



Beyond talaq

India needs a non-sectarian, gender-neutral law that addresses desertion of spouses

Both Houses of Parliament have passed a Bill making instant triple talaq a criminal offence, amidst persistent doubts whether it ought to be treated as a crime or just a civil case. It is true that the Muslim Women (Protection of Rights on Marriage) Bill, 2019, is a diluted version of the Bill as it was originally conceived. Earlier, it did not specify who could set the law in motion. Now the offence is cognisable only if the affected wife, or one related to her by blood or marriage, files a police complaint. A man arrested under this law may get bail, after the Magistrate grants a hearing to the wife. Thirdly, the offence is compoundable, that is, the parties may arrive at a compromise. The government says its main objective is to give effect to the Supreme Court's 2017 verdict declaring instant triple talaq illegal. It claims that despite the court ruling, several instances have been reported. Making it an offence, the government says, will deter further resort to triple talaq, and provide redress for women in the form of a subsistence allowance and custody of children, besides getting the erring husband arrested. However, the core question regarding the necessity to criminalise the practice of *talaq-e-biddat* has not been convincingly answered.

In the light of the Supreme Court ruling on its validity, there is really no need to declare instant triple talaq a criminal offence. The practice has no approval in Islamic tenets, and is indeed considered abhorrent. Secondly, once it has been declared illegal, pronouncing talaq obviously does not have the effect of “instantaneous and irrevocable divorce” as this Bill claims in its definition of ‘talaq’. The provisions that allow a woman to claim a subsistence allowance from the man and seek custody of her children can be implemented in the event of the husband abandoning her, even without the man's arrest. If triple talaq, in any form, is void, how the questions of children's custody and subsistence allowance arise while the marriage subsists, is not clear. And then, there is the practical question of how a man can provide a subsistence allowance while he is imprisoned. It has been argued by the Bill's proponents that dowry harassment and cruelty towards wives are treated as criminal offences even while the marriage subsists. It is a patently wrong comparison, as those acts involve violence and cruelty and are rightly treated as criminal offences. The same cannot be said of a man invoking a prohibited form of divorce. The BJP projects the passage of the Bill as a historic milestone in the quest for gender justice. Such a claim will be valid only if there is a non-sectarian law that addresses abandonment and desertion of spouses as a common problem instead of focusing on a practice, which is no more legally valid, among Muslims.

Logged out

Brazil must recognise that the Amazon rainforest is a universal treasure

It is a matter of global concern that deforestation in the Amazon rainforest in Brazil is increasing rapidly since January, when Jair Bolsonaro took office as President. Satellite images show that about 4,200 sq km of forests have been destroyed up to July 24 under the new government. While most nations tend to view their land and forests through the narrow prism of short-term economic gain, climate science data show that they play a larger environmental role. The Amazon basin, spread across millions of hectares in multiple countries, hosts massive sinks of sequestered carbon, and the forests are a key factor in regulating monsoon systems. The rainforests harbour rich biodiversity and about 400 known indigenous groups whose presence has prevented commercial interests from overrunning the lands. Much of the Amazon has survived, despite relentless pressure to convert forests into farmlands, pastures and gold mines, and to build roads. That fragile legacy is now imperilled, as Mr. Bolsonaro has spoken in favour of “reasonable” exploitation of these lands. Although the forest code has not been changed, his comments have emboldened illegal expansion into forests. Armed gold-hunting gangs have reached tribal areas and the leader of one tribe has been murdered in Amapa in an incursion. These are depressing developments, and the Brazilian leader's criticism of satellite data and denial of the violence are not convincing at all.

As the custodian of forests in about 5 million sq km of Amazon land, Brazil has everything to gain by engaging with the international community on meeting the opportunity cost of leaving the Amazon undisturbed. Mr. Bolsonaro lost a valuable opportunity to seek higher funding for forest protection by refusing to host the annual convention of the UN Framework Convention on Climate Change this year, but he has been wise not to exit the Paris Agreement. Abandoning that pact would jeopardise Brazil's access to the important European Union market. Globally, there is tremendous momentum to save the Amazon forests. Brazil must welcome initiatives such as the billion-dollar Amazon Fund backed by Norway and Germany, which has been operating for over a decade, instead of trying to shut them down. Remedial funding, accounting for the value of environmental services, is the most productive approach, because forest removal has not helped agriculture everywhere due to soil and other factors. One estimate by the World Bank some years ago noted that 15 million hectares had been abandoned due to degradation. Brazil's President must recognise that rainforests are universal treasures, and the rights of indigenous communities to their lands are inalienable. The international community must use diplomacy to convince Mr. Bolsonaro that no other formulation is acceptable.

In hate crime fight, a voice still feeble

Taking the cue from the U.S., the Indian Parliament needs to recognise hate killings as an act of terror



HARSH MANDER

At a time when India is reeling under hate lynching, it is sobering to remember that it took the United States Senate 100 years to approve a bill to make lynching a federal crime. Over 200 anti-lynching bills were introduced in the U.S. Congress since 1918, but all were voted down until the Justice for Victims of Lynching Act of 2018 introduced by three Senators of African-American descent including Kamala Harris was approved unanimously in the winter of 2018.

The U.S. bill describes lynching as “the ultimate expression of racism in the United States”. Senator Cory Booker said the bill recognised lynching for what it is: “a bias-motivated act of terror”. When will Parliament here recognise, similarly, that lynching is “a bias-motivated act of terror” and “the ultimate expression of communal hatred in India”?

Tool of fear

Some may dispute this description, citing the relatively small numbers of such mob crimes. They miss the point that hate lynching is designed as an act to terrorise an entire community. The number of lynch murders in the U.S. mentioned in the bill averages around 55 annually, but despite these small numbers, these performative acts of violence succeeded in instilling intense fear among all African-Americans for decades.

The same purpose is being served by lynching in India; again performative acts of hate violence, but now using modern technology, video-graphing of mob lynching, widely circulating these images through social media, and

celebrating these as acts of nationalist valour. These have similarly instilled a pervasive sense of everyday normalised fear in the hearts of every Indian from the targeted minority community. It is this which indeed makes lynching an ultimate act of terror.

The Supreme Court of India recently asked the Union government and all the major States to explain what action has been taken to prevent these growing incidents of lynching, including passing a special law to instil a sense of fear for law amongst vigilantes and mobsters. Kunwar Danish Ali, a first term Bahujan Samaj Party MP from Amroha, raised the same question in Parliament, describing mob lynching as “an assault on democracy”. His inquiry was met with noisy disruptions, but he got no answer.

Significant statutes

The Uttar Pradesh Law Commission (UPLC) earlier last month took the initiative, unprompted by the Uttar Pradesh government, to recommend a draft anti-lynching law. It commends a law which closely follows in almost every major detail the first law against lynching passed in this country, a remarkable ordinance introduced by the Manipur government late last year, indeed the most significant statute against religious hate crimes in the country.

A noteworthy observation in the text of the United States bill is that it records that at least 4,742 people were lynched in the U.S. between 1882 and 1968, but 99% of all perpetrators remain unpunished. It is significant to remember that the first anti-lynching legislation proposed as far back as in 1918 in the U.S. targeted state officials for failing to provide equal protection under the laws to anyone victimised by a mob. Impunity characterises lynching in India as well. Addressing this squarely, both the Manipur statute and the UPLC draft create a new crime of dereliction of duty by police offi-



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cials, holding a police officer guilty of this crime if he or she “omits to exercise lawful authority vested in them under law, without reasonable cause, and thereby fails to prevent lynching”. Dereliction also includes the failure to provide protection to a victim of lynching; failure to act upon apprehended lynching; and refusing to record any information relating to the commission of lynching. This crime carries the penalty of one to three years and a fine. The UPLC goes further to include also a new crime of dereliction of duty by District Magistrates.

The creation of this new crime was also the key recommendation of the Prevention of Communal & Targeted Violence (Access to Justice and Reparations) Bill, proposed by the National Advisory Council of the erstwhile United Progressive Alliance government (full disclosure: Farah Naqvi and I were co-convenors of the working group which drafted this proposed bill, which however was never even introduced in Parliament). We were convinced that it is only the creation of such a crime that will compel public officials to perform their duty with fairness, in conformity with their constitutional and legal duties, to ensure equal protection to all persons, regardless of their faith and caste.

Some recommendations

Both the Manipur law and UPLC recommendations also lay down elaborate duties of police officials in the event of lynching. These include taking all reasonable steps to prevent any act of lynching including its incitement and commis-

sion; to that end making all possible efforts to identify instances of dissemination of offensive material or any other means employed in order to incite or promote lynching of a particular person or group of persons; and making all possible efforts to prevent the creation of a hostile environment against a person or group of persons.

Both sensitively and expansively lay down official duties to protect victims and witnesses. They state that a victim shall have the right to reasonable, accurate, and timely notice of any court proceeding and shall be entitled to be heard at any proceeding in respect of bail, discharge, release, parole, conviction or sentence of an accused, and to file written submissions on conviction, acquittal or sentencing. They also explicitly require the Superintendent of Police to inform the victim in writing of the progress in the investigation. The victim shall have the right to receive a copy of any statement of the witness recorded during investigation or inquiry and a copy of all statements and documents.

Where the UPLC goes further than the Manipur statute is in laying down the right to compensation. It places the duty squarely on the Chief Secretary to provide compensation to victims of lynching within 30 days of the incident. It states that while computing compensation, the State government must give due regard to bodily, psychological and material injuries and loss of earnings, including loss of opportunity of employment and education, expenses incurred on account of legal and medical assistance. It also lays down a floor of ₹25 lakh in case lynching causes death.

The Congress government of Madhya Pradesh has announced its resolve to pass legal provisions against lynching. It chooses curiously to not do this by an anti-lynching law, but instead by amendments to the Madhya Pradesh Cow Progeny Slaughter Pre-

vention Act 2004 (which would effectively limit its scope only to cow-related lynching, and not lynching triggered by other charges).

Its proposed amendments do not include any provisions to punish dereliction of duty, protect victim rights or secure compensation. All that it proposes is punishment for any act by a mob which indulges in violence in the name of cow vigilantism from six months to three years of imprisonment and a fine. It is unclear what deterrence such amendments would instill, since existing laws contain much greater punishments for murder and aggravated attacks. In its present form, it appears a weak, half-hearted and poorly thought-out measure. The Ashok Gehlot-led government in Rajasthan has also tabled an anti-lynching bill. This prescribes higher punishments, investigation by senior police officers, and mandatory compensation but not the critical elements of dereliction of duty or victim rights. Without these, they will make little difference on the ground.

Home Minister Amit Shah now heads a committee to propose action against lynching. The question remains: do we expect Mr. Shah, or indeed Uttar Pradesh Chief Minister Yogi Adityanath to propose a law against lynching which punishes public officials who fail in their duties, protects victims and witnesses, and ensures comprehensive reparation, as proposed by the UPLC and provided in the Manipur statute?

“Someone is finally recognising our pain,” said the great-granddaughter of Anthony Crawford, an African American, who was lynched in 1916. I wonder how long survivors of lynching who lost their loved ones to merciless mob hate in India will have to wait for a government which will recognise their pain.

Harsh Mander is a human rights worker, writer and teacher

Fortifying the Africa outreach

There is a disconnect between India's developmental assistance to and economic engagement with the continent



MAHESH SACHDEV

This week two important Indian dignitaries began their respective visits to Africa. President Ram Nath Kovind commenced his seven-day state visit to Benin, Gambia and Guinea-Conakry (July 28 to August 3) and Defence Minister Rajnath Singh arrived in Maputo on a three-day visit (July 28 to July 30) to Mozambique. The simultaneity of the two visits may be a coincidence, but it also indicates enhanced priority to Africa. This should be welcomed.

Economic links

During the past five years, Indian leaders have paid 29 visits to African countries. Forty-one African leaders participated in the last India-Africa Forum Summit in 2015, where India agreed to provide concessional credit worth \$10 billion during the next five years. By 2017, India had cumulatively extended 152 Lines of Credit worth \$8 billion to 44 African countries. India has also unilaterally provided free access to its market for the exports of 33 least developed African countries. These sizeable ef-

forts are also noteworthy for being countercyclical: India escalated its commitments to Africa in an era of low-commodity prices when most other partners, including China, have scaled back theirs.

India has substantive economic engagement with Africa. Its trade with Africa totalled \$63.3 billion in 2018-19. India was ranked the third largest trading partner of Africa having edged past the United States during the year. The figures for Indians' investments (estimated at \$50 billion) and Indian diaspora (approximately three million) are a bit imprecise but are also substantive when put in the continental perspective. Although these statistics are impressive, they are well below the potential for India-African economic synergy and are often dwarfed by the corresponding Chinese data.

There seems to be a conspicuous disconnect between Indian developmental assistance to and India's economic engagement with Africa. The time has now come to integrate these two axes for a more comprehensive and sustainable engagement. It would also facilitate aided pilot projects being scaled up seamlessly into commercially viable joint ventures.

Any objective cost-benefit analysis of India's development assistance to Africa is unlikely to impress. From the demand to



remove the statues of Mahatma Gandhi in Ghana to the travails of Indian investors in Africa, from occasional demonisation of the long-standing Indian community to the non-recognition of Indian academic degrees, India's large developmental footprint in Africa does not produce commensurate empathy. India's aid being unconditional, the recipients often take it as an entitlement.

But India is neither a rich country nor has its hands been tainted by a history of slavery, colonisation and the exploitation of Africa. In fact, it is a developing country with similar domestic challenges of poverty, infrastructure deficit and underdevelopment. India's funds committed and seats in our prestigious academic institutions offered to Africa are at the expense of the tax-paying Indians. India's aid to Africa should be reciprocated by acknowledgement and quid pro quo in terms of goodwill (beyond the easy-flowing official rhetoric), and institutional preference. India cannot simply be a

cash cow for Africa, particularly when its own economy is slowing down.

Steps forward

We need to ask ourselves these: for all the development billions spent, how many mega-projects did Indian companies get and how many natural resources does India have access to in Africa? We should reorient our developmental profile to be more economically productive.

To this end, a number of steps can be considered: First, we need to take direct control of our development programme instead of handing our funds to intermediaries such as the African Union, the African Development Bank Group and the Techno-Economic Approach for Africa-India Movement (TEAM 9), whose priorities are often different from India's. To make an impact, our aid should be disbursed bilaterally and aligned with national priorities of the recipient state, which should be a substantial stakeholder and co-investor in schemes and projects from initiation to operation.

Second, India's development assistance should prefer the countries with its substantial interests, both existing and potential. For instance, Nigeria, South Africa, Egypt, Ghana, Angola and Algeria are India's top six trading partners in Africa, accounting for nearly

two-thirds of its trade and half its exports to the continent; yet, they do not figure commensurately in India's developmental pecking order. India's own needs for raw materials, commodities and markets should be factored in its aid calculus. Third, we ought to prefer aiding countries which are willing to help us – from access to their natural resources to using our generics. Fourth, the aided project selected should be compatible with local requirements. They should be cost-effective, scalable, future ready and commercially replicable. Fifth, for greater transparency, India should prefer its public sector to implement the aid projects. Sixth, the Indian Head of Mission in the recipient African state must be an integral part of the aid stream including project selection, co-ordination and implementation. Apart from empowering our diplomacy, this would ensure better harmonisation between our aid and economic objectives.

Finally, the aforementioned should not distract us from our duty to provide the needed humanitarian assistance to Africa: to be rendered promptly and with sensitivity, but without noise.

Mahesh Sachdev was the Indian High Commissioner to Nigeria and the Ambassador to Algeria. He is the author of 'Nigeria: A Business Manual'

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.

An entrepreneur dies

V.G. Siddhartha's journey, from being a management trainee at a firm to owning India's largest retail coffee chain, was phenomenal (Front page, “Coffee Day's Siddhartha goes missing,” July 31). People of Karnataka's Malnad region fondly remember him as he expanded the market for the coffee grown there. Further, he provided employment to thousands of youngsters. His entrepreneurial flair, vision and humility would inspire budding entrepreneurs.

MITHUN H.N.,
Chikkamangalur

■ I fully agree with the story, “It is not easy to do business in India” (Business page, July 31). For a General

Practitioner like me, running a clinic in an urban area requires several regulatory permissions. To begin with, we need to obtain a Corporation Trade Licence, then get a private medical establishment licence, then a clearance from the Pollution Control Board for waste disposal, then get commercial electricity and water connections and so on. We also have to bribe the local officials. Governments have failed to make transparent the process to start an enterprise.

Dr. MOHAN,
Bengaluru

Call for justice

While the entire nation is praying for a speedy recovery of the Unnao rape survivor, we are also

outraged at the manner in which the case, where a ruling party MLA is an accused, has been handled by the Yogi Adityanath government. Questions have been raised about whether the truck-car collision was an accident or a conspiracy to eliminate the survivor and others. Factors like the smudging of the truck's registration plate have only strengthened such suspicions. What is even more disturbing is that her family members were pressurised to withdraw the case. That the Bharatiya Janata Party has not expelled the legislator, Kuldeep Sengar, speaks volumes about the clout he still enjoys. This is a fit case for a Supreme Court-monitored investigation (“Protest over

Unnao accident rocks L.S,” July 31).

S.K. CHOUDHURY,
Bengaluru

Remembering icons

The Yediyurappa government's first ‘momentous’ decision has been to cancel Tipu Jayanti. While there is a case for cancellation of the many ‘jayantis’ celebrated with a holiday, which cause an enormous loss of productive work hours, it looks blatantly unfair and communal to single out Tipu, who heroically fought against the British rule (“Yediyurappa govt. scraps Tipu Jayanti,” July 31). Nonetheless, holidays associated with many of these jayantis, whose sole aim seems to be to appease

certain sections, can be cancelled. There can be a token one-hour event to remember the great men and then we can return to the more important nation-building activities.

K.M. SRINIVASA GOWD,
Bengaluru

Triple Talaq Bill

With the Triple Talaq Bill clearing the final hurdle, the Narendra Modi government can heave a sigh of relief. It has finally managed to criminalise instant divorce – a practice prevalent mostly among the poorer sections of the Muslim society (“Triple

Talaq Bill sails through Rajya Sabha,” July 31). However, to vindicate its stand that it is really a well-wisher of the minority community, the government should enact with equal alacrity, laws to deal with mob lynchings. Further, the need of the hour is also to take stock of the stark educational and economic backwardness among the minorities and their dismal representation in government and private services.

MOHAMMAD ABDUL HAKEEM,
Hyderabad

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CORRECTIONS & CLARIFICATIONS:

UPI stands for *Unified* Payment Interface – not *United* Payment Interface as the front-page story on Truecaller bug (July 31, 2019, some editions) said.

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