



## Escape options

After losing the Brexit vote, the British PM's best option is to postpone the exit date

After the British Parliament's overwhelming rejection of Prime Minister Theresa May's Brexit deal, chances are the government will postpone the March 29 deadline to leave the European Union. An extension of the exit date - hinted at by Britain's Chancellor of the Exchequer and France's President following the vote - seems the least controversial in the spectrum of complex alternatives. For a start, Ms. May is expected to sail through the motion of no-confidence against her government moved by the Opposition leader, Jeremy Corbyn of the Labour Party. Both the Conservative Euro-sceptic backbenchers, and Northern Ireland's Democratic Unionist Party, which supports the minority government in London, have promised to oppose the motion. Consequently, the onus of taking the country out of the EU will remain with Ms. May, who struck a conciliatory note after the defeat in the House of Commons with a 230-vote margin (432 to 202) on Tuesday. Ms. May argues that there is no better deal than the one she has painstakingly negotiated with the other 27 members of the EU. Yet, the build-up to the vote, delayed by over a month, laid bare the difficult task of persuading MPs on the merits of the agreement. Ms. May will hope to win the Commons' approval on Monday for a Plan B. At the minimum, it must do better on the contentious Irish backstop that could come into force after the transition period expires, and something that Brexit supporters oppose. It is highly improbable that the EU can offer any big improvements so soon to ensure that the backstop, which allows the flow of goods between Northern Ireland and the Republic of Ireland, will not indefinitely lock Britain into a customs union with the EU. Such an arrangement, which would necessarily limit London's freedom to make trade deals with third states, is regarded as anathema for a country that championed Brexit as a route to regain its sovereignty.

Deep differences persist within the Conservative and Labour parties on the terms of exit they must obtain from Brussels. There is also increasing clamour for a second referendum from remainers in the two parties, who view the uncertainty as symptomatic of a flawed Brexit project. Their case is rooted in concerns that citizens be enabled to make a more informed decision, given the mounting evidence on the economic impact of Brexit. But such enthusiasm would have to be balanced with the consideration that the majority of MPs, despite strong opposition among members, have resolved to respect the June 2016 popular mandate. In any case, a reversal of the 2016 Brexit result is not a guaranteed outcome. There is, meanwhile, support growing within and outside Parliament to avert, at all costs, a crashing out of the EU in late March, with imponderable consequences for the economy and society. Ms. May will gain in stature if she takes Parliament into greater confidence, not just her own party backbenchers.

## Sedition and politics

The charge-sheeting of JNU students is a move to criminalise contrarian opinion

The filing of sedition and conspiracy charges against three former Jawaharlal Nehru University students and seven others nearly three years after a political event on its campus, is a needlessly heavy-handed response to campus sloganeering. That it took so long to ready a charge sheet, which has been filed a few months ahead of the general election, casts a shadow of political motive. It would have been far wiser to dismiss this as an instance of radicalised student politics than proceed against them with a stringent colonial-era law, which should not have been allowed to even remain in the statute book. There is no convincing case that the students, and the others present, disrupted public order or incited violence. Even if all the charges about the shouting of "anti-national" slogans and supporting those who questioned the country's sovereignty were true, these acts do not merit the use of the sedition law. The Delhi Police had arrested JNU student union leader Kanhaiya Kumar in February 2016, but failed to protect him from assault while being produced in court; it did nothing to bring to book his assailants. Now, in filing formal charges of sedition, it continues to ignore the law laid down by the Supreme Court on what constitutes 'sedition'. The essential ingredients of Section 124A of the Indian Penal Code, that there should be a call for violence or a pernicious tendency to foment public disorder, are conspicuously absent in the case.

Campuses on which radical politics thrives are anathema to the ruling dispensation. However, that cannot be a justification for the sort of fear-mongering about the direction of campus politics that the ruling party and its supporters have been indulging in since the developments of 2016. Campuses ought to nurture political opinions of different shades, but there has been a disquieting tendency to brand as "anti-national" those who do not endorse all actions of the state. That the ABVP, the student wing of the RSS, has not done well in several student union elections may also be a factor in driving antipathy towards some institutions. In every case of sedition, which is filed invariably in connection with a dissenting speech or piece of writing, there is a political element. In this case, the filing of the charge sheet appears to subvert the political and electoral purpose of advancing a populist nationalist agenda. It is also liable to be seen as an attempt to criminalise contrarian views among student activists and also a clampdown on dissent. It will be in the fitness of things if the trial court examines the Delhi Police report in the light of the Supreme Court's restricted interpretation of sedition before it takes cognisance of it.

# Manipur shows the way

Its anti-lynching law breaks important ground in attempting to control hate crimes and ensure police action



HARSH MANDER

Six months have passed since the Supreme Court - anguished by what it described as 'horrific acts of mobocracy' - issued a slew of directions to the Union and State governments to protect India's 'pluralist social fabric' from mob violence. The court felt compelled to act in the shadow of four years of surging hate violence targeting religious and caste minorities. It also urged Parliament to consider passing a law to combat mob hate crime.

The Union and most State governments have done little to comply with the directions of India's highest court. But Manipur became the first to pass a remarkable law against lynching, late last year. It did this after a single horrific video-taped lynching of a Muslim youth with an MBA degree stirred the public conscience.

### Comprehensive in definition

The Manipur law closely follows the Supreme Court's prescriptions, creating a nodal officer to control such crimes in every State, special courts and enhanced punishments. But its weighty significance lies in that it breaks new ground in some critical matters concerning hate violence in India, and shows the way in which the Union and other governments need to move if they are serious about combating hate crimes.

Its definition of lynching is comprehensive, covering many forms of hate crimes. These are "any act or series of acts of violence or aid-

ing, abetting such act/acts thereof, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds ...."

The law, however, excludes from its provisions solitary hate crimes. For the law to apply instead it requires that these hate crimes are undertaken by mobs (defined as a group of two or more individuals, assembled with a common intention of lynching), thereby excluding from its provisions solitary hate crimes. When we look back at the last four years, the majority of hate crimes were indeed by mobs of attackers and onlookers, but we also saw solitary hate murders, such as of the Bengali migrant Mohammad Afrazul in Rajasthan. This restriction of numbers is arbitrary, since the essence of what distinguishes these kinds of crimes is not the numbers of attackers but the motivation of hate behind the crimes; therefore, provisions of this law should apply to all hate crimes, not just lynching, regardless of the numbers of persons who participate.

### On the public official

The most substantial and worthy contribution of the law is that it is the first in the country dealing with the protection and rights of vulnerable populations which creates a new crime of dereliction of duty of public officials. It lays down that "any police officer directly in charge of maintaining law and order in an area, omits to exercise lawful authority vested in them under the law, without reasonable cause, and thereby fails to prevent lynching shall be guilty of dereliction of duty" and will be liable "to punishment of imprison-



ment of one year, which may extend to three years, and with fine that may extend to fifty thousand rupees".

Equally pathbreaking is that it removes the protection that is otherwise extended to public officials charged with any offence committed while acting in their discharge of official duty. At present, no court can take cognisance of such an offence except with the previous sanction of the State government. The Manipur law means that now no prior sanction is required to register crimes against public officials who fail in their duties to prevent hate crimes such as lynching.

In almost every incident of hate crime that the Karwan e Mohabbat, a campaign of solidarity for victims of such crimes, has investigated, the police acted brazenly in ways that would have been deemed crimes by public officials if a law such as the Manipur law had been in force. They arrived late deliberately, or watched even as the crimes were under way without restraining the mobs; they delayed taking those injured to hospital and on occasion even ill-treated them, ensuring their death; and after the hate crimes, they tended to register criminal cases against the victims and to defend the accused.

If police officers knew that they

# Muslim, Islamic, Indian, or all of the above

Pakistan's identity crisis, going back to the debates since its creation, remains unresolved



MOHAMMED AYOOB

At the base of all of Pakistan's current problems, both domestic and foreign, lies its inability to define its identity. The issue whether it is a Muslim state, an Islamic state, or merely a Muslim offshoot of India remains unresolved to this day.

### A tension

As Princeton scholar Muhammad Qasim Zaman's recently published book *Islam in Pakistan: A History* clearly demonstrates, the tension between the modernist concept of a Muslim state and the traditionalist and Islamist concepts of an Islamic state continues to hound Pakistan. As far as the leading lights of the Muslim League, above all Muhammad Ali Jinnah (picture), were concerned, Islam was strictly of instrumental value to them. It was used to mobilise Muslim opinion in British India to serve the political goals of the League leadership, first parity with the Congress, and when that failed, partition of the country. After the creation of a Muslim majority state, Islam became useful to them as a unifying myth that could hold the country together and act as the principal antidote to ethnic nationalism, especially in East Bengal and the North-West Frontier

Province.

The leading traditional ulama, especially those associated with the Deoband seminary with its strong Indian nationalist tradition, had opposed Partition. However, a breakaway faction led by Maulana Shabbir Ahmed Usmani had from the mid-1940s supported the League's demand for Partition. The creation of Pakistan provided the traditionalist ulama led by Usmani with the opportunity to demand that the state should be turned into an Islamic one. In such a state, the ulama, although not necessarily in direct control of day-to-day affairs of governance, would have a supervisory role in order to ensure that its laws conformed to the Sharia as interpreted by leading jurists of the Hanafi school predominant among Muslims of the Indian subcontinent.

The lay Islamists, exemplified by Maulana Maududi and his Jamaat-i-Islami, were cut from a very different cloth. They were not religious scholars trained in Islamic jurisprudence - Maududi, despite the honorific title of Maulana, began his career as a journalist - and held the ulama in disdain as fossilised relics of a bygone age. They were both a product of modernism and a powerful reaction to it.

Maududi had opposed Partition for two reasons. One, he believed that nationalism was the very antithesis of Islam which enjoined a universal community of all true believers. Two, he intensely distrusted the modernist leaders of the Pakistan movement, who he compared to Atatürk, as the har-



bingers of a secular, not Islamic, state.

However, after Pakistan came into existence, Maududi moved to the new country and changed his tune. He began agitating for a purely Islamic state that combined the most intrusive aspects of the modern Westphalian state in terms of social control with a government run by a vanguard Leninist party like the Jamaat-i-Islami committed to the implementation of Islamic law. In his conception of the ideal Islamic state, the legislature's power would be circumscribed by the dictates of the Sharia, but the executive under persons of exceptional probity and commitment to Islam would possess near-dictatorial powers.

Although the traditionalist ulama and the Islamists were often at daggers drawn with one another, they combined forces against the modernists to introduce "Islamic" provisions in Pakistan's first and subsequent Constitutions. Under their joint pressure, the modernists have been steadily losing ground, especially since the 1980s when the fallout of the Afghan "jihad" began to radicalise the Pakistani polity.

could be punished for these crimes (which would also put them at risk of losing their jobs), it is very unlikely that they would have acted in this way. They would have prevented, or stopped in their tracks, these hate crimes, and protected the victims.

I would also include in the crimes of dereliction of duty deliberately protecting criminals during investigation after the hate crime. I would also, most importantly, incorporate command responsibility, so that officials and also those who have directed them to betray their constitutional duties are criminally liable..

The second momentous contribution of the Manipur law is that it does away with the requirement of prior state sanction before acting on a hate crime. All hate crimes today should attract Section 153A of the Indian Penal Code, which is related to fostering enmity between people on the basis of religion, race, language and so on. But registering this crime requires prior permission of the State government, and most governments use this power to shield perpetrators of hate crimes who are politically and ideologically aligned to the ruling establishment. The Manipur law does away with this requirement, which would make acting against hate crimes far more effective and non-partisan.

The third substantial feature is that it clearly lays down the duty and responsibility of the State government to make arrangements for the protection of victims and witnesses against any kind of intimidation, coercion, inducement, violence or threats of violence. It also prescribes the duty of State officials to prevent a hostile environment against people of the community who have been lynched, which includes econom-

ic and social boycott, and humiliation through excluding them from public services such as education, health and transport, threats and evictions.

### Rehabilitation

The last substantial contribution of the law is requiring the state to formulate a scheme for relief camps and rehabilitation in case of displacement of victims, and death compensation. Again, in most cases of lynching, we have found that States have only criminalised the victims, never supported the survivors who live not just in loss and fear, but also in penury.

But the law needs to prescribe a much more expansive framework of mandatory gender-sensitive reparation on an atonement model, requiring the state to ensure that the victim of hate violence is assisted to achieve material conditions that are better than what they were before the violence, and that women, the elderly and children are supported regularly with monthly pensions over time.

Even with these caveats, the Manipur government has broken new ground, being the first government in the country to hold public officials criminally accountable if they fail to prevent hate crimes. If emulated by the Union and other State governments, such a sterling law could substantially prevent hate attacks, ensure public officials are faithful to their constitutional responsibilities and victims, and that their families and communities are assured of protection and justice.

This is the India we must claim - of safety, fairness and fraternity.

Harsh Mander, a human rights worker, writer and teacher, convenes the Karwan e Mohabbat

relvi and Ahle-Hadees - have their roots in Indian Islam and mirror the divisions witnessed among Muslims in India, both before and after Partition.

Furthermore, Pakistan's boundaries conform to the boundaries of British Indian provinces and its territorial identity is defined by the geographic contours of the subcontinent. In sum, Pakistan's inability to shed its Indian geopolitical, cultural and Islamic identity has forced it to adopt anti-Indian postures in order to differentiate itself from the mother country. It is its inability to define itself without reference to India that lies at the base of Pakistan's hostility toward India.

Pakistan is, therefore, caught in a double bind. On the one hand, it is unable to resolve the contradictions among the three forms of political Islam battling to impose their own definition of Islam on the country. On the other, its inability to define its identity in non-Indian terms has forced it into an anti-Indian mould that is almost impossible to break. Both these factors contribute hugely to Pakistan's current predicament. For, failure to successfully define a country's national is a sure recipe for domestic instability as well as unpredictable, even aggressive, behaviour abroad.

Mohammed Ayoob is University Distinguished Professor Emeritus of International Relations, Michigan State University and Non-Resident Senior Fellow, Center for Global Policy, Washington DC

## 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.

### Karnataka politics

The political drama in Karnataka only speaks volumes of the greed of MLAs for power, irrespective of the party they belong to. Voters should realise that split verdicts will only induce these sorts of ugly political games being played by political parties. It is high time voters vote decisively and get themselves a stable and good government they all deserve (Page 1, "BJP sequesters Karnataka MLAs in hotel near Delhi", January 15).

V.S. GANESHAN, Bengaluru

■ Karnataka is in the news again for all the wrong reasons. There are claims and counter-claims on the number of MLAs being enticed to quit.

Such is the level of politics in the State that a toppling game is going on, in turn subverting the people's mandate. The unfortunate part is that people are watching this sorry spectacle, unable to do anything in this dirty game of politics.

D.B.N. MURTHY, Bengaluru

### Sedition charge

I wonder what sedition is. If you express anger in words in a sudden outburst, out of deep frustration after seeing widespread corruption, poverty, unemployment, communalism, casteism, I feel that it should be viewed differently. We have politicians who plot and use cunning to divide people based on religion, caste and language, sell national wealth openly and crush

national integration, all in the name of politics. I wonder who and what are really dangerous to the nation (Page 1, "Chargesheet filed in sedition case against Kanhaiya, 2 others", January 15).

T. ANAND RAJ, Chennai

### Eliminated

The report on encounter deaths in Uttar Pradesh and the observation of the Supreme Court is an indicator that the law of the jungle prevails in the State ("Encounter deaths in U.P.: a serious issue, observes SC, January 15). A leader who preaches peace and prosperity cannot shoot 'unwanted people' mercilessly like birds while being unmindful of the constitutional rights every citizen has in this

democracy. Over 1,100 encounters ever since the Yogi Adityanath government has been in place is no small a figure nor a trivial issue to be ignored.

J. EDEN ALEXANDER, Thanjavur, Tamil Nadu

### Tackling plastic waste

It is heartening that India has pledged to eliminate single-use plastic by 2022; but that is still half done (Editorial, "Half done", January 15). India must focus enough on plastic management and ensure a robust recycling infrastructure and effective implementation of dry waste segregation. Plastic is a monster that we humans have created and it is imperative that we leave no stone unturned to take plastic out of our lives.

SNEHA THAKUR, New Delhi

■ The per capita consumption of plastic by Indians may be low when compared to other countries but that does not mitigate the seriousness of the problem. Consumers can only play a limited role and it is for industry to introduce changes to save the environment and our health. An area where industry can make an impact is to do something about the way in which modern merchandise comes packed in many layers of excessive packaging, almost all of which is non-biodegradable. The food industry should switch to bio-degradable alternatives. Consumers have limited choice, where, at best they can carry a cloth bag or decline the use of plastic bags and straws. The authorities can consider

imposing an environment tax.

H.N. RAMAKRISHNA, Bengaluru

■ A ban on single-use plastic is not enough to curb the growing plastic tsunami. No plan can succeed if human beings continue to be negligent and lethargic, especially as it often takes decades for plastic to degrade. There are reports of plastic being present even in packaged water bottles. Plastic in our oceans is a huge threat to marine life and even more difficult to tackle once it breaks down into micro-plastics. We are sitting on a ticking time bomb. Let us reduce, reuse and recycle plastic.

JASPREET SINGH, Patiala, Punjab

MORE LETTERS ONLINE: www.hindu.co.in/opinion/letters/