointed?" According to him, "one answer is that development policymakers and reformers are congenitally optimistic. Another answer is that good plans are regularly defeated by those who occupy strategic positions. An intermediate answer is that institutions are important, yet are persistently neglected in the planning process."

The question and all the three answers assume relevance in the context of India's recent economic performance. The slowdown in GDP growth rate has been dissected, digressed and disowned by analysts, commentators and policymakers. However, the diagnosis is far from complete and the growth engine is running out of fuel. Both the demand- and supply-side factors have been central in all the analyses, but the crucial role of institutions in shaping the outcomes of both the factors in this episode of slowdown has been

neglected. This has resulted in a series of banal policy measures for reviving growth.

A market-centred economic model necessitates creating and sustaining credible institutions that further the efficiency of market mechanism. Given the possibility of 'market failures', such institutions assume a larger role in the economy in shaping expectations and decisions. Journalist Henry Hazlitt grouped the pillars of market economy into private property, free markets, competition, division and combination of labour and social cooperation. Institutions are needed to strengthen these foundational pillars are a prerequisite for markets to work.

The credibility of three such important institutions – the Reserve Bank of India (RBI); the Central Statistical Organisation (CSO); and the Planning Commission/NITI Aayog – has taken a beating in recent times.

Erosion in RBI's autonomy

The RBI, which was clamouring for more autonomy, has been systematically brought under the ambit of the Central government. Starting from the sidelining of the central bank on the important issue of currency demonetisation, the attempt has been to steadily erode the central bank's independence. A three-pronged strategy resulted in this – first, the RBI was bypassed on matters relating to

currency; second, its role as regulator of the banking sector was questioned when banks faltered; and, finally, its reserves were siphoned. The net result has been that the RBI has been reduced into an institution which presides over a limited space of monetary policy, that is, inflation targeting.

It is also interesting to note that the only major policy tool available in the RBI's armoury is cutting repo rates, which the central bank did four times this year. The last time the RBI made so many back-to-back cuts was after the global financial crisis over a decade ago, when most major central banks were desperate to revive economic growth. However, rate cuts alone could not help India's economy this time, as banks, saddled with bad debt, were slow to reduce lending rates. This provides a classic case of an institution's weakening, leading to questions on its role and credibility.

Markets, which work on information and expectations, rely on official data to arrive at decisions. In an era of 'big data', we find that India's official data procuring and publishing agency has been crippled. Often we find that the official series, ranging from national accounts to unemployment, has been smothered with repeated revisions and change of data definitions. When data that needs 'approval' before release, as in the case of the unemployment data,



questions are bound to arise on the credibility of the numbers. The veracity of the data is to be tested by researchers and the public who consume the data and not by 'approving agencies'. It is altogether another matter that had we had admitted that the rate of unemployment was high, perhaps more private investment could have come due the expectations of finding labour at lower wages. Such a possibility was shut out by an attitude of denial on the part of the government.

Space for course correction

NITI Aayog presents the case of an institution that lost its character in the process of transformation. By abolishing the erstwhile Planning Commission and transforming it into the NITI Aayog, the government lost the space for mid-term appraisals of plans and policies. Course correction and taking stock of the economy have now

become routine exercises, with uncritical acceptance due to a lack of well-researched documents.

As another Nobel laureate, Douglas North, opined: "Institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction." Institutions are formed to reduce uncertainty in human exchange. Together with the technology employed, they determine the costs of transacting (and producing). While the formal rules can be changed overnight, as has been practised by the present government, the informal norms change only gradually.

In this context, it is useful to focus on understanding and reforming the forces that keep bad institutions in place, especially political institutions and the distribution of political power. This requires understanding the complex relationship between political institutions and the political equilibrium. Sometimes, changing the political institutions may be insufficient, or even counterproductive, in leading to better economic outcomes as has been the case in India in recent times. The use of high-quality academic information, which the present establishment lacks, is valuable both to think about these issues and generate better policy advice.

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LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

Impeachment inquiry

Close on the heels of what was perceived as Prime Minister Narendra Modi's oblique endorsement of President Donald Trump's re-election bid comes the news of impeachment inquiry against him (Front page, "Impeachment inquiry against Trump begins," Sept. 26). This underscores the need for caution while getting involved in the domestic politics of another country. Personal chemistry has little relevance in international relations which is essentially shaped by a country's perceived commercial and geopolitical interests. Mr. Trump's occasional diatribes against India

despite the ceremonial hugs and lavish display of bonhomie spring from the inherent contradictions involved in the relationship between the two nations.

MANOHAR ALEMBATH,
Kannur, Kerala

Award for Modi

The article "An award and an unholy trade-off," (Editorial page, Sept. 26) seems to be a petulant and uncharitable denunciation of the Gates Foundation's conferring of the 'Global Gatekeeper' award on Prime Minister Narendra Modi for advancing the cause of public health by building of millions of toilets across the country. One wonders why political opposition to the Prime

Minister should descend to a level of unrelenting hostility that seeks to discredit and delegitimise the actions of the government no matter that international opinion approves good policies like building toilets. The Swachh Bharat mission resurrected toilet-access from the cocoons of shame and secrecy and made it a focus of public health. Entangling it in unsubstantiated and indefensible theories about the perceived loss of liberty appears to be a demonstration of intolerance, a flaw that the article accuses the government of.

V.N. MUKUNDARAJAN,
Thiruvananthapuram

State of education

Education in India is basically seen as a means to lucrative employment (Editorial page, "Different peas in different pods," Sept. 26). That is the reason why the best of students choose to pursue either an engineering or a medical course. Students join the rest of the courses also based on their perception about the relative employment potential of those courses. Unless this attitude of students changes, we cannot expect to produce more Jagadish Chandra Boses and G.N. Ramachandrans in biotechnology field or any other science stream. The lack of interest and quality of the students at the entry

level of the degree course is the reason for the "mediocre quality" of the publications. Inculcating scientific thinking has to start from the school level with the right kind of teaching methods and provision of basic infrastructure. There is an urgent need to attract the best of minds into basic

research in various science disciplines, if the country has to make real progress. Apart from transforming the educational system, we need to invest in creating institutes of excellence.

KOSARAJU CHANDRAMOULI,
Hyderabad

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CORRECTIONS & CLARIFICATIONS: >>Editing error: A front-page report (Sept. 26, 2019) erroneously said in the headline and text that two Dalit boys, aged 11 and 12, had been beaten to death in a village in Madhya Pradesh. Actually, it was a boy and a girl aged 11 and 12 respectively.

>>In the report headlined "MIDHANI to be part of combat aircraft project" (Sept. 26, 2019, some editions), a sentence that read "Work on MIDHANI's new ₹4,000 crore plant to make high-end aluminium alloy in a joint venture with the Steel Authority of India Limited at Nellore has begun..." should be corrected to say a joint venture with NALCO at Nellore.

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