



## No, Minister

Jayant Sinha does his office a disservice by felicitating cow vigilantism convicts on bail

Everyone is entitled to presumptions of the guilt or innocence of a convict. And this applies equally to those who hold high public office as it does to ordinary citizens. But it is one thing for Jayant Sinha, Union Minister of State for Civil Aviation, to have serious reservations about the verdict of the fast track court in Jharkhand that convicted, and sentenced, a bunch of people to life imprisonment in a cow vigilantism case. It is quite another to felicitate those convicted merely because they were let out on bail by the Jharkhand High Court. A release on bail, as Mr. Sinha surely knows, is not an acquittal. The eight garlanded men he posed with for celebratory photos are still convicts, who were tried in a case in which a meat trader was savagely beaten to death on suspicion of transporting beef. That a Central Minister could have hobnobbed in such a public fashion with those convicted of murder is inexcusable. As a lawmaker, he ought to have known that doing so would raise inevitable questions in the public mind about his commitment to the rule of law and his lack of faith in the criminal justice system. In doing what he did, he allowed his personal beliefs to trump his public responsibilities. Mr. Sinha has declared that he is against any kind of vigilantism and all forms of violence. His defence for his grave lapse lies in a fine distinction. He believes there is a difference between the eight who were let out on bail and some others who participated in the murderous assault. While it is true that the group of eight was released from prison on the ground that the available visual evidence showed them only as onlookers as opposed to assaulters, the Jharkhand High Court's order is not a proclamation of innocence. This depends on the outcome of the appeal – something that Mr. Sinha did not care to wait for.

From the string of statements he made on social media, it is far from clear whether Mr. Sinha has so much as paused to consider, leave alone care about, what the eight were doing at the scene of the crime. This strengthens the charge that narrow political considerations, as opposed to a presumed miscarriage of justice, played a role in his action – to first champion their innocence and then to celebrate their release. His clarifications notwithstanding, Mr. Sinha has lent the impression he has been guided by the political exigencies that prevail in his Hazaribagh Lok Sabha constituency, where the murder took place. Wittingly or unwittingly, he has opened himself up to the charge that he is indulging cow vigilantism and taking sides on the basis of the party affiliation of the convicts. One of the convicts, Nityanand Mahto, is a local leader of the BJP, and is known to Mr. Sinha. For him to claim he did nothing more than wish the eight well when they came to see him on their release on bail is neither convincing nor acceptable.

## No one wins

The U.S.-China trade war is on; unless saner counsel prevails, it will affect others too

The trade wars have finally begun. After exchanging several threats over the last few months, both the United States and China implemented a tariff of 25% on imports worth \$34 billion last Friday. This marks the official beginning of what China dubs as “the biggest trade war in economic history”. While this trade war is far from the biggest the world has seen, it has the potential to cause some significant damage to the world economy. U.S. President Donald Trump, who began the year by imposing tariffs on imported solar panels and washing machines, has vowed to possibly tax all Chinese imports into the U.S., which last year added up to a little over \$500 billion. Mr. Trump's tariffs against China will likely resonate with voters who believe in his “America First” campaign and perceive the trade deficit with China as a loss to the U.S. economy. China, not surprisingly, has responded by targeting American exports like soybean and automobiles, a move that could cause job losses in American states that accommodate Mr. Trump's voter base. Other major U.S. trading partners such as the European Union, Mexico, and Canada have also slapped retaliatory tariffs on various U.S. goods.

In a globalised world, no country can hope to impose tariffs without affecting its own economic interests. Apart from disadvantaging its consumers, who will have to pay higher prices for certain goods, tariffs will also disrupt the supply chain of producers who rely on foreign imports. So both the U.S. and China, which have blamed each other for the ongoing trade war, are doing no good to their own economic fortunes by engaging in this tit-for-tat tariff battle. The minutes of the U.S. Federal Reserve June policy meeting show that economic uncertainty due to the trade war is already affecting private investment in the U.S., with many investors deciding to scale back or delay their investment plans. China, which is fighting an economic slowdown, will be equally affected. The ongoing trade war also threatens the rules-based global trade order which has managed to amicably handle trade disputes between countries for decades. It could also isolate the U.S., which has refused to settle differences through serious negotiations, as other global economies strike trade deals on their own. In March, for instance, 11 Asia-Pacific countries went ahead to sign a trans-Pacific trade deal while leaving out the U.S., which had pulled out of the Trans-Pacific Partnership in early 2017. If global trade tensions continue to simmer, however, it may not be too long before countries resort to other destructive measures such as devaluing their currencies to support domestic exporters. The world economy, which is on a slow path to recovery, can do without such unnecessary shocks.

# The democratic mandate in Delhi

India is fortunate that its courts have not had to resort to the doctrine of necessity



SANJAY HEGDE

“Nations fail when institutions of governance fail. The working of a democratic institution is impacted by the statesmanship (or the lack of it) shown by those in whom the electorate vests the trust to govern,” writes Justice D.Y. Chandrachud in his concurrence to the Supreme Court's judgment in *Government of NCT of Delhi v. Union of India*. A story from across the border illustrates precisely what the judge means.

### A cautionary tale

The Indian company Mahindra & Mahindra is today well-known for its rugged vehicles. The enterprise began when two brothers with engineering backgrounds and bureaucratic careers quit to form a company to manufacture the American Willys jeep on license in India. That jeep has had several avatars and its descendants, the Scorpios and the XUVs, still rule Indian roads. The company however began as Mahindra and Mohammed.

The Mohammed in question was Sir Malik Ghulam Mohammed. A chartered accountant who looked after the financial side of the enterprise, he was formerly a civil servant of the Indian Railway Accounts Service. After Partition he left the company for Pakistan and became its first Finance Minister under Liaquat Ali Khan. When Liaquat was assassinated, Pakistan's Governor General, Khawaja Nazimuddin, became Prime Minister and Mohammed, Pakistan's next Governor General.

Unlike India, which had adopt-

ed its Constitution in 1950, Pakistan had not succeeded in framing a Constitution. The Government of India Act 1935 and the Indian Independence Act 1947 continued to operate. When language riots broke out in East Pakistan in the 1950s, Governor General Ghulam Mohammed dismissed Prime Minister Nazimuddin, resorting to reserve powers under the colonial scheme of the Government of India Act of 1935. When the Constituent Assembly of Pakistan sought to limit the Governor General's powers, he dismissed the Assembly in 1954.

The Assembly petitioned the Sindh High Court, which ruled in its favour, but the decision was overruled by a split decision in the Pakistan Supreme Court by a bench headed by Chief Justice Muhammad Munir. Justice Munir had held that it was necessary to go beyond the constitution to the common law, to general legal maxims, and to English historical precedent. He had relied on Bracton's maxim, “that which is otherwise not lawful is made lawful by necessity”.

An appointed Governor General thus effectively became the ruler of Pakistan. Ghulam Muhammed however fell ill, and appointed another former bureaucrat, Iskander Mirza, as acting Governor General. In 1955 Mirza dismissed Ghulam Muhammed, to become Governor General himself. Later when Pakistan's Constitution was finally adopted in 1956, Mirza became President. In 1958 he was overthrown by his own hand-picked army commander, General Ayub Khan. When martial law was challenged in the Supreme Court in 1958, the doctrine of necessity was again used to repel the challenge. Judicial interpretation thus made necessity the mother of martial law.

In recent times, Najeeb Jung and Anil Bajjal, as Lieutenant Go-



vernors of Delhi, seemed to play Governor General. They overruled the elected government of Arvind Kejriwal (himself another former bureaucrat) on almost every issue of administration. They relied on a proviso to Article 239AA of the Constitution, which provides that “in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.”

### Sealed by the court

Thus in almost all administrative matters of consequence, the Lieutenant Governor acted as though he was the final word and that it was not necessary for him to seek the aid and advice of the elected government. A government for 20 million residents of Delhi was told that it could not govern if the Lieutenant Governor chose to not let them govern. Last week's Supreme Court judgment in the *Government of the NCT of Delhi* has finally put an end to such

# The tree as an urban coordinate

A mature tree creates a sense of civilisation in a way that a manicured green belt cannot



NEHA SINHA

The ongoing protests in some of India's largest cities (these include Delhi and Mumbai) to save natural and not built entities – trees in urban spaces (*see picture*) – are remarkable, even though we understand that cities are centres of construction; spaces curated and created mainly by the human hand.

Hundreds of Delhi residents took to the streets in protest against a plan to have 14,000 trees cut for the “redevelopment” of government colonies in South Delhi. In Mumbai, citizens have been fighting for years to save over 2,000 trees in Aarey, slated to be felled for another kind of development – to make way for a metro line car shed.

The idea of an urban tree, one that is outside of a lush forest, does not resonate ecologically as much as a forest or a ‘pristine’ na-

tional park. Yet for urban activists protesting for their trees to be saved, the fight is for the tree they can see near their front porch; not one that has been marked for transplantation in unreachable parts of the city. For them, it is the tree that situates a particular part of the city by becoming an immutable part of the integrity of the landscape.

### Trees outside a forest

It is well known that forests are invaluable as ecological entities. The UN's REDD, or Reducing Emissions from Deforestation and Forest Degradation in Developing Countries, programme lays emphasis on planting and maintaining forests as a means to counter climate change. In India, forests are governed under the Forest (Conservation) Act, 1980, State laws, and the Indian Forest Act, 1927, which lay down elaborate rules for the conservation and diversion of forests. Despite this, forests are the first targets when it comes to projects such as mining, dams, highways, industrial projects and so on, to be offset by compensatory afforestation. Former Minister of Environment,



Forests and Climate Change Prakash Javadekar once remarked that diversion of forest should be seen as ‘reforestation’. As far as the issue of trees outside forest areas is concerned – city trees – the situation is much worse.

Trees in cities usually come under State Tree Acts; they can have variable descriptions. In Delhi, for example, these are usually avenue or colony trees. In the case of Aarey, it is a green belt or green patch. The monikers of ‘green belts’ or ‘green cover’ suggest a transferable quality in management – that the city would not be worse off if another tree or green belt comes up elsewhere, as long as it is green. Therefore, it is important that urban citizens are fighting to keep city trees where

they are. They argue that the age and very place of the tree is an important fulcrum for their activism. In a sense then, a mature tree creates a sense of civilisation.

### Shared habitat

As India moves towards more urbanisation, can cities be looked at more as shared habitats between humans and biodiversity, rather than a jungle of buildings? The question, even if not consciously faced through planning strategies, will need to be tackled in one form or the other as cities become progressively more unliveable. With its year-round hazardous air quality and an increase in cars and inhabitants, Delhi is a tough city to live in. Trees in Delhi do not just purify the air; they are also visual relief.

The fact that cities need open spaces and greenery is clear from the number of people crowding parks, be it Central Park in New York or Lodhi Gardens in New Delhi. The earlier wave of tree plantation in Delhi which included Sarojini Nagar, Nauroji Nagar, and Netaji Nagar, marked for redevelopment, have trees beneficial for biodiversity – native and natural-

Justice Ashok Bhushan while broadly concurring with the other two judgments holds that the “LG has to be kept informed of all proposals, agendas of meeting and decisions taken. The purpose of communication of all decisions is to keep him posted with the administration of Delhi. The communication of all decisions is necessary to enable him to go through the proposals and decisions so as to enable him to exercise the powers as conceded to him under 1991 Act and Rules 1993... the purpose of communication is not to obtain his concurrence...”

Three and a half years of a five-year term have been lost in a constitutional wrangle, caused as much by the bureaucracy as by the politicians. Apart from administration, what has suffered is the reputation of the bureaucracy for impartial, apolitical governance. Bureaucrats have picked sides in the political battle and have lost, in court and in public esteem. Administrative paralysis has been used for political chokeholds.

### A telling pun

I leave you with one last story of Pakistan. In 1958 the President responded to a state of political chaos by declaring martial law, and calling out the army. A section of the public punned on the term ‘martial law’, saying, “Pakistan *mein ab toh mashallah ho gaya* (by the grace of God, things in Pakistan are well now).” We in India are fortunate that our courts have not had to resort to the doctrine of necessity. Our politicians and bureaucrats may have in this instance failed, but the Supreme Court has, for the moment, delivered us from mischief. Amen to that, and may our quasi-federal Union long endure as a democratic polity.

Sanjay Hegde is a senior advocate of the Supreme Court

ised trees such as neem, banyan, peepal, semal, arjuna, and siris. These large, old trees have become markers for Delhi. Yet, several new constructions in the cities belie these values even though they look green or have green belts. Buildings with basements are made in ways that allow only shallow beds which would not withstand deep-rooted, native trees. In sum, many new apartment complexes have green belts that do very little for biodiversity or the ecological idea of greenery.

Thus the fight for Delhi's trees is also a fight for the right kind of species to be allowed to grow to the right size; this flies in the face of quickly manicured or manufactured ‘green belts’. It outlines a struggle for cities which have a civilisation of shared meaning and relationships between people and nature. And clearly this relationship comes through size, age and the tree as an optic for a lived, native habitat for birds and wildlife. Urban biodiversity then can be its own form of civilisation – one that our air as well as our urban identities needs desperately.

Neha Sinha is a wildlife conservationist

## 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.

### Controversial

Nothing can be more bewildering than having a Harvard-educated Union Minister to claim that by welcoming those convicted in a case of lynching, he, the Minister, was only “honouring the due process of law” (“Honoured legal process: Jayant Sinha”, July 8). The killing of a Muslim trader was barbaric. The Minister's defence of his own reprehensible conduct is even more condemnable. The Jharkhand High Court has only suspended their sentence while granting the men bail. In the eyes of the law, they continue to be guilty. It is unfortunate that there are a few members of the ruling party who have indicated their support for hate speech and express solidarity with those who have been accused of lynching. These are clear signs of the kind of vicious polarising the BJP may be preparing us for in the run-up to 2019. It is worrying that the Prime

Minister has chosen not to act against such party members, which only strengthens the perception that there is something hidden in his silence.

S.K. CHOUDHURY,  
Bengaluru

■ Whether the BJP likes it or not, it is already on the back foot as far as incidents of lynching are concerned. Mr. Sinha's despicable gesture has put not only him but also the BJP in a tight spot. He has given the Opposition enough ammunition to attack the government with. It is time the BJP takes firm steps before the ground beneath its feet slips away.

N. MAHADEVAN,  
Chennai

### Big change

The government's decision to entrust the National Testing Agency with conducting the Joint Entrance Examination (Mains) and NEET twice a year is a move that will leave students less stressed. Currently, many students are

unable to manage their board examinations and these entrance examinations simultaneously. It will also give more space for the Central Board of Secondary Education to improve its standards. Involving the NTA will help ensure that the examinations are conducted in a fair manner (“JEE (Mains), NEET to be held twice a year”, July 8).

ASIF ALI,  
Roorkee, Uttarakhand

### Humble postcard

Old-timers will recall the eminence the Post and Telegraphs Department once occupied in the communication network. Heavy postal bags being handled by the Railway Mail Service on platforms were a common sight. It was a time when people took pride in writing. Though mobile post offices may have been revived, the fact is that very few people buy letter forms and post cards. The might of the postal department has eroded after the advent of private couriers.

Letter writing aided our thinking skills and sharpened our communication. It is sad that the digital world is slowly obfuscating the importance of letter writing. The joy of waiting for and receiving post cards and inland letters and reading their contents have become a thing of the past (“Post cards still around, but nothing to write home about”, July 8).

R. SRIDHARAN,  
Chennai

■ That the post card is fast disappearing is a big loss from an aesthetic and emotional point of view. Nothing can equal a handwritten letter. Recently, while looking for old records I came across a post card written by my father decades ago that reflected his affection and concern. Though I am old, it instantly brought tears to my eyes. The current generation does not know what it is missing. In their twilight years, they will only have an empty screen on their smartphones and have to rely solely on

their fading memory to recollect the past.

S. RAJAGOPALAN,  
Chennai

■ Living in a digital era, we seem to think that smartphones and the Internet have replaced popular and long-standing means of communication. But we seem to be wrong, as the humble yellow post card and the blue inland letter paper still hold their own. There is still a demand for post cards and inland letters in rural India. Both are brilliant tools of communication and help one recall the whole system of communication built around them – iconic red postboxes that were once close to our hearts and stood majestically at the entrance to many a street. A handwritten post card or inland letter not only helps one develop a special bonding with others, but such a form can be preserved for years for nostalgia.

R. SIVAKUMAR,  
Chennai

### Stunned, at Wimbledon

The difficulty of a highly-ranked player playing a relatively unknown opponent is that the latter has nothing to lose and everything to gain (‘Sport’ page, “Hsieh casts spell on Halep, causes biggest shock of the day”, July 8). With no expectation to win, there is no pressure on such opponents whereas an established player needs to win and move on to the next round. When seeded players make an unexpected exit, it is not as though they have played below their potential; it is because the carefree opponent had played with unrestricted freedom which sometimes clicks. The only way for the favourites to win is to ensure that they take the bull by the horns without waiting for the opponent to commit mistakes. Simona Halep paid a price for not doing this and it is as simple as that.

V. LAKSHMANAN,  
Tirupur, Tamil Nadu

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