



Talk is good

An interlocutor for J&K is welcome, and dialogue must be as broadbased as possible

The Centre's announcement of an interlocutor to initiate dialogue within Jammu and Kashmir is a welcome step that has the potential to arrest the dangerous drift in the Valley since the death of Chief Minister Mufti Mohammad Sayeed in January 2016. The appointment of Dineshwar Sharma, a former Director of the Intelligence Bureau, as a "special representative" also signals a willingness on the part of the BJP-led NDA government at the Centre to walk back from some of its hardened positions: this comes three years after Home Minister Rajnath Singh had called such an exercise "non-productive". Every interlocutor appointed for Kashmir by New Delhi has come to the task in trying circumstances, but none more so than Mr. Sharma. While his appointment allows Chief Minister Mehbooba Mufti to check off an item (to facilitate and initiate dialogue with "all internal stakeholders") on the Agenda of Alliance, the binding document of her People's Democratic Party's coalition with the BJP, making such a dialogue meaningful will be a challenging task. For one, there needs to be more clarity from the Centre on the latitude available to Mr. Sharma to confer with individuals and groups in J&K. The recent raids by the National Investigation Agency, among many pro-active measures against separatists, could influence any outreach to Hurriyat leaders, for example. The Hurriyat, without doubt, stands very isolated, but the interlocutor will have to broaden his schedule significantly to have any chance of winning the interest of civil society in the Valley.

Mr. Sharma also comes to the Kashmir Valley too long after Ms. Mufti assumed the Chief Minister's post in April 2016, since when she has struggled to hold the reins of power as assuredly as her father did. It also comes too long after the stone-pelting protests and the security forces' indiscriminate use of pellet guns after Hizbul Mujahideen 'commander' Burhan Wani's killing hit normal life in the summer of 2016, and subsequently polarised the debate on the next steps. The NDA government has waited more than a year, in which time the valorisation of slain militants has acquired its own momentum and the leadership that protesters heed has become more diffuse. The security situation has deteriorated in other ways too, ranging from militant attacks on Kashmiri policemen to the regular breaches of ceasefire with Pakistan on the border. In fact, the gains of the decade since the 2003 ceasefire have been frittered away. A new generation of youth has taken to militancy since 2013, at least 200 by official estimates. The most poignant evidence of the drift and anxiety in the Valley has been the mystifying allegations of and protests over "braid-chopping". Dialogue is vital. For it to be more than a headline-management exercise, the Central and State governments must rein in the hardliners to enable a genuinely conciliatory environment.

GST afterthoughts

The government must work double-quick to fix the GST regime

The Centre is clearly stepping up its bid to address concerns about the fledgling goods and services tax regime. In what is being seen as official recognition that drastic action is called for, Revenue Secretary Hasmukh Adhia conceded in an interview over the weekend that it is possible that differential treatment to some similar items may not necessarily be fair. The rates will be revised, he indicated, wherever small and medium businesses and the common man face 'a big burden'. While GST has brought 27 lakh new registered entities into formal tax coverage in its first three months, just over half of those in the GST net are paying taxes and filing tax returns. September GST collections stood at ₹92,150 crore by Monday – compared to over ₹95,000 crore in July, its first month. Separately, Prime Minister Narendra Modi on Sunday sought to assure traders that anyone joining the GST net will not be harassed by taxmen seeking scrutiny of their past records. These latest statements of intent cap the overtures the Centre has made over the past three weeks to display its commitment to fix the flaws in the new tax regime, starting with the Prime Minister's October 4 promise to address the woes of small businesses and exporters.

With Mr. Adhia now saying that the GST regime will take a year to stabilise and the government signalling a major revamp in the coming days, we may still be some distance away from seeing the final shape of India's one-nation, one-tax plan. The commitment to correct course is welcome. But the real question is the timing and sequencing of changes. At the last GST Council meeting, rates of over two dozen items were reset, taking such rate changes since July 1 to over 100 – while some procedural and compliance-related norms were eased. But many measures announced on October 6 haven't been implemented swiftly enough – refunds to exporters, for instance, have been slow due to cumbersome norms for reconciling records. This should be a cue for the government to consider doing away with the stringent requirement for matching invoices in order to allow input tax credits, which is impeding the uptake of the new tax. On November 10, the Council is expected to take up more rate revisions, process simplification and the inclusion of real estate in the GST regime. Excessive tinkering with rates indicates that the initial levies were not thought through. While at one level, high or incongruent rate structures have driven small and medium enterprises to the wall, at another level, entire product categories are under threat of disappearing, such as eco-friendly hybrid cars. Lastly, given the amount of damage control the government has embarked on, in comparison with its spirited defence of the preparedness for a July 1 roll-out, there needs to be some real introspection about why those at the top were led to believe all GST systems were ready to fire.

Complicated terms of engagement

The question of consent is one that must lie with the individual woman



PRATIKSHA BAXI

On October 17, the Supreme Court read down the marital rape exception for married girls between the ages of 15 and 18. The judgment is prospective in nature. Essentially, the court held that since sexual assault in marriage is already a crime under the Protection of Children from Sexual Offences Act, 2012 (POCSO), it is discriminatory and arbitrary to suspend the protection of the rape law for these underage married girls. The Supreme Court set aside the state's argument that marriage presumes consent; that compulsory sex in child marriage is protected by customary or personal law; that husbands of child brides must have impunity from the rape law; or that poverty and lack of development means compulsory sex in child marriage must be de-criminalised.

Understanding the law

The Supreme Court decision makes it clear that sexual consent can only be given by an adult woman of 18 years. In other words, consent to sex in underage marriage cannot be assumed by the husband nor can parents give such consent on behalf of the underage minor.

POCSO privileges age to define to a child, wherein consent of a child is not a defence to sexual assault. Sexual consent is defined as an adult category. Hence, the argument that marriage presumes consent is not tenable in the law on sexual assault of children.

The Prohibition of Child Marriage Act, 2006 prohibits the sol-



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emisation of child marriages wherein a child means a person who if male has not yet completed 21 years, and if female not yet 18 years. Further, every child marriage, whether solemnised before or after the Act came into effect, can be made void by either the man or the woman within two years of attaining majority. Karnataka has passed a law making all child marriages void.

Child marriage has historically cast a shadow over rape law reform in India. Child marriage is a specific form of customary practice arranged by parents or male community elders. These may be community marriages dictated by religious calendars or by caste customs. These are a distinct form of early marriages in which the consent of the patriarch of the family or elder determines the matrimonial fate of the child. The second species of marriage is found in different customary and personal laws wherein the age at which a girl can be married is lower than the legal age of marriage. The impetus for early marriages, across customary or personal laws, is to prevent young girls from falling in love and experimenting with illicit sex, which is seen to bring dishonour to male defined communities.

This is a field of legal pluralism, where pre-marital sex rather than rape of young girls by their husbands is seen as a social problem. Of course, pre-marital sex is considered a social problem only when women or young girls experiment with sexuality before marriage – it is not a social problem for boys to engage in consensual sex at any age.

Onus on governments

POCSO defines a child, (irrespective of gender) as a person under the age of 18 years, which prevents the "inducement or coercion of a child to engage in any unlawful sexual activity". It mandates the Central and State governments to take all measures to ensure publicity to the provisions of the Act and obliges government officials to be trained in how to implement the Act. In other words, the brief of any government is to act to secure the best interests of the child. This includes child-wives hitherto protected by custom, since the Indian state acceded in 1992 to the UN General Assembly's Convention on the Rights of the Child.

The Supreme Court judgment rightly reversed the position that the jurisdiction of sexual impunity preventing husbands from being

prosecuted for rape of child wives must lie with customary or personal law through the marital rape law exception.

This sexual exceptionalism in state law has been defended by traditionalists who make an argument for de-criminalisation of compulsory sex within child marriage arranged by elders and dictated by custom, while approving the criminalisation of sex for unmarried girls up to 18 years to prevent pre-marital sex between young adults. They also find common cause with families who criminalise love affairs, by using state law against daughters.

Feminists have critiqued the custodial violence of the family and the state towards women who marry of choice. And they have protested against familial and state violence towards transgressive daughters who often are imprisoned at home or in state institutions, if they consented to sex or marriage, against the wishes of their parents.

At the same time, feminists have also insisted on bringing to the law a recognition of sexual assault of children, irrespective of gender. They have also gendered the notion of childhood. Feminists have also elaborated how adolescence is gendered.

Individual choice

There are two broad responses to the age of consent. The first perspective that evokes the political economy of custom and law argues for a lowering of age of consent to 16. This, however, creates a conflict with the definition of the child under POCSO, unnecessarily pitting women's rights against child rights. The second stance recommends a proximity in age clause in the age of consent provision to prevent the criminalisation of young people who are sexually active between 16 to 18 years, thereby suggesting a

limited form of legal exceptionalism in the best interest of the child.

Both these perspectives are guided by a recognition of the vulnerabilities of young adults to pressure at home to marry early and against their wishes. Sometimes, the home is a space of sexual and physical abuse or poverty and neglect from which marriage seems the only escape. However, if marriage is the only escape for scores of young girls, it is because the state almost never endeavours to realise education and social security for girls and women. And the burden of compulsory sex falls unduly on the young girl, now married, with or without her consent.

The question of sexual consent is clearly one that must lie with the individual woman. Parents, elders, political parties, priests or vigilante groups should not be permitted to force women, adult or minor, into marriage or compulsory heterosexuality. This also means that young adults should not be forced into heterosexuality per se, if they are not sexually attracted to the opposite sex.

The Supreme Court rightly holds that the 'the girl child must not be deprived of her right of choice'. The right to choose, which is free and unfettered, includes freedom from parental pressure to marry early, freedom from forced marriages, freedom of choice of sexual orientation, and freedom to find self-fulfilment through study, work, profession, vocation or talent.

Although the law offers a specific grammar of rights, forcing young persons into compulsory heterosexuality is not seen as a social evil. How then will equality be a lived reality, by and for women, sexual minorities and children?

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Shedding light on Saubhagya

The electrification scheme needs to be thought through more carefully



SANJAY KUMAR & ANANYA SINGH

The Pradhan Mantri Sahaj Bijli Har Ghar Yojana ('Saubhagya') launched in September, which claims to ensure electrification of all willing households in the country, is too ambitious a project. While it makes grandiose promises to provide a free electricity connection to all willing Below Poverty Line households and to all others on a payment of ₹500 (which shall be recovered by the power distribution companies/power departments in 10 instalments along with electricity bills), it expects the poor to pay the bills without providing any subsidy to ease their burden. Even to the best of their abilities the poor would often not be in a position to pay regular electricity bills, which in turn could result in disconnection. The government has conveniently overlooked the fact that for the poor in some States, the inability to pay an electricity bill is a big impediment.

This new scheme is just a way of refurbishing the Deen Dayal Upadhyaya Gram Jyoti Yojana (DDUGJY), the earlier scheme of rural electrification launched in July 2015, which aimed to electrify all un-electrified villages by May 2018.

Definition and the gap

Under DDUGJY, the government managed to electrify 14,701 villages while 2,760 villages remain un-electrified; out of these, work is still in progress in a total of 2,611 villages. However, out of the 14,701 villages, only in 8%, i.e. 1,198 villages, do all households have connectivity. Even if we take into consideration the fact that so many villages have been "electrified", the next point of contention is the definition used. According to the definition, a village is considered to be electrified if 10% households have an electricity connection and related basic infrastructure. Furthermore, even in these 10% of households, there is no promise of minimum hours of supply. The question we then need to ask is this: given that 90% of households may not have power supply and of those 10% with electricity not having a regular supply, can we still consider such a village to be electrified in a meaningful



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way? The objective of the Saubhagya scheme is to "provide energy access to all by last mile connectivity and electricity connections to all remaining un-electrified households in rural as well as urban areas to achieve universal household electrification in the country." On the face of it, the scheme may only be able to plug the gaps and address the issues of entry barrier, last mile connectivity and release of connections, but it can guarantee neither regular electricity supply nor continuation of those connections in case of non-payment. A free electricity connection may provide some relief as far as the financial burden is concerned. However, expecting poor households to bear the recurring burden of bills

as per the prevailing tariff of DISCOMs is unimaginable.

Even if the programme is successful, hypothetically, and all households are provided a connection, there would still be the problem of regular supply. Industry estimates suggest that this scheme would potentially require an additional 28,000 MW and additional energy of about 80,000 million units per annum, which is roughly 7% of India's current installed power capacity. There is a power shortage even at this moment leading to scheduled and unscheduled load shedding, often up to 10 hours or more. The problem is graver still in interior rural India. Considering the huge lapses as far as electricity availability is concerned, managing this additional demand would prove to be challenging. We should also not forget that the provision of providing one-two hours' supply a day is not the same as provision of regular supply.

In the past three years, we have seen a series of policies and promises urging us to ponder over the type of welfare politics India is witnessing. Symbolically, all such attempts have a lot of significance as far as the bid to secure popular support is concerned. However, there

has been a lot of debate in the past over many of the government's policies which it claims to be based on the primary goal of "ushering in development". Nevertheless, it must be a cause of worry that the government has embraced the slogans of welfare politics without being able to deliver substantial and meaningful results. Irrespective of the poor track record as far as meaningful change is concerned, such policies have aided the government in building an image of being people-centric.

Certainly, Saubhagya has some positives such as provision for households outside the reach of grid lines. However, our contention is that the policy has set a standard for itself without enough focus on its capacity to deliver results. The policy statement echoes the commitment to facilitate economic growth and social development, but we still need to ask whether this is another instance of messaging for an electoral purpose.

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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.

A different path

The article, "On a different trajectory" (October 24), about the Naxalbari movement and after, has rightly analysed the decline and the fall of the Maoist/Naxalite movement in India. It is a bitter historical reality that an organisation and an ideological movement that championed the cause of the underprivileged and oppressed sections of society have changed track. It is pertinent to mention here that incidents such as the abduction of Sukma District Collector Alex Paul and the killing of Francis Induwar along with a number of cold blooded massacres of civilians by the Naxalites have exposed their scant respect and regard for human rights and civility. The leaders of the movement need to realise that resorting to violence, threats and intimidatory tactics to fulfil their objectives and goals is totally unacceptable in a democratic country such as ours. The politics of violence and extremism practised in the past have outlived their utility and have no place in a civilised world. Those who empathise with the Naxal

movement need to introspect over whether an organisation that espouses the use of violence and bloodshed is really committed to the needs and aspirations of the oppressed and the underprivileged. An effective strategy to counter Naxalism is by stepping up developmental activities in the best backward areas.

B. SURESH KUMAR,
Coimbatore

Playing the anthem

The observation of the Supreme Court judge, Justice D.Y. Chandrachud, about moral policing is timely ("Why make a show of patriotism: SC judge", October 24). Except for a few, most Indian citizens are patriotic by nature, whether they wear it on their sleeves or not. While it is appropriate to make it mandatory to play the national anthem at official gatherings and school assemblies, it is irrational to make it compulsory in settings such as cinema halls. Cinema spectators are a motley crowd, with many coming to the theatre for entertainment and to forget their miseries for a few hours. They may not even understand concepts such

as patriotism and not know why they should stand up while the national anthem is played, though they may love their motherland and donate all their valuables in times of national emergencies. In public interest, the government should dispense with the playing of the national anthem in cinema halls.

KOSARAJU CHANDRAMOULI,
Hyderabad

With the Supreme Court now questioning the need to play the national anthem in movie halls, many public figures have also started mouthing the platitude that one's loyalty to the nation does not have to be openly demonstrated. In this context, it must be noted that with globalisation, the idea of loyalty to the nation has weakened, especially in a generation which is sensing a transcending of national barriers in the matter of their employability. Also, there are many whose loyalty and emotional commitment transcend national boundaries. For all such people, the expectation that loyalty to the nation should be demonstrated is embarrassing. They should

however remember that the safe and comfortable life of all people living in India, including of the parents of those who have emotionally risen to global citizenship, depends on a dedicated corps of defence services personnel, the police forces, railway personnel, electricity department staff, water supply staff, road construction and maintenance personnel and a host of others who retain their loyalty to the nation. Therefore, the concept of nationalism cannot be considered obsolete, nor should those who spend more than two hours watching a film grudge the extra 52 seconds that the national anthem is played.

A. RAMACHANDRAN,
Palakkad

Women at Sabarimala

The ban on the entry to Sabarimala of women between ages 10 to 50 should not only be looked upon as a gender issue but also as one relating to temples. In today's political situation, there is every possibility of communal elements whipping up religious sentiments to polarise society and consolidate divisive forces.

Such a possibility does not bode well for the secular fabric of the country. The larger issues really affecting women are health care, education, access to job opportunities, equal pay, pre- and post-natal care, honour killings and other issues affecting the lives and status of women in a civilised society. The Supreme Court has its task cut out in trying to balance protecting women's rights on one hand and religious sentiments on the other.

N.G.R. PRASAD,
Chennai

On the margins

It was shocking to read the

report, "Leprosy erases their food source" (Sunday Special", October 24), on the denial of rations to some 1.5 lakh people in Andhra Pradesh as they do not have necessary biometrics to prove their identity. What is shameful is not the disease, but our 'identification system' that discriminates against such marginalised sections. Any national system for identification should be able to handle all types of exceptions before it is put to use.

RUGMANI VINOD,
Thiruvananthapuram

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CORRECTIONS & CLARIFICATIONS:

A report headlined "PIL plea to revoke Mersal's censor certificate" (Oct. 24, 2017, some editions) gave the full form of GST as *General Sales Tax*. It should have been *Goods and Services Tax*.

Error in names: This is in reference to a proposal to set up sewage treatment plants in *Haridwar in Uttar Pradesh* (in the report headlined "Why is it difficult to clean up the Ganga?", Who-What-Why-When-Where page, Oct. 22, 2017): the name of the town is *Haridwar* and it is in *Uttarakhand* – not Uttar Pradesh.

In the map published alongside "Pushing for a 'fair' deal" (Data Point, Op-Ed page, Oct. 16, 2017) the boundary line between Maharashtra and Madhya Pradesh was missing. While the pointer was to the State of Madhya Pradesh, the representation had merged it with the neighbouring State of Maharashtra.

If is the policy of The Hindu to correct significant errors as soon as possible. Please specify the edition (place of publication), date and page. The Readers' Editor's office can be contacted by Telephone: +91-44-28418297/28576300 (11 a.m. to 5 p.m., Monday to Friday); Fax: +91-44-28552963; E-mail: readerseditor@thehindu.co.in; Mail: Readers' Editor, The Hindu, Kasturi Buildings, 859 & 860 Anna Salai, Chennai 600 002, India. All communication must carry the full postal address and telephone number. No personal visits. The Terms of Reference for the Readers' Editor are on www.thehindu.com