



The outsider

The real issue about our adultery law is whether it should be treated as a crime

There is no doubt at all that a reconsideration of the law on adultery is long overdue. By agreeing to have another look at the constitutional validity of Section 497 of the Indian Penal Code, under which men can be prosecuted for adultery, the Supreme Court has re-opened a question that has been decided thrice in the past. This time the court will have to do more than pronounce on whether the provision discriminates against men on the basis of gender and gives an unconstitutional exemption to women. While agreeing to issue notice to the government, the Bench has observed that the provision is archaic. It has further noted that in a case of adultery, one person is liable for the offence but the other is absolved, and that the concept of gender neutrality, on which criminal law normally proceeds, is absent. The court has also noted that once the consent or connivance of the husband is established, there is no offence of adultery at all. It rightly describes this as subordination of a woman and something that “creates a dent on the independent identity of a woman”. In the past, the Supreme Court has emphasised that a married woman is a “victim” and the man is “the author of the crime”. It has treated the exemption given to women as a special provision that has the protection of Article 15(3). It has rejected the argument that it is discriminatory by pointing out that neither a man nor a woman can prosecute their disloyal spouses. It is only the “outsider” to the matrimonial relationship who can be prosecuted, and that too by the aggrieved husband alone. This is made clear in Section 198(2) of the Code of Criminal Procedure, a provision also under challenge.

The matter now before the court goes beyond the limited question of the culpability of women involved in a relationship outside their marriage. It raises the related question whether there is an implicit subordination of the will of a woman. However, merely positing the issue as one of discrimination in the way the law treats two parties in a consensual relationship because of their gender is misleading. The real problem is the very fact that adultery remains a crime in the form of an archaic colonial era provision. Many countries across the world do not treat it as an offence any longer. In 2012, a United Nations Working Group on laws that discriminate against women wanted countries that treat adultery as a crime, to repeal such laws. It is one thing for adultery to be a ground for divorce, a civil proceeding, and quite another for it to be a basis for incarceration. It will be a travesty if in the name of empowering women the ambit of the criminal law is extended to cover both genders. The correct course will be to dispense with this archaic provision altogether; it serves no real purpose in the criminal statute.

IS was?

The Islamic State may have lost territory, but it still exists

Iraqi Prime Minister Haider al-Abadi has declared victory over the Islamic State, signalling an end to more than three years of battle that saw Iraqi troops first fleeing without their weapons and then, with foreign assistance, regrouping to recover lost territory. At the peak of its influence, the IS controlled almost a third of Iraq, including Mosul, its second largest city. Mr. Abadi, who took over as Prime Minister in September 2014 when the country was in the middle of the civil war, adopted a cautious, gradualist approach with direct help from the United States and Iran to take on the IS. Iraqi troops first stopped the IS's southward expansion in the suburbs of Baghdad and then started offensive operations in the group's small pockets of influence. After capturing cities such as Ramadi and Fallujah, Iraqi troops moved to Mosul, the jewel in the IS crown. Iran-trained Shia militias and Kurdish Peshmerga troops joined the ground battle, as the U.S. provided air cover. When Mosul was liberated in July after nine months of fighting, it was arguable whether a final victory over the IS was just a matter of time. Mr. Abadi claims Iraqi soldiers have established control over the vast Iraq-Syria border after ousting IS fighters from small border towns where they had retreated after losing urban areas.

For Mr. Abadi and the Iraqi military, this is a moment of both relief and accomplishment. But it may be far too simplistic to conclude that Iraq is totally rid of the IS threat. Perhaps a greater challenge they face is healing the wounds of the civil war. Iraq is a divided country today. The resource-rich south, which is mostly Shia, supports the government and is relatively peaceful. In the war-stricken north and west, there is no doubting that people feel alienated from the Shia-dominated government in Baghdad. The Kurdish Autonomous Region has already held a referendum, against the wishes of Baghdad, in which a majority of voters supported independence. If the government fails to tackle these divisions and lets parts of the country drift into anarchy again, groups like the IS will find it an easy breeding ground and regain a footing. The IS may have lost territory, but it would be blind to deny that the group doesn't exist anymore. It is not known, for instance, what happened to its self-declared Caliph, Abu Bakr al-Baghdadi. In Syria it still controls territory, even if it is under growing pressure of Russian-American bombing and Kurdish attacks. In 2006-07, al-Qaeda in Iraq had faced similar military setbacks. But when Iraq's sectarian rivalry took a turn for the worse and civil war broke out in Syria, it regrouped and reinvented itself as the IS. Mr. Abadi has to see that this doesn't repeat itself. In order to do so, he must, besides keeping the military on alert, reach out to the country's disaffected Sunnis and Kurds. Only a united Iraq can hold off the resurrection of the extremists.

The facts do not matter

Politicians like Trump and Modi play to our worst impulses as people believe what they want to believe



AMIT VARMA

The most surprising thing about these Gujarat elections is that people are so surprised at the Prime Minister's rhetoric. Narendra Modi has eschewed all talk of development, and has played to the worst impulses of the Gujarati people. His main tool is Hindu-Muslim polarisation, which is reflected in the language he uses for his opponents. The Congress has a “Mughlai” mentality, they are ushering in an “Aurangzeb Raj”, and their top leaders are conspiring with Pakistan to make sure Mr. Modi loses. A Bharatiya Janata Party (BJP) spokesperson has also launched a scathing attack on Congress president-elect Rahul Gandhi. None of this is new.

Mr. Modi's rhetoric in the heat of campaigning has always come from below. From his references to “Mian Musharraf” over a decade ago to the “kabristan-shamshaan” comments of the recent elections in Uttar Pradesh, it has been clear that the otherness of Muslims is central to the BJP playbook. Hate drives more people to the polling booth than warm, fuzzy feelings of pluralism. But, the question is, are the Congress leaders really conspiring with Pakistan to make sure the BJP lose?

Answer: It doesn't matter.

No care for truth

In 1986, the philosopher Harry G. Frankfurt wrote an essay named “On Bullshit”, which was pu-

blished as a book in 2005 and became a surprise bestseller. The book attempts to arrive at “a theoretical understanding of bullshit”. The key difference between a liar and a “bullshitter”, Frankfurt tells us, is that the liar knows the truth and aims to deceive. The “bullshitter”, on the other hand, doesn't care about the truth. He is “neither on the side of the true nor on the side of the false,” in Frankfurt's words. “His eye is not on the facts at all, as the eyes of the honest man and of the liar are, except insofar as they may be pertinent to his interest in getting away with what he says.”

The “bullshitter” is wise, for he has cottoned on to an important truth that has become more and more glaring in these modern times: that facts don't matter. And to understand why, I ask you to go back with me in time to another seminal book, this one published in 1922.

The first chapter of “Public Opinion”, by the American journalist, Walter Lippmann, is titled “The World Outside and the Pictures in Our Heads”. In it, Lippmann makes the point that all of us have a version of the world inside our heads that resembles, but is not identical to, the world as it is. “The



real environment,” he writes, “is altogether too big, too complex, and too fleeting for direct acquaintance.”

We construct a version of the world in our heads, and feed that version, for modifying it too much will require too much effort. If facts conflict with it, we ignore those facts, and accept only those that conform to our worldview. (Cognitive psychologists call this the “Confirmation Bias”.)

Lippmann sees this as a challenge for democracy, for how are we to elect our leaders if we cannot comprehend the impact they will have on the world?

Fragmented media

I would argue that this is a far greater problem today than it was in Lippmann's time. Back then, and until a couple of decades ago, there was a broad consensus on the truth. There were gatekeepers to information and knowledge. Even accounting for biases, the mainstream media agreed on some basic facts. That has changed. The media is fragmented, there are no barriers to entry, and the mainstream media no longer has a monopoly of the dissemination of information. This is a good thing, with one worrying

side effect: whatever beliefs or impulses we might have – the earth is flat, the Jews carried out 9/11, India is a Hindu nation – we can find plenty of “evidence” for it online, and connect with like-minded people. Finding others who share our beliefs makes us more strident, and soon we form multiple echo chambers that become more and more extreme. Polarisation increases. The space in the middle disappears. And the world inside our heads, shared by so many other, becomes impervious to facts.

This also means that impulses we would otherwise not express in polite society find validation, and a voice. Here's another book you should read: in 1997, the sociologist, Timur Kuran, wrote “Private Truths, Public Lies” in which he coined the term “Preference Falsification”. There are many things we feel or believe but do not express because we fear social approbation. But as soon as we realise that others share our views, we are emboldened to express ourselves. This leads to a “Preference Cascade”: Kuran gives the example of the collapse of the Soviet Union, but an equally apt modern illustration is the rise of right-wing populists everywhere. I believe – and I apologise if this is too depressing to contemplate – that the majority of us are bigots, misogynists, racists, and tribal in our thinking. We have always been this way, but because liberal elites ran the media, and a liberal consensus seemed to prevail, we did not express these feelings. Social media showed us that we were not alone, and gave us the courage to express ourselves.

That's where Donald Trump comes from. That's where Mr. Modi comes from. Our masses vote for these fine gentlemen not in

spite of their bigotry and misogyny, but because of it. Mr. Trump and Mr. Modi provide them a narrative that feeds the world inside their heads. Mexicans are rapists, foreigners are bad, Muslims are stealing our girls, gaumutra cures cancer – and so on. The truth is irrelevant. Facts. Don't. Matter.

Think about the implication of this. This means that the men and women who wrote the Constitution were an out-of-touch elite, and the values they embedded in it were not shared by most of the nation. (As a libertarian, I think the Constitution was deeply flawed because it did not do enough to protect individual rights, but our society's consensus would probably be that it did too much.) The “Idea of India” that these elites spoke of was never India's Idea of India. These “liberal” values were imposed on an unwilling nation – and is such imposition, ironically, not deeply illiberal itself? This is what I call The Liberal Paradox.

All the ugliness in our politics today is the ugliness of the human condition. This is how we are. This is not a perversion of democracy but an expression of it. Those of us who are saddened by it – the liberal elites, libertarians like me – have to stop feeling entitled, and get down to work. The alt-right guru Andrew Breitbart once said something I never get tired of quoting: “Politics is downstream from Culture.” A political victory will now not come until there is a social revolution. Where will it begin?

Amit Varma is the editor of the online magazine, Pragati, a blogger at India Uncut and a podcaster at The Seen and the Unseen

Hitting a dead end

If the Nano's debut heralded India's emerging economic prowess, its demise captures the hangover of the Licence Raj



PUJA MEHRA

Dealers have stopped placing orders for the small car, the Tata Nano. Production in the Sanand plant in Gujarat is down to two cars a day. The people seem to have rejected “the people's car”.

The idea of the Nano was born one rainy day, less than 10 years ago, on a slippery Indian road, in a billionaire's car. A family riding a two-wheeler had lost control and been spilled on to the pavement. The image of the family's vulnerability and of other people riding two wheelers, many of them without helmets, negotiating rain and traffic, scrambling to reach their destinations, had seeded the idea in the mind of Ratan Tata, the billionaire. At first he toyed with the concept of a safer scooter, and then an open-sided rural vehicle. Finally, Mr. Tata and his team decided to build a ₹1 lakh car, the price tag becoming a goal by accident. Talking to a journalist in the

course of an interview, he happened to press the target on the project.

Ambitious pitch

Mr. Tata would introduce the Nano to the world at the 2008 Auto Expo, New Delhi. The new arrival was greeted with ecstasy. The ambition of the project made the world sit up and take note. It was an evocation of India's frugal engineering and low-cost manufacturing capabilities. Reflecting the country's mood of self-confidence was an agent of the demographic dividend and the ‘India Growth Story’. It announced India's new economic power.

It had a touch of swagger. There was a do-good quality to it. Behind the ambition and the rough-and-tough auto engineering was the desire of its maker to add safety and comfort to the lives of not-so-rich Indians. Through the market, of course. This was not foolish sentiment. The Tata Group hoped to make money.

The Nano was listed in the Guinness World Records as the “world's cheapest car”. The pitch struck a chord. The car generated much interest early on and was initially sold through lottery, pushing forecasts of 65% growth in the



Indian car market, contingent on the Nano's success.

Losing its way

Sadly, the Nano has not lived up to its promise. It was thought the small car would replace two wheelers, and create a market of first-time car buyers. It was thought that its low price would disrupt the auto market and change the game. India had seen this happen in the FMCG market. But few products directed at bottom of the wealth pyramid have had similar success. Mr. Tata in his heart knew what he was selling and to whom. But the market didn't buy the proposition. The Nano wore “the cheapest car” appellation with pride, not realising car purchases signal prestige and status, especially in middle-class

India. “The people's car” never really understood the people. By the time the mistake was realised, it was too late.

It didn't help that the price could not be held down to ₹1 lakh despite the concessions from government. Even the most basic variant's undiscounted price rose past ₹2 lakh. The cheap car ceased to be affordable. Rather than being the first car of two-wheeler-owning families, it acquired a bit of a crossover appeal of sorts, becoming the second or third car in some rich homes, before interest subsided altogether. In the end, the Tata Nano lost its way in a tangle of flawed assumptions and misfired ambition.

Comment on disruption

What does Tata Nano's short story of fame and failure say about disruption? The notions of disruption and ambition have gained power in recent times, in business, politics and elsewhere. The anticlimax of the Nano is an important reminder that not every disruption is guaranteed to succeed. Not all pain begets gains. Almost everything that looks great on the drawing board and at glitzy launches fails spectacularly in the market and the real world. Even successful

products must bow out when better ones come along. What separates the winners from the losers is not a love of risk. The successful disruptor understands people, before venturing to transform their lives.

The death of the Tata Nano as we know it is a setback. Thankfully, not a paralysing one. It may be reborn successfully in the electric-powered avatar. Or, another plucky business house may have a go at building “the people's car”.

If its debut heralded India's emerging economic prowess, the demise captures the hangover of the Licence Raj. The concessions to the Tata Nano plant represent a discretion-driven system in which governments sweeten invitations to business, to incentivise investments and new jobs. This is different from a rules-based system that is governed by laws, is predictable and procedure-driven. Ad hoc decisions encourage lobbying and, consequently, abuse of power and favouritism. Businesses are more likely to take political positions in exchange for commercial advantage in a discretion-driven system.

Puja Mehra is a Delhi-based journalist

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Tirupur verdict

The verdict of death sentence to six persons, by a trial court in Tirupur, Tamil Nadu, in a case of ‘honour killing’ must be appreciated. This was not an honour killing, but a horror killing. It is tragic when humanity is affected by caste, regional and religious influences. Such extreme acts strike terror in the hearts of people, create a sense of insecurity and spread fear.

A.J. RANGARAJAN,
Chennai

■ Prima facie, it may appear that justice has been meted out in the case. And the euphoria ends there. There are larger issues to be addressed to stem the trend of such brutal killings. The general expectation that such harsh punishments would deter such events in the future has been belied many times in the past. The perpetrators of ‘honour killings’ go about their job unmindful of the consequences. The courts of justice can only extend a helping hand to curb this

menace by way of a verdict, but in no way have the wherewithal to change the perceptions of society on a casteist outlook. The political class who rule the country has a lot of answering to do on why such heinous crimes continue unabated in spite of stringent penal provisions. The fact that major political parties have preferred to remain silent or came out with a non-committal muted response on the verdict, exposes their false commitment to an ideology of a casteless society.

V. SUBRAMANIAN,
Chennai

■ Let us hope that this verdict sends out a strong message to those who promote caste crimes in the name of defending the “honour” of their castes. It is unfortunate that most of our people are overtly obsessed with caste and creed. There is hardly anyone in our political leadership who has come out with the line that honour killings deface the nation. The perilous nature of our caste obsessions is a major

factor in what pulls India back from progressing in the world.

MADAN MENON THOTTASSERI,
Chennai

■ To kill a helpless boy or a girl, whose only crime was to love or marry outside one's caste should be considered a heinous crime. It's as heinous as hatred killing and merits no leniency by the judiciary or the government. The dangerous surges of “honour” killings in some States are alarming and can be reversed by strict and quick delivery of justice. The government cannot remain a mute spectator in the face of social evils and must strengthen preventive mechanisms. It should also ensure proper investigation and fast-tracking of trials in such cases.

DR. D.V.G. SANKARARAO,
Nellimarla, Andhra Pradesh

■ When the law considers an act of killing someone as a serious crime, the punishment should be equally rigorous than expected, especially when “honour” is the sole reason.

The verdict is a standing example. Such a judgment should be termed an “honour verdict” as it brings honour to human values.

E. RAGHUPATHY,
Gingee, Tamil Nadu

■ It is unfortunate and shameful to know that in the name of protecting one's honour or pride in society, there are some who do not hesitate or think twice before carrying out such heinous crimes even if it involves their near and dear ones. Despite this being the 21st century, inter-caste marriage is still considered a taboo in some parts of India. Our society and country will not march towards progress if such practices continue. A collective effort put in by civil society and the administration to curb such crimes is a must.

GWSHAD BASUMATARY,
Kokrajhar, Assam

Rahul's elevation

As a party, the Indian National Congress still has a presence across India. But there is no denying the fact that it has seen its political

fortunes dwindling, possibly the result of wrong policies and rampant corruption when the UPA was in power. Reviving the party appears to be a stupendous task and the question is about how party president-elect Rahul Gandhi will go about resurrecting it. People are eagerly awaiting the results of the Gujarat election. Mr. Gandhi has shown that he has been sincere in his attempts in raising the issues that matter such as livelihood issues. The result on December 18, 2017 will be a litmus test (Editorial – “Starting over”, December 13).

JAYANT MUKHERJEE,
Kolkata

A different bond

Rather than hurriedly decide whether the practice of polyamory is right or wrong, I think we need to have more understanding of it (“Magazine – “One life, many partners”, December 10). We need to find out why some in our society are resorting to this, and elicit their views on relationships, as one of those cited in the article has said that it is not all about a

physical relationship. Such a search may also shed light on some of the cracks in the “one life, one partner system”. I do not think we need to get upset about The Hindu having published such an article, as seen in the displeasure many readers have expressed. More and more coverage of such issues in mainstream media will not automatically make it more socially acceptable.

DR. ANIL M. CHATNALLI,
Kalaburgi, Karnataka

Spare a thought

While questions are being raised over how the Prime Minister could fly in a single-engine aircraft as it could have posed a risk to his life, I wonder whether anyone has thought about the plight of those in our Armed Forces. The defence forces have been operating single-engine helicopters in hazardous conditions both at sea and in the Himalayas. A paucity of funds and red tapism are to blame.

TAHIR ABDULLA,
Kozhikode

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