

Tyranny of the majority

India is bombarded with electoral rhetoric that is shorn of care for citizens who inhabit desolate worlds



NEERA CHANDOKE

Every person who aspires to political power ought to read the book, *Considerations on Representative Government*, by John Stuart Mill. Ideally, democracy is not the best form of government, wrote Mill, unless it ensures that the majority is unable to reduce everyone, but itself, to political insignificance. The book neatly demolishes facile arguments that a majority group has some unspecified right to imprint its will on the body politic. In democracies, the very idea of majority rule is trumped by the grant of fundamental rights. Paramount among these is the right not to be discriminated against on the basis of religion, caste, class, gender and sexual preferences. What group we belong to, what faith we profess and what language we speak is irrelevant. Each citizen is an equal shareholder in the political system.

A momentous transition

The makers of our Constitution were committed to this understanding of democracy. On October 17, 1949, H.V. Kamath moved an amendment in the Constituent Assembly. The Preamble to the Constitution, he suggested, should begin with the phrase “In the name of God”. Similar amendments were moved by Shibban Lal Saxena and Madan Mohan Malaviya. Other members vociferously disagreed. Hriday Nath Kunzru observed that we should not impose our feelings on others: “We invoke the name of God, but I make bold to say that while we do so, we are showing a narrow sectarian spirit, which is contrary to the spirit of the Constitution.” The amendment was defeated. The Constitution obligates the holders of power to respect the principle of religious neutrality.

The commitment was significant, because by the mid-1940s religion no longer belonged to the realm of private faith. It had been transformed into a mode of politics that laid claims to power in the public domain. The transition proved momentous for Indian politics. Though prominent leaders assured minorities, time and



“Today we see little else than religion as a frighteningly threatening form of politics.” A map of ‘Akhand Bharat’ in Bulandshahr, Uttar Pradesh. • R.V. MOORTHY

again, that they would not be discriminated against for any reason, right-wing groups continued to assert that the religious majority had a natural right to rule India. This belief shaped the dark underside of collective political imaginations. Still these ideas were contained, at least till recently, by the intent and the framework of the Constitution.

Take the *S.R. Bommai v. Union of India* case (1994). The Supreme Court ruled that equality is the essential basis of the Constitution. Equality is a default principle, irrespective of the religious affiliation of citizens. Correspondingly the Indian state is not expected to privilege one religion over another, because it is neither religious nor irreligious. But matters are dramatically different today. Rulings of the Supreme Court are openly flouted by leaders of the BJP and its ideological cohorts. Shrill voices have become more aggressive and truculent. Cadres of the Hindutva brigade have no hesitation in intimidating citizens. The foundations of our democratic system tremble.

Consider the provocative statements issued by right-wing leaders in the Sabarimala and Ayodhya cases. Political commentators find the escalation of hysteria and provocative speeches unsurprising. After all, we are at the end of Assembly elections in five States, and general elections are around the corner. The topmost priority has to be given to religious practices. The Prime Minister, who is required to represent the interests of all Indians, remains silent. Narendra Modi is seldom at a loss for words,

but he cannot find the words to condemn the rising tide of bigotry and hate, and the insistent subversion of democracy.

A crucial juncture

India stands at a crucial juncture before the general elections. On the one hand is the party in power that has visited ill-being on the people through demonetisation and the Goods and Services Tax (GST), harassment of universities, sabotage of institutions, violations of fundamental rights, the sanction of public lynchings, and now murder of a policeman. Gone is the emphasis on *achhe din*, the commitment to economic development, jobs, agrarian transformation, money in bank accounts, and governance. Today we see little else than religion as a frighteningly threatening form of politics.

On the other hand stands the Congress, the inheritor of the legacies of Mahatma Gandhi and Jawaharlal Nehru. Many Indians hoped that the party would relentlessly zero in on the dangerous threat to constitutional democracy. The party should have tapped minds and hearts with promises of restoration of the fundamental principles of constitutional democracy. It should have called for a second freedom struggle. But the Congress has opted to become an anaemic version of the BJP, with tilak-sporting, temple-going, and go-tra-conscious leaders. The BJP has lived up to its ignoble reputation as a party of the majority and for the majority. The Congress has no distinctive ideology. It has forgotten the ex-

ample set by Nehru. During the Partition riots, Nehru was physically there, in the killing fields of Punjab and in Delhi, persuading people to desist from violence, assuring Muslims safety, and protecting Indians against each other. Today the party fights shy of being branded as a protector of the rights of all Indians.

Regional parties are hailed as a perfect political institution for a federal India. Yet most regional leaders, and their progeny, tend to treat their States as feudal fiefs. Fewer have a vision that is truly national. What has happened to political creativity, to projects that map out new paths, and to the confidence that democracy must be truly representative so that the majority does not reduce others to insignificance?

Leaders should take inspiration from French President Emmanuel Macron. Along with German Chancellor Angela Merkel, he courageously took on some of the most populist of Europe’s leaders, at a function to mark a century since the end of World War I. He affirmed an axiom that had already been articulated by Rabindranath Tagore: “Patriotism is the opposite of nationalism.” In the audience were U.S. and Russian Presidents Donald Trump and Vladimir Putin, respectively, two leaders who have adopted muscular nationalism as their political credo. Mr. Macron urged leaders not to forget the slaughter “one hundred years after a massacre whose scars are still visible on the face of the world”. There is a lesson to be learnt from this advice.

In India, we are bombarded with electoral rhetoric that is shorn of care, compassion for, or commitment to citizens who live in frighteningly desolate worlds. These worlds are inhabited by impoverished farmers, insecure workers in the informal sector who lost their jobs after demonetisation and the imposition of GST, minorities who are increasingly rendered irrelevant, the so-called lower castes who are deprived of security, and women who are subjected to hateful stereotypes. Elections give citizens an opportunity to discuss policies and proposed political agendas, and exercise free choice. The forthcoming election breeds pessimism at the lack of choices.

Neera Chandhoke is a former Professor of Political Science at Delhi University

FROM THE READERS’ EDITOR

Organising the community of readers

A readers’ forum will strengthen trust in the news media



A.S. PANNEERSELVAM

Attempts to understand the intangible actually end up delivering something tangible. Trust is the driving factor for *The Hindu* Open House, where readers are invited to interact with the senior editorial and management teams of this newspaper. Trust is a qualitative attribute; no mathematical formula can capture its power. In our latest interaction with readers in Bengaluru on December 8, a young student proudly declared that she is the fourth generation reader of this newspaper. It is impossible to create a matrix to measure this trust. However, for the journalists and managers who witnessed this display of respect, faith and conviction in the newspaper, it was a moment to reiterate their commitment to the core values and cardinal principles of *The Hindu*.

A viable suggestion

Some readers felt that *The Hindu* should have more such interactions with its readers and establish a proper readers’ forum in various cities. These fora, they said, could feed citizen journalism, monitor events, and help form an effective community. Unlike on social media, where there is less of the community and more of the individual, this community of readers with shared ideas will generate space for the common good, they said. Readers wanted the office of the Readers’ Editor to initiate the move.

The existence of a viable forum where readers, journalists and managers of a newspaper can freely interact is not only an interesting idea but also a viable one. We need to think about its structure and the organisational arrangements required to make it mutually beneficial. One of the aspects of being an independent news ombudsman is to know about one’s boundaries as well as possibilities. Where does one’s remit end and where does one’s overreach begin? We need clarity on a few critical elements. Will a larger engagement with readers undermine the fundamental role of a news ombudsman, which is to ensure fairness and accuracy, car-

ry out corrections and clarifications, and maintain a critical distance from the editorial and management of the newspaper?

Along with the Terms of Reference for the Readers’ Editor and Living our Values: Code of Editorial Values, I also draw from Carlos Maciá-Barber’s eight edicts for a news ombudsman. First, ombudsmen should act in an ex-officio capacity. Second, ombudsmen should put their official duties ahead of their own careers. Third, ombudsmen should assist journalists’ self-evaluation and self-regulation. Fourth, ombudsmen should promote the right to information and citizen participation. Fifth, ombudsmen should foster media literacy. Sixth, ombudsmen should guard the rights of journalists. Seven, ombudsmen should be given the power to ensure that editors meet their obligations. And ombudsmen should not yield to depression or despair. It requires a clear vision to ensure that one does not overstep boundaries while implementing these edicts.

What is clear is that an ombudsman is a part of a narrative where every strand is committed to the common cause called good journalism. The readers’ forum will promote citizen participation and foster media literacy.

The Guardian has created a web community for “lively, entertaining and, above all, intelligent discussions”. It has 10 guidelines to define the nature of online engagement in this time of extreme online hostility. Here, the relationship between the publication and the readers’ community is mediated only in the virtual world. However, the request we got from our readers, including those from Bengaluru who attended the Open House, is for a physical readers’ forum.

To borrow from the Columbia Journalism Review (CJR), it is true that most readers do not know much about how journalism works, or its organising principles. I have relentlessly followed CJR’s directive to keep talking about basic questions such as, “What is journalism and why does it matter?” CJR also urges news ombudsmen to “embrace the idea that we’re all teachers and ambassadors – and get aggressive with it.” A readers’ forum may be an ideal platform for taking these ideas forward. Readers, the editor, the editorial staff and the management should all come together to decide the contours of such a forum.

readerseditor@thehindu.co.in

SINGLE FILE

Unimplementable orders

Two recent judgments look like they will remain on paper

MARKANDEY KATJU



In 1981, the Supreme Court passed an order directing the shifting of some graves in Doshipura in Varanasi from a Muslim graveyard, but the order is yet to be implemented. Similarly, while some were debating how implementable the recent verdict on the entry of women of all ages into the Sabarimala

temple is, the order fixing timings for bursting of firecrackers during Diwali this year was flouted with impunity.

Recently the court has passed two orders which I fear will remain on paper. In the first, the court has asked each High Court to designate as many sessions and magistrate courts in the concerned States to try criminal cases against sitting and former MPs and MLAs. The government informed the court that there are 4,122 criminal cases pending against MPs and MLAs in 440 districts across the country.

A case takes time to decide. The cumbersome Code of Criminal Procedure must be followed. Charges must be framed, witnesses must be examined and cross-examined, documents must be adduced in evidence, and arguments must be heard. Only then can a well-considered judgment be delivered. Moreover, the witnesses and even the investigating authorities may turn hostile.

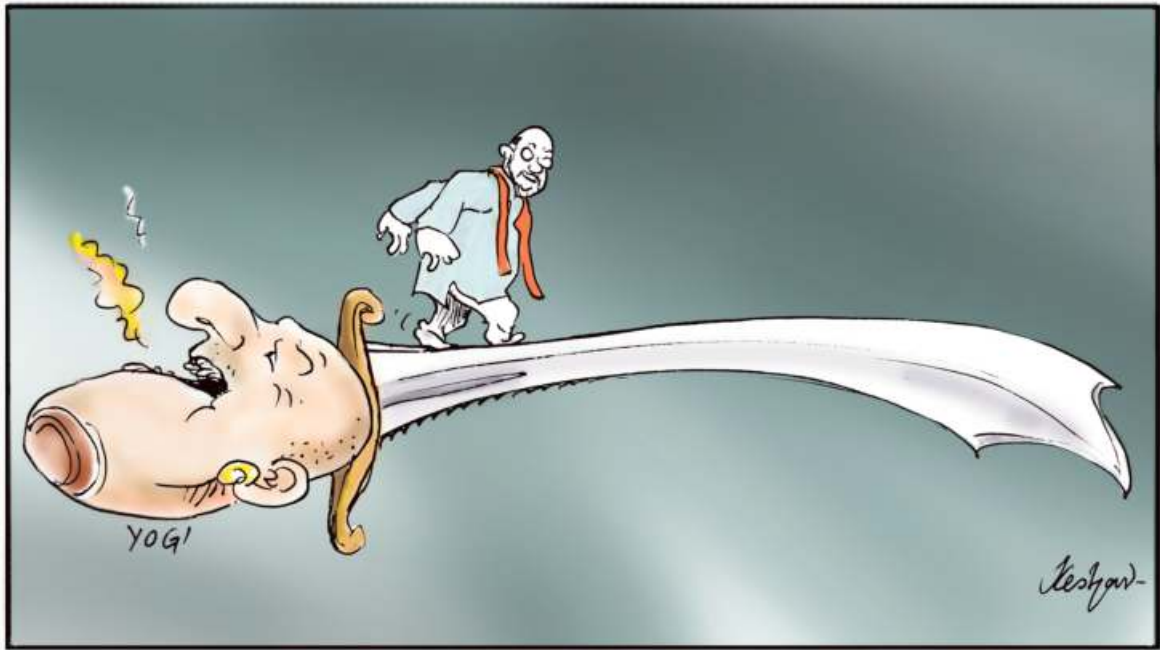
The existing number of courts in India are already overburdened with 33 million pending cases. Should a section of them give up dealing with the cases before them and only deal with these cases relating to MPs and MLAs? Then their cases will have to be handed over to other judges, who are similarly overburdened.

The second order in question is for implementing the Witness Protection Scheme of 2018. It is well known that nowadays it is nearly impossible to get independent witnesses in criminal cases. If someone sees a crime, the tendency is to avoid getting into trouble by depositing about it to the police or the court, which may invite reprisal by the party against whom the witness gives evidence. Consequently, a judge is rarely sure that the witness is being truthful. To mitigate this outcome the government has framed a Witness Protection Scheme, but how practicable is it? The scheme proposes giving witnesses a new identity. There are over 28.4 million cases pending in subordinate courts in India, of which perhaps 70% are criminal cases. If on an average there are half a dozen witnesses in each case, this may require change of identity for millions of people. Is this feasible, financially or logistically?

Other proposals also appear unrealistic. The scheme mentions providing police escort to the courtroom, temporary safe houses and relocation of the witness. But how simple is it to relocate an individual whose job requires him to be at a fixed location? For how long and to how many will the police provide protection?

Unless orders factor in these considerations, they may go the way of the Doshipura graveyard.

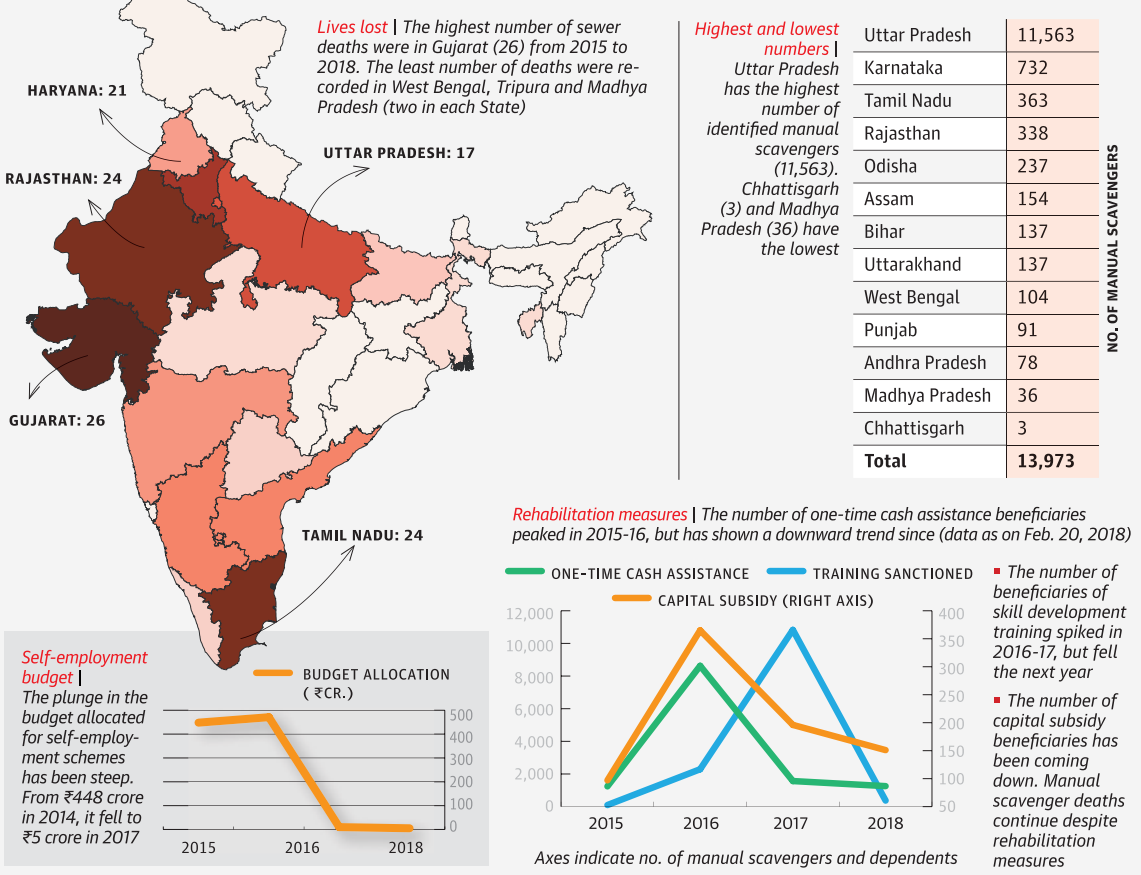
The writer is a former judge of the Supreme Court



DATA POINT

Scourge persists

While estimates of the number of manual scavengers across the country vary widely, 13,973 manual scavengers have been identified as on December 8, 2018, according to data provided by the Ministry of Social Justice and Empowerment. **Sayan Ghosh** and **Sumant Sen** take a look at the situation and the progress of rehabilitation measures



FROM The Hindu. ARCHIVES

FIFTY YEARS AGO DECEMBER 10, 1968

Plea for free inter-State road transport

The Minister for Transport and Shipping, Dr. V.K.R.V. Rao, today [December 9] suggested that obstacles to free movement of vehicles from State to State and within a State itself should be removed. Dr. Rao said the Inter-State Transport Commission at its standing committee meeting in January next was expected to consider the question of authorising the commission to issue permits to enable the freer movement of motor vehicles throughout the country. Dr. Rao said the Union Government was considering steps to give the Transport Commissioner powers to issue inter-State permits so that freedom of movement of vehicles is ensured and obstacles in the way of free flow of traffic removed.

A HUNDRED YEARS AGO DECEMBER 10, 1918.

The Reforms Committees.

There was a very large gathering of the citizens of Lahore at Bradlaugh Hall [in Lahore] on Sunday afternoon [December 8] to hear the lectures of Messrs Bannerjee, Sastri, Sapru and Aftab Ahmed Khan. Though admission was by tickets the spacious hall was filled to its utmost. Mr. Surendranath Bannerjee and Dr. Tej Bahadur Sapru in the course of their speeches dwelt on the question of self-government and explained the attitude of the moderates concerning the reform scheme both admitting that differences between themselves and the other party were slight and small. They were all going to the temple of the motherland though by devious means. Mr. Bannerjee exhorted the audience to be devoted to their country, to be courageous, to bear sacrifices in the service of the motherland. The Punjabis, he said, should be sentinels, the vanguards and leaders in the march for self government.

CONCEPTUAL

Error management theory

EVOLUTION

This refers to a theory which explains how evolutionary forces may have influenced human decision-making. Error management theory often views cognitive biases as adaptations of the human mind to deal with problems that were faced by human ancestors. The human mind, for instance, prefers to commit a type 1 false positive error over a type 2 false negative error. This is because false positive errors would have been more costly to the survival chances of our ancestors living in the ancient age than false negative errors. The theory was proposed by American psychologists David Buss and Martie Haselton and has been used to explain modern human behaviour.

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