



## By evidence alone

The Malegaon trial should show the justice system rises above competing narratives

There are occasions when not only the accused but the criminal justice system itself is on trial. The case relating to the Malegaon blast of 2008 is one such. By overruling the National Investigation Agency's finding that key members of a Hindu right-wing group called Abhinav Bharat were not involved in the explosion that killed at least six persons and wounded over a hundred in the Maharashtra town, the Special Court in Mumbai has chosen to let the evidence decide their guilt or innocence. It has framed charges against them for conspiracy, murder and other offences, including under the provisions of the Unlawful Activities (Prevention) Act. The Anti-Terrorism Squad of the Maharashtra police and the NIA have come to varying conclusions on the culpability of Abhinav Bharat members. The ATS chargesheet claims it was primarily a conspiracy hatched by Sadhvi Pragya Singh Thakur and Lt. Col. Prasad Purohit, among others. In a supplementary chargesheet, the NIA concluded there was either no or insufficient evidence to proceed against some of them. Special Judge S.D. Tekale has chosen to steer clear of pronouncing his decision on which of the two he would go by. Where two conflicting reports are on record, he ruled it is better to go through the trial and consider the evidence it brings. His decision is the right one and it rises above the competing narratives of the two agencies.

What made this case politically sensitive was the debate over whether 'Hindu' or 'saffron' terror had come into being given the alleged role of an organisation with the objective of establishing 'Hindu Rashtira' in the country. Initially, an Islamist group was accused of being behind the blasts that took place in September 2006 at Malegaon, killing 37 people, but a later chargesheet said the perpetrators belonged to a group of Hindu activists. It took nearly ten years for those initially arrested to be discharged, for want of evidence. These factors cast an unfortunate shadow on the trial related to the 2008 case. Allegations surfaced that the NIA prosecutor was under pressure to dilute the charges against Pragya and others. Against this backdrop, it is better that the evidence, whether substantive or dodgy, is assessed at a trial, lest it be said later that there was any miscarriage of justice. Based on preliminary material, the judge has thrown out charges under the Maharashtra Control of Organised Crime Act. He has discharged three persons for want of evidence, and sent two to regular courts to be tried under the Arms Act. The rest will face trial. This decision augurs well for the integrity of the process, as it is the best way to put at rest suspicion that one agency tried to frame the suspects, while another was deliberately soft. It is important that this trial, although agonisingly delayed, is nothing but fair.

## For a wider pool

The burden of volunteering for clinical trials must not fall only on the poor and vulnerable

Clinical trials involving human subjects have long been a flashpoint between bioethicists and clinical research organisations (CROs) in India. Landmark amendments to the Drugs and Cosmetics Act in 2013 led to better protection of vulnerable groups such as illiterate people, but more regulation is needed to ensure truly ethical research. While CROs have argued that more rules will stifle the industry, the truth is that ethical science is often better science. The big problem plaguing clinical research is an over-representation of low-income groups among trial subjects. Sometimes CROs recruit them selectively, exploiting financial need and medical ignorance; at other times people over-volunteer for the money. Such over-volunteering occurs more frequently in bioequivalence studies, which test the metabolism of generics in healthy subjects. Because these subjects are well-paid, and get no therapeutic benefit, their only reward from the trial is financial. This results in an incentive to lie about one's medical history or enrol in multiple trials to maximise one's income.

Such deception is a risk not only to volunteer health but also to society, because it can throw off the trial's results. In recent years, several Indian CROs were found by European drug regulators and the World Health Organisation to be fudging bioequivalence data. While such duplicity by a CRO is likely to be found out, volunteer deception, which can impact data as greatly, can slip under the radar. Unsafe drugs can make their way into the market as a result, or safe drugs can get rejected. This is why volunteer honesty is paramount. But how can regulators ensure this? One potential solution is a national registry of trial volunteers, which will alert a CRO when someone signs up for two studies simultaneously. But this will need work, because volunteer privacy cannot be compromised. So regulators need to create a system that anonymises each participant's data. Another option is to pay volunteers less, taking away the financial incentive to fudge their participation history. But this measure, in isolation, would reduce trial participation dramatically: an unacceptable side-effect because clinical trials are essential to drug research. A third, more sustainable solution is to encourage a wider cross-section of society to participate in research on human subjects. Society at large must realise the valuable service that clinical research subjects perform by making drugs safe for the rest of us. It is imperative that this burden not fall completely on the vulnerable groups. Instead, the educated and affluent, who have greater access to the drugs that emerge from clinical research, must grasp the criticality of this research and pull their weight. Selectiveness in recruiting subjects for clinical trials leads not only to human rights violations but also to bad science. Civil society's vigilance is vital.

# On another New Year's Day

A century ago, an agenda was spelt out for India — it is as valid today as it was then



GOPALKRISHNA GANDHI

One hundred years ago this day, on January 1, 1918, Mohandas K. Gandhi was in Ahmedabad. And — no surprise here — he addressed a meeting of residents in that city. One would imagine the meeting was about the Great War that was coming to an end or the battle for Swaraj which was just beginning under his leadership. But no, it was about — and again no surprise — something entirely different.

### Three necessities

It was about securing three basic necessities which he spelt out as: "Air, water and grains." He spoke in Gujarati and his key sentence was: *Hava pani ane anaj e khorak-na mukhya tattvo chhe* (air, water and grains are essential to human nourishment). If Swaraj, he said, means self-rule, then securing these three *khora*k means securing Swaraj. Explaining himself with typical concision, Gandhi said: "Air is free to all but if it is polluted it harms our health... Next comes water... From now on we must take up the effort to secure water. Councillors are servants of the people and we have a right to question them." On the subject of grains, he spoke with action, not just words. In a parallel initiative on the same day, he got the Gujarat Sabha, of which he was president, to write to the Bombay government to exempt in some cases and postpone in some others land revenue assessment due to the failure of crops in Kheda district.

Air, water and grains were the triple *khora*k of a people in Swaraj. This was the essence of his address.

On this, the first day of 2018, if



we were to take, with great difficulty in Delhi and less so elsewhere, a deep breath and look ahead on where we stand on Gandhi's first *khora*k point, namely, clean air, or on atmospheric pollution, we would we find, first, that India today is among the world's largest carbon emitters, following China, the U.S. and the European Union, is hurting itself by the global rise in extreme climate events and water and food crises. Second, that having ratified the non-binding Paris Agreement on climate change, India has undertaken a huge moral responsibility in terms of reducing the emissions intensity of its GDP by 33-35% by 2030 from 2005 levels, changing over from coal-based generation to renewable energy sources and, increasing the annual target of forest cover. Third, and the most stark, with the U.S. pulling out of the treaty, the financial aid for the follow-up expected from developing countries is in jeopardy. This makes default and deficits in follow-up a distinct possibility. We need to ask and need to know how equipped we are to meet our commitment to the Paris Agreement. The outlook, as we enter 2018, for India's commitment to the Paris treaty is fraught.

### Running dry

The scene on the second *khora*k, water, is even more worrisome.

For millennia India has lived from monsoon to monsoon. But now, the relentless thirst of 1.3 billion Indians for water — domestic, agricultural, industrial, 'construction' — has turned our land into one giant groundwater sieve. Technically renewable, our groundwater as a resource is hopelessly overdrawn. Per capita availability of water in India dropped from 6,042 cubic metres in 1947 to about 1,545 cubic metres in 2011. Today the figure should be much lower, and by 2030, India's water scarcity will have reached alarming proportions. Are we — the peoplehood of India — who form the stakeholders in our water resources really aware of this? We are not. The rock-hard fact is that the National Water Mission's efforts notwithstanding, we are dangerously water deficient and deplorably water iniquitous. Water-profligacy by a few contrasts with the water-inadequacy of the many. And water, or the lack of it, is the cruellest of these. Scarce water is also about unsafe water, and it is estimated that 21% of communicable diseases in India are caused by poor and un-overseen water supply. A significant percentage of our waste water, it has been estimated, is discharged raw into rivers, lakes. Will this new year, 2018, see someone, anyone, from government or our polity scream a warning about our water peril? Most unlikely.

# The task before Cyril Ramaphosa

The new leader of the African National Congress must face up to the toll taken by the Zuma years



GARIMELLA SUBRAMANIAM

A ruling by South Africa's Constitutional Court on Friday, December 29, that Parliament should put in place a mechanism for Jacob Zuma's removal is a judicial setback for the President. The potentially premature end to his scandal-plagued tenure will also be a political blow for Cyril Ramaphosa, the Deputy President, who was elected leader of the African National Congress (ANC) at the party's conference last month. The business tycoon and trade union leader narrowly beat Nkosazana Dlamini-Zuma, a former minister, Mr. Zuma's ex-wife and preferred candidate, in the December 18 vote. As the organisation's new leader, Mr. Ramaphosa will also lead the party into the country's 2019 general elections.

His victory intensified speculation over the early exit of the beleaguered Mr. Zuma, who has been embroiled in allegations of high profile corruption that predate his presidential tenure since 2009. But the election of a number

of Mr. Zuma's supporters to the ANC top executive in last month's organisational poll may have put paid to such hopes, even if their populist programmes will restrict Mr. Ramaphosa's pragmatic approach on the economy before the 2019 popular vote.

The most spectacular of Mr. Zuma's controversial links involves "state capture," a cryptic description of the strategic connections between the President's family and the mining and media empire of the now notorious Gupta brothers. Tales of how the Guptas cornered lucrative state contracts and even influenced ministerial appointments in their adopted home were recently recounted before the U.K. House of Lords by veteran anti-apartheid campaigner Peter Hain. Dealings with the Guptas have tarnished the reputation of a U.K.-based public relations agency, beside other global consulting, software and financial management firms.

### Storm of litigation

A scathing report in November 2016 by South Africa's former public protector — which the President initially blocked — argued for an inquiry into Mr. Zuma's ties with the Guptas. A year later, in December, the Pretoria High Court ordered Mr. Zuma to act on that recommendation within a month,



even as it characterised the delay as tantamount to disregarding the ombudsman's constitutional duties. The court referred the task of appointing the judges on that commission to the Chief Justice, citing the obvious conflict of interest involved in the President's bid.

But even as a combative Mr. Zuma has brazened out mounting judicial challenges and growing opposition to his rule, his past record of excesses seems to be fast catching up with him. In October, the country's highest appeals court upheld a verdict reinstating nearly 800 charges of corruption, fraud, money-laundering and racketeering in a multi-million dollar arms deal. These cases have a long history of mysteriously being reopened and set aside several times since the eve of Mr. Zuma's ascent to office in 2009. Perhaps buttressing the prospects for trials on this occasion, the Pretoria court in December ordered the re-

moval of the country's chief prosecutor, a Zuma appointee, handing responsibility to select his successor to the Deputy President. The verdict of the country's highest court last week acquires significance against this engulfing storm of litigation. The majority ruled that Parliament had failed to hold Mr. Zuma to account for the use of millions of rands of public funds to upgrade his rural home in Nkandla, in his native province of KwaZulu-Natal. The court left no room for doubt as to what precisely it meant by the failure of the legislature. It cited Section 89 of South Africa's Constitution, which provides for the President's removal for gross misconduct or violation of the Constitution, if two-thirds of the National Assembly backed such a move.

The latest verdict is a sequel to the court's unanimous 2016 ruling, when it held that Mr. Zuma's refusal to reimburse the state, as per the 2014 recommendations of the country's public protector, was inconsistent with the Constitution. Mr. Zuma survived an opposition-triggered impeachment motion in Parliament within days of the judicial rebuke, as also a string of motions of no-confidence in more recent months.

But the ANC, under a dynamic

new leader, could find it hard to ignore both its diminishing moral authority as the champion of the liberation movement or the political price of defending an embattled Mr. Zuma. Conversely, the prospects of Nelson Mandela's protegee winning the country's presidency depend on regaining the trust of the black majority that has grown alienated from the erstwhile anti-apartheid movement. Critical to redressing the malaise is a boost to school education and black empowerment programmes that cater to wider sections outside the ANC's ranks.

The promise of free university education and the expropriation of land without compensation — planks of Mr. Ramaphosa's rivals which the party adopted in December — underscore the difficult trade-offs the perceived market-friendly new leader would have to negotiate. Another contentious resolution on the nationalisation of South Africa's central bank has been received with some caution by the institution. Vibrant civic campaigns, a strong opposition and an independent judiciary have been the hallmarks of democratic South Africa. Their further consolidation is an imperative more than ever.

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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.

### Seeking opinion

It is not unusual for the judiciary, in the discharge of its duties, to seek external help and opinion ("Taking on the gatekeepers", December 29). In the Aruna Shanbaug case, the judiciary constituted a medical team to evaluate her condition and much emphasis was placed on the medical report. In fact, the examination by the medical team was videographed and screened in court. When that was the case, what is the harm in soliciting opinions from people who may have better knowledge of a sensitive subject? Pliability is essential when there is a lurking doubt. Seen from this angle, referring the film *Padmavati* to the "royal family" and historians seems eminently correct. If

writers and columnists have freedom of expression, why not for those who are in the know of things?

V. LAKSHMANAN,  
Tirupur, Tamil Nadu

### The port plan

The information about acquiring Marmagao port is known and has been dealt with in R.J. Moore's book, *Escape From Empire*, Clarendon press ('Sunday Special') - 'Nizam made vain bid to buy Marmagao port from Portugal', December 31). In April 1947, Walter Monckton, Adviser to the then Nizam of Hyderabad, was in touch with Lord Templewood about the acquisition of port facilities at Marmagao, in then Portuguese Goa. A rail link was to be built by the Hyderabad state. Businessman Alexander

Roger, another actor in the scene, was known to the Portuguese authorities and employed as an intermediary. Monckton himself was supposed to have visited Portugal to work on the idea of acquisition of the port. All these discussions were part of a larger plan, the Aligarh plan, of dividing British India into the three sovereign states of Hindustan, North West India and Bengal. Hyderabad was to be recognised as a sovereign state, with the Carnatic seaboard restored to it.

H.N. RAMAKRISHNA,  
Bengaluru

### Let them sing

I have the greatest admiration for the quality of T.M. Krishna's music and his powerful articulation whenever he writes.

However, I strongly disagree with his near-imperious appeal, in his article, to older musicians to call it a day when they feel they have lost their lustre and glitter (Friday Review - 'Perspective' - "The temptation to not let go", December 29, 2017). Music is not a game of cricket where statistics count and go against a player once he loses his form, and therefore his place in a competitive contest. Musicians are not in competition with one another. There is space for everybody. Do we ever look upon Sanjay Subrahmanyan and T.M. Krishna as being locked in a competition? They co-exist much to the delight of thousands of rasikas like me who enjoy listening to both. Senior vidwans may crave

for attention but do not normally denigrate those junior to them who steal the limelight. As long as a sabha invites an ageing musician and there is an audience, however small, to listen to him or her, why should anyone retire? T.M. Krishna may deny that he is not prescribing an age for retirement but his tenor indicates otherwise. He has the right to speak his mind but he has no right to hurt others who came before him. He is a brilliant musician and many like me will travel anywhere to listen to him. I am sad that he has lost track, something that distorts his image as a singer par excellence. I hate to say this but populism is eating into his golden voice.

R.K. RAGHAVAN,  
HIGH COMMISSIONER TO CYPRUS,  
Nicosia, Cyprus

### Beyond boundaries

Cricket is a very popular sport, especially in India. Since 2005, an international cricket event for the learning disabled known as the Inas Tri-Nations Series has grown from strength to strength. The most recent tournament was organised in July 2017 in England. Ever since its inception, only South Africa, England and Australia have competed in this event and all three countries have support from their mainstream federations. With the next event in 2019, one hopes that India takes part in the event and adds impetus to the cricketing movement. It needs to grow.

WINSTON STUBBS,  
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