



Dealing with doping

Cricket bodies must keep the game free of performance enhancing drugs

Sport is expected to operate at a higher moral plane where the effort is honest and transparency remains an abiding principle. It is a utopian ideal leaning on pure performance, copious sweat and relentless training. But in a practical world greased with greed, besides match-fixing, there is another terrible offence: ingestion of performance-enhancing drugs. Athletes like Canada's Ben Johnson were labelled as drug-cheats and rightly denied their Olympic medals. The World Anti-Doping Agency (WADA), since its inception in 1999, has imposed stringent measures so that sport stays drug-free. In India, WADA's rules have been enforced by the Government-run National Anti-Doping Agency (NADA) and almost all sports federations had fallen in line except one behemoth – the Board of Control for Cricket in India (BCCI). But that aberration was erased as the BCCI accepted NADA's supervision following a meeting between its CEO Rahul Johri, General Manager Saba Karim and Sports Ministry officials led by Sports Secretary Radhey Shyam Julaniya. Indian cricket's governing body finally agreed to subject its players to NADA's testing routines. Before its turn-around, the BCCI had resisted NADA's intervention. The main objection pertained to the 'whereabouts' clause, which made it mandatory for a player to reveal where he would be on a daily basis. The need for privacy was offered as an excuse.

Earlier, the BCCI had its in-house dope-tests but it only lent credence to the allegations about conflict of interest. The issue came to a boil when Prithvi Shaw was given a back-dated eight-month suspension after he tested positive for a banned drug, Terbutaline. The 19-year-old batsman, who was checked in February, claimed that the substance was present in an over-the-counter cough syrup. Shaw's excuse and the BCCI's quick acceptance of his self-medication, bred scepticism. It is either naivety or a classic cover-up from an Indian cricketer, who had been advised about the chemicals that have to be avoided even for therapeutic purposes. The silver-lining is that the episode hastened the BCCI's move into the NADA's ambit and also cleared the decks for the Indian women's cricket team to compete in the 2022 Commonwealth Games at Birmingham. With the BCCI belatedly allowing NADA to monitor its domestic cricketers, by extension the International Cricket Council too has finally come under the WADA's unerring gaze. In these hyper-kinetic times, it is a fallacy to stress that cricket is just a reflection of skill and that drug-enhanced muscular efficiency cannot influence match results. Sport has to be a level playing-field and it is finally one with the willow-game subjecting itself to universal drug-testing rules.

Hong Kong on the brink

As protesters make new demands, the prospects of a quick settlement recede

Protests broke out in Hong Kong two months ago when local authorities proposed a Bill that would have allowed them to extradite suspects to places with which the city doesn't have extradition treaties, including mainland China. The Bill was suspended amid public anger, but the protests, now entering the tenth week, continue to rock the city, affecting the economy and setting off an unprecedented political crisis. The police have tried several tactics to rein in the protesters and restore normalcy in the city, a major Asian financial hub and business centre. They have fired tear gas shells and rubber bullets. Dozens have been arrested, some on riot charges. Still, the city has been on a standstill. Public transportation is hit. People, from construction workers to teachers and lawyers, have joined the demonstrations. The protesters ransacked the local legislative council building and occupied parts of the airport, which led to the cancellation of several flights. Graffiti appeared across the city calling for "a revolution" and "liberation" of Hong Kong. Despite warnings from both the city government and Beijing, the protesters don't seem to be in a mood to leave the streets.

It is no longer about the extradition Bill as a leadership-less group keeps coming up with new and varied demands. Carrie Lam, the Chief Executive of Hong Kong, has said the Bill is dead. The protesters first wanted the city government to formally withdraw the Bill. Then they wanted Ms. Lam, the architect of the Bill, to go. Now, the protesters say they won't end the rallies even if Ms. Lam quits. They have made a host of demands – withdraw the Bill, order an independent probe into the clashes between protesters and police, drop all charges on the arrested protesters and start the process to reform the electoral system. Ms. Lam, perhaps wary of being seen to be weak in the face of mounting pressure, has ruled out any more concessions. For her, the top priority is to restore order, while Beijing, with its patience wearing thin, has hinted that it could interfere to end the crisis. Both the city government and the protesters share responsibility for the crisis Hong Kong is in today. Ms. Lam could have officially withdrawn the Bill instead of merely pronouncing it dead. Her reluctance to do so even after the Bill was suspended only fanned the flames. The protesters on the other side took an excessively provocative path when they ransacked the city Parliament and attacked the police. What could have been a peaceful protest against an extradition Bill led to the biggest political crisis Hong Kong has seen since it was handed over to China by the British colonialists. At least now, the focus of both the local leadership and protesters should shift to finding common ground and a peaceful settlement. It's in everyone's interest to arrest the slide of Hong Kong.

The imprint of a state juggernaut

High productivity apart, this Budget session lacked sufficient deliberation, pointing to the crafting of a docile Parliament



VALERIAN RODRIGUES

Official spokespersons have hailed the recently concluded Budget session of Parliament as unprecedented both in terms of its hours of work as well as its performance. The 17th Lok Sabha, which was convened on June 17, held 37 sittings that extended over 280 hours till it was adjourned *sine die* on August 6. Sometimes House sittings were extended into the late hours. The Rajya Sabha, which met on June 20, held 35 sittings till it was adjourned *sine die* on August 7. The spokespersons of both Houses claimed that productivity was approximately 137% and 103%, respectively, denoting the hours of work put in. While the Lok Sabha spent 46% of its time in legislative business, the Rajya Sabha spent 51%, a record in recent years.

There were 40 Bills that were introduced during this session (33 in the Lok Sabha and seven in the Rajya Sabha). While the Lok Sabha passed 35 bills, the number was 32 in the Rajya Sabha; 30 bills were passed by both Houses of Parliament. In the Lok Sabha, 183 starred questions were orally answered while 1,066 matters of urgent importance were taken up; 488 issues under Rule 377, that requires advance notice and approval of the Speaker, were attended to. The Lok Sabha Speaker, Om Birla, repeatedly drew attention to the equality of the members of the House cutting across party differences, and extending opportunities to new and young members. Out of 265 first time members, 229, including 42 out of 46 women members, found an opportunity

to express themselves in the House.

All this sounds impressive and there is much to commend for a functioning House especially after the pandemonium witnessed during the sessions of the 15th and 16th Lok Sabha. But can we say that the first session of the 17th Lok Sabha was representative of the concerns and demands of India's complex, inequalitarian and deeply diverse polity, eliciting the responses of the government for its acts of commissions and omissions, and holding it accountable for its performance? Or, should we say, both the Houses were craftily streamrolled to sing to the tune of the government?

Legislative measures

About half the time of both the Houses in their respective sessions was spent on legislative measures. Parliament has to be credited for passing some bills that enjoyed a broad consensus such as the Protection of Human Rights (Amendment) Bill, the Protection of Children from Sexual Offences (Amendment) Bill, the Consumer Protection Bill, and the Supreme Court (Number of Judges) Amendment Bill, although questions have been raised on whether these bills and the way they were framed, were the most appropriate ways to further their intent. However, many of the bills passed by the Houses were matters that led to deep division and contention within the polity, such as the Muslim Women (Protection of Rights on Marriage) Bill, the Aadhar and Other Laws (Amendment) Bill, the Right to Information (Amendment) Bill, the Unlawful Activities (Prevention) Amendment (UAPA) Bill, and the Codes on Wages.

Some of the bills passed by the Lok Sabha such as the Inter State River Water Disputes (Amendment) Bill 2019, the Surrogacy (Regulation) Bill, 2019, the Trans-



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gender Persons (Protection of Rights) Bill, 2019, and the DNA Technology (Use and Application) Regulation Bill, 2019 definitely called for a wider and closer discussion. Many of the bills, such as the Motor Vehicles (Amendment) Bill, which was passed by both the Houses, had bearing on powers of the States and tended to reinforce the powers of the Centre. And indeed, the Jammu and Kashmir Reorganisation Bill, 2019 introduced in the Rajya Sabha surreptitiously, on the penultimate day of its working, and passed by the Lok Sabha on its last working day, changed the constitutional status of Jammu and Kashmir, hitherto protected under Article 370. It split the State into two Union Territories: Jammu and Kashmir, and Ladakh.

All these legislative measures, particularly, the last one, which intend to define Indian polity in crucial ways – and will undoubtedly have enormous implications for the future of constitutional democracy in India – were passed without routing any of the bills concerned through the Standing Committees of the Parliament, or Select Committees. Given the paucity of time, there was little possibility of subjecting them to closer reflective scrutiny. The government was obviously aware of this. In fact, at times it seemed the generous time that the Speaker of the Lok Sabha gave to new members was at the expense of the recititude of these bills. Worse still, the Jammu and Kashmir Reorganisation Bill that radically modified

Article 370, had to be assented to by the Constituent Assembly of the State, by its very provisions. Since the State Assembly remained dissolved and it is under presidential rule, the sleight of presidential powers was employed to move it. Little consideration was extended to reflect popular opinion, with the political leadership of the Kashmir Valley (on which the bill has the gravest consequences) under internment, and the whole population kept incommunicado.

Institutional bearing

The legislative measures that the National Democratic Alliance-II leadership embraced, and the mode of piloting them through the Houses have conveyed, loud and clear, a four-fold message. First, the task of Parliament is not to discuss and debate, shape and reshape measures for public good, and ensure oversight, but merely play second fiddle to the executive leadership. Therefore, criticism and debate over the bills was kept to the minimum, if avoided altogether. There was no attempt to form the 24 departmentally related standing committees before the session, or early in its day, to which bills could be referred to for scrutiny and review or form subject committees for the purpose. The plea of some Opposition members of the Houses in this direction was all in vain.

Second, formal legal equality of citizens would be on premium and all differential considerations on grounds of disadvantage or considerations of diversity would be suspect: Therefore, Articles 370, 35A, and Sharia provisions were sought to be modified, while commitment to human rights in general, was reinforced by re-crafting the National Human Rights Commission through the Protection of Human Rights (Amendment) Bill.

Third, there was an enormous

strengthening of the surveillance and investigative instrumentalities of the State not merely through the UAPA, but also in bills pertaining to the economy and financial transactions. In these measures the 'lethal machine' of the State was on full display against the prevalent ascription of a 'soft' state.

Fourth, legislative measures and amendments such as the Right to Information (Amendment) Bill, highlighted the emergence of an institutional hierarchy, demoting key positions, involving transparency and accountability, to executive discretion. The institutional hierarchy of authority, where the higher rungs were cushioned from the lower ones, was vividly there to see in the way in which the name of the Prime Minister was invoked by Ministers and member after member of the ruling dispensation as the font of wisdom, foresight and concern. Clearly, the attempt to craft a docile Parliament had gone a long way.

Impact on democratic ethos

In the past, there was much that was lacking in the composition and functioning of Parliament. There was also little to defend the way the Opposition had made a habit of boycotting the House and stalling its proceedings, although at times it was the most effective way of demanding responsiveness, and even to air popular grievances. At the same time, it should be said, Parliament was grappling with coming to terms with its own institutional working to be the voice of democracy. If the proceedings in the recently concluded session are a clue to its future, then Parliament has been securely chained to India's state juggernaut.

Valerian Rodrigues taught Political Science at Mangalore University and Jawaharlal Nehru University

A point to ponder over in the POCSO Bill

More than an emphasis on the death sentence, there needs to be an overhaul of the criminal justice administration



ANUBHAV KUMAR

There has been much development recently with respect to the Protection of Children from Sexual Offences (POCSO) Act, 2012. With an objective of stopping the rampant sexual abuse of children, the Protection of Children from Sexual Offences (Amendment) Bill, 2019 was introduced in the Rajya Sabha in July, and later passed by both Houses of Parliament. It is all set to become the 'law of the land'. The present bill is welcome in certain respects as it specifically defines what 'child pornography' is; 'using a child for pornographic purposes' and for 'possessing or storing pornography involving a child' is punishable. It has also widened the ambit of 'Aggravated sexual assault'.

The other side

The highlight of the Bill is the introduction of the death penalty for the rape of minors. The Bill, in its object clause, justifies this by referring to the judgments of the Su-

preme Court in *Machhi Singh* (1983) and *Devender Pal Singh* (2002) in which the court has held that the death penalty can be awarded only in rarest of rare cases. Thus the intention of the Bill is to have a deterrent effect; but it can be argued that the introduction of the death penalty may backfire in cases of child sexual abuse and even have a catastrophic effect. Often, the perpetrators of abuse are family members and having such penalty in the statute book may discourage the registration of the crime itself. Also, it may threaten the life of the minor as the maximum punishment for murder is also the death sentence.

The Justice J.S. Verma Committee, which was constituted in 2013 in the aftermath of the Nirbhaya case, after due deliberations found itself against the imposition of death penalty in rape cases. The 262nd Report of the Law Commission of India, 2015, also provides for abolition of the death penalty except in terror cases.

Today, the death penalty has become a prominent tool of symbolic legislation – a political statement indeed. Many a time, the Government, by introducing the death penalty, portrays itself to be strict and serious with regard to such offences. It largely diverts attention from the core issues of in-



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frastructural apathy, procedural lapses and trial delays and conveniently evades the fact that 'it is the certainty of punishment rather than its severity which has deterrence in real sense'. It is pertinent to note here that even a year-and-a-half after the passage of the Criminal Law (Amendment) Bill, 2018, which introduced the death penalty for rape of a minor girl, such incidents have not been under check. The debate here is not about retaining or abolishing the death penalty but the probable ramifications of its provision in the Act.

The deterrent effect of capital punishment appears to be on the wane. Globally, there is research to support the view that despite stringent punishments, there is no fall in the rate of commission of crimes. Robin Conley in his book, *Confronting the Death Penalty*, has observed that the death penalty may seem just and appropriate in

abstract but once you are privy to its practicality, it becomes less appealing. Deterrence has its own limitations and it has to be supplemented by exhaustive measures that includes an overhaul of the criminal justice administration.

Court data

The Supreme Court has recently taken cognisance of the sexual abuse of children, directing its registry to file a case as writ petition with cause title "In-re Alarming Rise in The Number of Reported Child Rape Incidents". The court has also observed that it intends having a 'zero tolerance policy' towards child rape. As data on sexual crimes against children collected by the court show, 24,212 FIRs were filed across India from January to June this year. According to National Crime Records Bureau data of 2016, the conviction rate in POCSO cases is 29.6% while pendency is as high as 89%. The prescribed time period of two months for trial in such cases is hardly complied with.

The court has also taken note of the delay in trials, in turn directing the Central Government to set up special courts within 60 days of the order in each district having more than 100 pending cases under the Act. It is to be seen how long it takes to comply with the or-

der. The Criminal Law (Amendment) Act, 2018 introduced the death penalty for rape of girls below the age of 12. At the same time, the POCSO Act, under Section 42, provides that where the same act constitutes an offence under the said Act and any other law, then the offender will be punished under the Act or such law, whichever provides for greater punishment. This has created an issue as the effect of such an amendment was death penalty for rape of minor girls but not for assault against minor boys.

The proposed Bill does away with such a discrepancy. It is gender neutral and provides for the death penalty for "aggravated penetrative sexual assault of a child", thus bringing both these pieces of legislation on a par with each other in this respect. With these amendments and with the Supreme Court considering child abuse "intolerable", there seems to be reasonable hope now that vulnerable children could be safer. The Bill is a step forward in preventing child abuse but the consequences of providing for the death penalty need to be closely observed.

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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.

At the Congress's helm

The election of Sonia Gandhi is reflective of the abyss into which the Congress party has fallen (Page 1, "Congress names Sonia as its interim president", August 11). Though she can claim credit for cobbling up UPA-1 and UPA-2, it is doubtful whether her sedate style can match the rabble rousing ways of the ruling dispensation at a time when hate and fear rule Indian politics. Democratic values are under attack in the country and one wonders whether the Congress party has let down the nation by opting once again for dynastic leadership. It has thrown away a historic opportunity for a new beginning.

MANOHAR ALEMBATH,
Kannur, Kerala

■ The fact that the Congress Working Committee has

settled for Ms. Gandhi is not a surprise. The grand old party of India cannot separate itself from the Nehru/Gandhi family as there are no acceptable second rung leaders. It is ingrained within Congress men and women that the party and the family are inseparable. If at all there is a leader who is dynamic, articulate and has the ability to lead, they are confined to his or her State or region. One is sure that the prefix 'interim' is only a term for the arrangement where Priyanka Gandhi Vadra will step in eventually.

M.R.G. MURTHY,
Mysuru

■ It is shocking that months after the results of the general election and a marathon meeting on Saturday, the Congress has fallen back on the family rather than choosing a live-wire president. Why so much

drama when the matter was already settled, as a Bengali proverb goes?

BIDYUT KUMAR CHATTERJEE,
Faridabad, Haryana

■ Ms. Gandhi has done the right thing by assuming the position of "interim president", though reluctantly. Otherwise, there was every chance of the party having becoming irrelevant with each passing day since the resignation of Rahul Gandhi as party president. There could have been a split between the old and new guard. The idea of India is undergoing a change. Party unity is necessary. Rahul Gandhi would do well to reflect on how he can assist the new president in order to regain public confidence in the party.

A.S. SRINIVASAN,
Chennai

■ The Grand Old Party is like a sinking ship. As the BJP is

growing by leaps and bounds, there is a worry that India is heading towards an 'Opposition-less' polity which is not good for the country. In its present political state, the Congress has failed to gain even the support of the ground-level cadre. With the new change, the party leadership should leave no stone unturned to come back with vigour and enthusiasm as a constructive Opposition, if not as a ruling party.

A. JAINULABDEEN,
Chennai

Stand on Kashmir

The futile stand of the Opposition in opposing for the sake of opposition the government's move on the Jammu and Kashmir issue is odd. The Opposition, especially the Indian National Congress, has lost an opportunity to be united and strengthen the country. There needs to be a

permanent solution to this prolonged issue but in an amicable manner. A policy of live and let live must come into being so that there is peaceful co-existence between the two nations.

V.P. DHANANJAYAN,
Chennai

Ecological notes

The havoc and destruction across many regions in the Western Ghats following a vigorous phase of the southwest monsoon must cause policymakers to revisit the Madhav Gadgil report

CORRECTIONS & CLARIFICATIONS:

A report headlined "Kashmiri students hold silent protest in AMU" (Aug. 9, 2019) erroneously identified the former Chief Minister of Kashmir, Sheikh Abdullah, as 'Sher-e-Kashmir' and 'Papa Mian'. The two are different. 'Papa Mian' actually refers to another Sheikh Abdullah, a lawyer and one of the founding members of Abdullah Girls College, Aligarh Muslim University. It was an editing error.

It is the policy of The Hindu to correct significant errors as soon as possible. Please specify the edition (place of publication), date and page. The Readers' Editor's office can be contacted by Telephone: +91-44-2818297/28576300 (11 a.m. to 5 p.m., Monday to Friday); Fax: +91-44-28552963; E-mail: readerseditor@thehindu.co.in; Mail: Readers' Editor, The Hindu, Kasturji Buildings, 859 & 860 Anna Salai, Chennai 600 002, India. All communication must carry the full postal address and telephone number. No personal visits. The Terms of Reference for the Readers' Editor are on www.thehindu.com