



Failure of justice

The acquittal of all those accused in the Sohrabuddin case raises disturbing questions

The omnibus acquittal of all the police personnel accused of eliminating Sohrabuddin Sheikh in a 'fake encounter' in Gujarat in 2005 represents a substantial failure of justice. It is true that it is not easy to obtain an order of conviction against police personnel accused of killing suspects in a fake encounter. It becomes that much harder for any agency when influential political leaders and top police officers are cited as accused. It is unsurprising that the case, in which BJP president Amit Shah and a few Indian Police Service officers had been discharged earlier, ended with the acquittal of 22 men, all but one of them policemen. As many as 92 of the 210 witnesses turned hostile. The trial judge himself appeared to be saddened by the outcome, but it is difficult to agree with his observation that one could not fault the CBI for witnesses going back on their statements. It is the prosecution's duty to ensure the safety of witnesses and give them the confidence and courage to speak the truth under oath. While it is perhaps not surprising that witnesses in the police did not support the prosecution, it is disappointing that others could not be encouraged to do so. For instance, the driver and a passenger in a bus, allegedly intercepted by the police team and from which Sohrabuddin, his wife Kausar Bi and an associate, Tulsiram Prajapati, were taken away, denied such an incident took place.

It is unfortunate that the families of the victims do not have the consolation of anyone being brought to justice. While Sohrabuddin's killing has 'encounter' as an explanation, his wife's disappearance remains a mystery. It was not proved that she was taken to a farm, killed and her body burnt. And it cannot be a coincidence that Prajapati was killed a year later in Rajasthan in another encounter. It was under a cloud of suspicion over the circumstances of their death that Sohrabuddin's brother had approached the Supreme Court and obtained an order for an investigation, which was subsequently handed over to the CBI. In losing this case, the CBI has shown that it continues to struggle when it comes to handling cases with political overtones. The 2014 discharge of Mr. Shah and the subsequent pre-trial exoneration of senior police officer D.G. Vanzara had come as a boost to the BJP. The final decision in the trial is also likely to be interpreted as a justification for some encounters that took place in Gujarat when Narendra Modi was Chief Minister. Mr. Vanzara has implied as much in controversial tweets. He has also claimed that such 'pre-emptive encounters' were needed to save Mr. Modi. This is a tacit acknowledgement that these may not have been chance encounters, as genuine ones are supposed to be, but part of a plan to eliminate a threat to the leader's life through extrajudicial killings. It is regrettable that such a triumphalist narrative is sought to be built around such incidents.

Capital idea?

The banks recapitalisation plan is *per se* not bad but funds must be distributed prudently

With just months to go for the general election, the government looks all set to open the credit taps of the economy. The Centre has sought Parliament's approval to infuse an additional ₹41,000 crore into public sector banks that are starved of precious capital to remain afloat. Along with another ₹42,000 crore that is already budgeted for infusion, this tranche will take the total planned funds infusion into banks this year to ₹83,000 crore. More important, the infusion will help banks boost lending and stimulate economic activity going into an election year. In fact, the latest fund infusion is aimed, among other things, to help a number of public sector banks to climb out of the Reserve Bank of India's Prompt Corrective Action (PCA) framework. As many as 11 public sector banks have been stopped from lending freely by the RBI under the PCA framework due to their poor financial health. It is important that the additional capital is not wasted on banks that have not shown any improvement but rather used to support the weak ones that are on the recovery path. The government has said that PCA banks which have shown better performance in terms of reduction in NPAs and improvement in return of assets will be given priority. The proof will come when the allocations to individual banks are announced.

There have been reports that four banks under the PCA – Allahabad Bank, Bank of India, Corporation Bank and Bank of Maharashtra – will soon be out of the restrictive framework. This is following a review by the Board for Financial Supervision of the RBI, which went over the financials of all the banks under the framework. While Corporation Bank and Bank of Maharashtra have shown a semblance of improvement in their asset quality and registered a profit in the September quarter, the other two are not over the hump yet. The government is obviously keen to free up the banks from restrictions on lending. But it flies counter to the RBI's basic objective in keeping these banks under the PCA framework, which is to nurse them back to good health. In its eagerness to achieve its political objectives, the government should not end up pushing good money after bad by apportioning extra capital to these weak banks instead of supporting the ones that are on the recovery path. There are enough headaches for banks to handle in the form of the waiver of agriculture loans and the rising share of loans to small businesses, which are risky. While the idea of infusing more money into banks is not bad *per se*, given that they are grappling with inadequate capital, a lot depends on how and to which banks this money is distributed. This is where the government has to exercise prudence and caution.

When Gandhi's statue is removed in Ghana

It is a reminder of his subsequent evolution, and India's changed place in the world today



NEERA CHANDHOKE

In two blockbuster movies, Vidhu Vinod Chopra and Rajkumar Hirani gave us the simplistic but comforting and 'feel good' strategies of 'Jadu ki Jhappi' and 'Gandhigiri'. The first stratagem must have inspired Congress president Rahul Gandhi to walk across to the treasury benches in the Lok Sabha and hug an astonished Prime Minister Narendra Modi. The second philosophy for our times was trotted out by a charming underworld don, played by Sanjay Dutt, trying desperately to woo a radio jockey Janhavi, played by Vidya Balan, in *Lage Raho Munna Bhai*.

Squaring with Gandhism

Inviting him to a senior citizens' home, she asks him to demonstrate his purported mastery of Gandhian thought. His muse, the spirit of Mahatma Gandhi, comes to his rescue, and Munna Bhai spouts a piece of wisdom we would do well to recollect, given the prolific production and demolition of statues today. Gandhi would have said, remarks our attractive don, remove my photographs from public places, rename roads that bear my name, and take off my statues from their pedestals. Just remember what I had to say about how we ought to live together.

We remember Gandhi's concern with the liberation of Indians from colonial rule, as well as from the dark underside of our own personalities. We also remember that he failed to engage with the

plight of Africans in a colonised South Africa, where he lived for 21 years. We know that he used disparaging language for Africans. For these and related reasons his statue was brought down by academics and students at the University of Ghana, Accra earlier this month. The act may be reversed, but it prompts a rethink. We have to recognise the flaws in Gandhi's approach to Africa the way we recognise the Eurocentrism of Georg Wilhelm Friedrich Hegel, the great 19th century German philosopher.

Accepting that philosophy, religion and art took root in the Orient – Persia, China, Egypt and India – Hegel suggested that India, like China, is a phenomenon which is antique as well as modern: "It has always been the land of imaginative aspiration and appears to us still as a fairy region, an enchanted world. In contrast with the Chinese state, which presents only the most prosaic understanding, India is the region of phantasy and sensibility." However, after explorers, missionaries, traders and commercial companies conquered India, and the exotic became the known and the mundane, continued Hegel in a series of lectures on the 'philosophy of history', it became clear that India had nothing to offer the world. He said India cannot teach the West; its tradition is a matter of the past; it has never reached the level of philosophy and science which is a genuinely and uniquely European achievement. The history of philosophy in India, concluded Hegel, is but the pre-history of Europe: India is stagnant, ripe for conquest.

Hegel's views on India are of some significance because philosophy departments established in Indian universities in the 19th cen-



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tury were heavily influenced by Hegelian and Kantian intellectual traditions. These departments trained students who went on to become leaders of the freedom struggle. One of the recurrent themes in nationalist self-representation is the greatness of ancient India and consequent decline. Shades of Eurocentrism continue to shape perceptions of who we are, where we have come from, and how we can recover greatness. Hegel's philosophy was flawed, he was a product of the age of colonialism.

Africa, then and now

Whereas the questions political philosophy asks of the human condition (for example, liberation) are eternal, the answers offered by political thinkers are bound by reasons of time and space. We have to locate a body of thought in its political and intellectual context. We can hardly judge thinkers by current standards – that is unfair. Gandhi's thought and attitude were also the product of his age, and as imperfect as our past and current philosophies are. Still, right-thinking Indians should reflect on whether we need to apologise to our African colleagues for the mistakes that Gandhi made a century ago.

There is, however, some reason for puzzlement. The Indian government surely knew that African

thinkers and scholars were angry with Gandhi, and of the resentment his words had evoked. Why did the then President, Pranab Mukherjee, inaugurate the installation of the statue in the University of Ghana, Accra campus in June 2016? Soon after, in September, academics at the university launched a petition that the statue should be removed. They cited two reasons: one, Gandhi was racist; and two, the government of Ghana should privilege African heroes and heroines over foreigners.

In Tripura

The present holders of political power in India should be able to comprehend the impact of the latter part of the statement – they are the original expounders of a narrow nationalism. In March 2018, two statues of the leader of the mammoth struggle against Tsarist Russia, Vladimir Lenin, were brought down in Tripura by supporters of the Bharatiya Janata Party (BJP), that had swept to power in the State. A Lenin statue at the College Square in Belonia was ripped up, and razed to the ground with the help of a bulldozer. This was followed by the uprooting of another Lenin statue in Sabroom by a mob. The demolition of Lenin's statues was justified by BJP leaders on the ground that he was not an Indian, never mind that the man had led a massive struggle of the poor and the oppressed against imperial Russia and established a worker's state. It degenerated just like states established by right-wing forces have deteriorated. But there is no denying the genius of a man who could inspire millions of people to raise their heads and speak back to oppression.

Lenin's and Gandhi's thought

will continue to inspire the poor and the marginalised whether or not there are statues in their name, as our Munna Bhai suggested. The setting up of a statue is, after all, more an assertion of the petty vanities of people in power, than homage to the person whose statue it is.

A rejection of India?

However, in Ghana something else is going on. This was clear in the petition drafted by academics at the University of Ghana. They not only rejected Gandhi, they rejected India. The petition, which was signed by more than 2,000 people, stated that it is better to stand up for African dignity than to kowtow to the wishes of a burgeoning Eurasian superpower. There was a time when India under Jawaharlal Nehru had stood for the rights of all people in the postcolonial world. Today the Government of India has made it clear that it is interested in little but acquiring profits through trade, and in securing acres of land for Indian industrialists in countries of Sub-Saharan Africa. When it comes to racism, Indians, regrettably, are second to none. It is these factors that arouse affront and ire in the African mind. India has lost out on solidarity, it is now seen as a state interested only in gleaning profit from other countries with whom it shares a notorious history of colonialism. Can the Indian government refrain from rubbing salt into the wound inflicted by our shared history of colonialism and exploitation? Can we show some solidarity with, and some sensitivity towards our African co-travellers in the path from colonialism to mature democracy?

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What is altruistic surrogacy?

India has to be wary of the kind of exploitation it is fostering



ANINDITA MAJUMDAR

What is an altruistic surrogacy arrangement? According to the new Surrogacy (Regulation) Bill, approved by the Lok Sabha last week, it includes contracting a 'close relative' as a surrogate by a heterosexual married couple who have been childless for five years of their marriage. This line, in gist, separates altruism from the commercial tinge that surrogacy carries with it.

How is an act of selflessness translated into thinking about a pregnancy that is aimed towards relinquishing the child to a close relative? In the U.K., laws on surrogacy allow only altruistic arrangements where the surrogate can be paid only 'reasonable expenses'. The fluidity in defining reasonable expenses means that this should ideally include payment for medical treatment, and in-vitro fertilisation (IVF) but may include other 'expenses'. In most of Australia, altruistic surrogacy entails restricted – in different parts of the world, varying levels of legal restrictions, or complete bans are practised – pre-approved payments to the surrogate, including

for diet during the pregnancy, and/or for the medical treatment. However, altruism also entails the provision that the surrogate is the legal mother of the child, which can be transferred to the parents through a legal process, including adoption. In many countries in Europe, the act of gestation defines motherhood, even though the egg used for the pregnancy through IVF may belong to the couple entering the arrangement.

Role of the surrogate

As per the new Surrogacy Bill, the surrogate in India continues to fulfil her role as a gestate. In keeping with the insistence on gestational surrogacy, which makes the use of IVF and other assisted reproductive technologies mandatory, the current Bill is faithful to the Indian Council of Medical Research's Draft Assisted Reproductive Technology (Regulation) Bill, 2010. The latter has governed the practice of surrogacy till the Surrogacy Bill of 2016 banning commercial surrogacy comes into effect. Motherhood did not belong to the surrogate; she was trained to think of herself as a gestate, as research by Amrita Pande suggests, and the relinquishment of the child was an absolutely essential clause within the draft bills on commercial surrogacy and in practice in the surrogacy contract.

The commercial surrogacy arrangement in India was an exchange of money for services; and



P.S. SIVAKUMAR

yet, clinics and surrogacy agents went to great lengths to transform the commercial element of the surrogacy arrangement, primarily identified as the surrogate's fees, into gift-giving, and sacrifice. That motherhood could be for sale is a matter of distress and shock.

In that sense, altruistic surrogacy is not very different from its opposite commercial variant. Unlike the U.K., altruism in India is being defined through the tie of kinship, not through the exchange of payment for 'services rendered'. Here, kinship and family hide the commercial element entailed in seeking a surrogate from among close relatives. Thus, much of the criticism against the Surrogacy Bill in Parliament points toward the lack of definition that the category of the 'close relative' carries.

A parallel

Let's look at the Transplantation of Human Organs Act (THOA), 1994, as a parallel to the conversation on altruism and its linkages

with commercial surrogacy. The Act prescribes that organ donors are allowed to donate their organs before death only to 'near relatives'. Donating organs to 'strangers' or not near relatives before death is not allowed, and may be approved of only through the authorisation committee. The category of the 'near relative' appears again in a similar vein to the 'close relative'. But unlike the Surrogacy Bill, the THOA identifies 'near relatives' as 'spouse, son, daughter, father, mother, brother or sister'. It's a closed group of relatives – within the structure of the nuclear family unit – members who may not be eligible to be surrogates, unfortunately.

In my research, IVF specialists found the mother and sister of the infertile woman to be perfect as gestational carriers. In 2004, in Gujarat, Nayana Patel, who later became famous for her surrogacy clinic in Anand, facilitated the surrogate pregnancy of a 43-year-old woman seeking to help her childless daughter and son-in-law to have a child of their own. Yet, the women belonging to the father-to-be's family, such as his sister and mother as surrogates, carried associations with incest (even though gestational surrogacy is facilitated through technological interventions).

Word of caution

By banning commercial surrogacy in favour of its altruistic avatar, the

identification of 'close relatives' will take on a murky turn. Just like in the case of organ donation, wherein 'strangers' were dressed up as 'near relatives', in altruistic surrogacy too, similar negotiations may be entered into. In an overtly patriarchal society, women are always at the receiving end of ostracism and exploitation. In facilitating altruistic surrogacy among close kin, we have to be wary of the kind of exploitation we are fostering.

Despite exempting gay couples, single men and women, and live-in couples from seeking surrogacy, not clearly defining the regulative mechanisms within altruistic surrogacy, and the very regressive approval for couples with differently-abled children to opt for surrogacy, the Bill does seek certain important changes. The push towards adoption is very welcome, as is the waiting period of five years. The popularity of IVF and other assisted reproductive technologies stems from a problematic conceptualisation of infertility itself, pushing couples to opt for invasive intervention within a year of unprotected coitus. Of importance now is to go back to understanding why and how the desire for children is socially mediated to help couples seeking surrogates, and vice versa.

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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.

GST tweaks

The government's move to cut the Goods and Services Tax on a number of items and services is welcome (Page 1, "GST cut on 17 items, 6 services", December 23). However, 'Modi haters' will, as usual, be sceptical. In a country where there is bias and a belief in falsehood, sensationalism and misconceived perceptions, it is not surprising that any constructive move, however belated, does not get due recognition and praise.

V.S. GANESHAN,
Bengaluru

It is a fact that the GST is taking a heavy toll on people and businesses alike. A uniform lower rate and bringing all products, including fuel, under it will be a better option. Removing the GST on medical insurance is also important.

The Congress has been asking the government for a cut in GST rates right from day one. It is obvious that with the general election just around the corner, the BJP is resorting to a politics of compulsion. Anyway, better late than never.

RAJALAKSHMI SURESH,
New Delhi

The real estate sector has been pinning its hopes on a lowering of the GST on cement, with the current rate affecting lower and middle-class home buyers. On the overall exercise of some cuts, one really wonders why much thought has not gone into dividing goods and services into three broad strata based on the laws of economics – goods and services of necessities, comforts and luxury, in the initial stages of stratifying and structuring the rates framework. The indecisive and fickle-minded approach

in rate fixation has led to a situation where the end user/consumer, who cannot pass on the GST to others and instead bears the sharp brunt of GST sword, is being made to suffer. What if he or she had purchased goods/services at a time when these were taxed at a particular rate but have now been reduced to a lower rate? Will the GST Council now pass orders to arrange for a refund of the differential amount?

ASHOK JAYARAM,
Bengaluru

Plastic ban

While the Tamil Nadu government is firm about a ban on the manufacture and sale of plastics to curb the use of non-biodegradable wastes, there seems to be no thought given to or a ban on the manufacture and sale of thermocole used extensively in packaging, especially when it comes to marketing

electrical and electronics products. Some municipalities, for example in Chennai, refuse to help in the disposal of electrical and electronic waste, which includes thermocole. Many residential communities are at their wit's end wondering how these can be disposed of. There must be guidelines on the production of such non-biodegradable waste instead of rushing to make things difficult for law-abiding citizens who appreciate and cooperate in green initiatives.

G. MANI,
Chennai

The contention of plastic manufacturers, of doomsday if the plastic ban is enforced, might have an element of truth in it. But the fact is that soil, water and the environment are being ruined by plastic use. Despite awareness campaigns, the plastic industry appears to

have taken things lightly. State governments should ensure that the industry works with alternative material. If necessary, there should be a break in loan recovery till the industry is able to find its feet again. For those who cannot go in for alternative units, a one-time settlement could be considered, with concessions. There should also be coordinated efforts by the government and environmentalists to solve the problem of plastic usage.

J.P. REDDY,
Nalgonda, Telangana

Special edition

It was heartening to find the Magazine section dedicated to cover the ecosystem and wildlife conservation initiatives (Magazine, 'Green Counters', December 23). The reports were a revelation of how efforts put in by individuals and communities have paved the way to

protecting natural habitats. Such coverage is bound to encourage us to participate in local level activities.

VIDHYA B. RAGUNATH,
Thanjavur, Tamil Nadu

Dwindling lions of Gir

It was shocking to read about lions being run over by a goods train near Gir in Gujarat and about 30 lions or so having perished to disease and other causes – over which the Forest Department appears helpless. Empty statements such as taking 'stringent action against the guilty' after the damage has been done make one angry. Apart from Africa, it is India alone that can boast of a lion population. It is our negligence which may erase this distinction unless we mean business in protecting this animal species.

J. EDEN ALEXANDER,
Thanjavur, Tamil Nadu

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