



Turn the page

Sri Lankan President Sirisena must find a way to work with Ranil Wickremesinghe

After three weeks of political turmoil, Sri Lanka's controversially dismissed Prime Minister, Ranil Wickremesinghe, appears to have gained the upper hand. A majority of lawmakers backed a no-confidence motion in Parliament against Mahinda Rajapaksa, a former President who was sworn in Prime Minister on October 26. The Speaker declared the motion to have been passed by voice vote, as Mr. Rajapaksa's loyalists sought to block the motion being taken up. Mr. Rajapaksa himself walked out of the parliamentary chamber before the vote was taken, with his supporters questioning the no-trust motion being taken up with such urgency. This contention could pale before the fact that as many as 122 MPs, in a House of 225, signed a memorandum expressing lack of confidence in his government to the Speaker. The noisy scenes and attempts to disrupt the vote reflected the deep divisions between the country's main national parties. Mr. Sirisena's decisions in the last three weeks have been against the letter and spirit of the Constitution, especially the reforms enacted in 2015 to curb the vast powers that come with his office. He removed the Prime Minister despite constitutional restrictions on doing so and had another sworn in. He prorogued Parliament to delay the demonstration of a parliamentary majority by Mr. Rajapaksa. On being confronted with the reality that the numbers were stacked against Mr. Rajapaksa, the President dissolved the legislature itself. The House was revived by an interim order from the Supreme Court.

It is now clearer than ever that Mr. Sirisena had needlessly plunged the country into a deep crisis by replacing the Prime Minister without ascertaining the numbers in the House. It is quite surprising that Mr. Rajapaksa, whose political instincts ought to have made him decide otherwise, agreed to be sworn in solely on the premise that he could induce crossovers. With these two leaders smarting under the setback in Parliament, it is difficult to consider the latest development as the end of political uncertainty. Mr. Sirisena needs to appoint a new Prime Minister immediately, but is averse to Mr. Wickremesinghe returning to that office. He had earlier indicated that he offered the post to two other members of Mr. Wickremesinghe's United National Party, but had to appoint Mr. Rajapaksa as they had turned down the offer. It would be untenable if he lets Mr. Rajapaksa continue as a lame duck Prime Minister by again invoking his powers to prorogue the House. It is time that Mr. Sirisena, who was elected on a promise of political and institutional reform, showed some statesmanship and found a way to work with Mr. Wickremesinghe again. It would be unwise for him to further exacerbate the crisis. He would do better to turn the page and focus on problems such as Sri Lanka's bleak economic situation and unresolved minority concerns.

Full disclosure

Structural reforms are needed to bring accountability to the credit rating industry

After the IL&FS crisis, the Securities and Exchange Board of India is now trying to increase the level of scrutiny on credit rating agencies that failed to warn investors about it. SEBI has come out with new guidelines to improve the quality of disclosures made by credit rating agencies. According to the new norms, credit rating agencies will have to inform investors about the liquidity situation of the companies they rate through parameters such as their cash balance, liquidity coverage ratio, access to emergency credit lines, asset-liability mismatch, etc. Further, rating agencies will have to disclose their own historical rating track record by informing clients about how often their rating of an entity has changed over a period of time. SEBI has been working hard to improve transparency and credibility among rating agencies for some time now, including through a circular issued in November 2016 calling for enhanced standards for rating agencies. But the latest disclosure norms seem to be a response to the IL&FS defaults and the ensuing crisis. While rating agencies already make at least some of these disclosures one way or the other, mandating the formal disclosure of these facts is still welcome. The ready availability of information can help investors make better decisions.

But the latest regulations can only help to a certain extent as a lot of the problems with the credit rating industry have to do with structural issues rather than the lack of formal rules. The primary one is the flawed "issuer-pays" model where the entity that issues the instrument also pays the ratings agency for its services. This often leads to a situation of conflict of interest, with tremendous potential for rating biases. Second, the credit rating market in India has high barriers to entry, which prevent competition that is vital to protecting the interests of investors. This is not very different from the case in many developed economies where rating agencies enjoy the benefits of an oligopoly. Better disclosures can increase the amount of information available to investors, but without a sufficient number of alternative credit rating providers, quality standards in ratings will not improve. It is thus no surprise that even after repeated ratings failures in their long history, credit rating agencies continue to remain and flourish in business. Structural reform should aim to solve another severe problem plaguing the industry, which has to do with rating shopping and the loyalty of credit rating agencies in general. Rating agencies will have to come up with lucrative business models that put the interests of investors above those of borrowers. Such a change requires a policy framework that allows easier entry and innovation in the credit rating industry.

A question of writ

The Sabarimala and Asia Bibi cases put the spotlight on how institutions adhere to constitutional principles



SANJAY HEGDE

On the streets of India and Pakistan, a frightening message is being sent out: that courts must not rush in where politicians fear to tread. In matters of faith, courts must simply sit on their hands and pray for divine intervention to resolve the petition before them. The public and political responses to Supreme Court judgments in two instances – Sabarimala in India and the Asia Bibi case in Pakistan – bear striking similarities. What is different, however, is the ability of the two states to enforce their writ.

Sabarimala is considered to be one of the holiest temples in Hinduism, with one of the largest annual pilgrimages in the world. The faithful believe that the deity's powers derive from his asceticism, and in particular from his being celibate. Women between the ages of 10 and 50 are barred from participating in the rituals.

The exclusion was given legal sanction by Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965. The validity of the rule and other provisions restricting the entry of women was decided by the Supreme Court last month. The Court, by a majority of 4:1, held that the exclusion of women between these ages was violative of the Constitution.

The Sabarimala judgment

Then Chief Justice of India Dipak Misra and Justice A.M. Khanwilkar held that the practice of excluding women did not constitute an "essential religious practice". Crucially, the judges also relied on Section 3 of the Act mentioned above

which stipulates that places of public worship must be open to all sections and classes of Hindus, notwithstanding any custom or usage to the contrary. It was held that Rule 3(b) prohibiting the entry of women was directly contrary to this. A concurring judge, Justice R.F. Nariman, further held that the right of women (in the age bracket in question) to enter Sabarimala was guaranteed under Article 25(1). This provision states that all persons are "equally entitled" to practise religion. According to him, Rule 3 prohibiting the entry of women, was violative of Article 15(1) of the Constitution.

Justice D.Y. Chandrachud, also concurring, emphasised the transformative nature of the Constitution which was designed to bring about a quantum change in the structure of governance. More crucially, it was a founding document, designed to "transform Indian society by remedying centuries of discrimination against Dalits, women and the marginalised". 'Morality' used in Articles 25 and 26, the judge held, referred to constitutional morality which includes the values of justice, liberty, equality and fraternity.

He also held that barring menstruating women from entering the shrine is violative of Article 17 (the constitutional provision prohibiting untouchability). The judge held that the concept of untouchability is grounded in the ideas of 'purity and pollution'. These same notions form the basis for excluding the entry of menstruating women into religious shrines.

The sole woman judge, Justice Indu Malhotra, who dissented, reasoned, "Issues of deep religious sentiments should not be ordinarily be interfered by the court. The Sabarimala shrine and the deity is protected by Article 25 of the Constitution of India and the religious practices cannot be solely tested on the basis of Article 14... Notions



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of rationality cannot be invoked in matters of religion... What constitutes essential religious practice is for the religious community to decide, not for the court. India is a diverse country. Constitutional morality would allow all to practise their beliefs. The court should not interfere unless if there is any aggrieved person from that section or religion."

While the Bharatiya Janata Party has seen the judgment as an attack on the Hindu religion, the Congress too has not lagged behind. Even an "instinctive liberal" such as Shashi Tharoor has said, "abstract notions of constitutional principle also have to pass the test of societal acceptance – all the more so when they are applied to matters of faith... In religious matters, beliefs must prevail; in a pluralistic democracy, legal principles and cultural autonomy must both be respected..."

Asia Bibi case

In 1929, the funeral of a killer, Ilmuddin, took place in Lahore, executed for the murder of Rampal, a publisher, who had published an allegedly unsavoury reference to the life of Prophet Muhammad. Ilmuddin had been buried without funeral prayers as the authorities

anticipated further trouble. But some eminent personalities, who included M.D. Taseer, assured the British authorities that there would be no trouble if there was a proper burial with a procession and Islamic prayers. The British relented and at the public mourning, the funeral prayer had to be read thrice before the surging crowds. The upshot of these events was that Section 295A was introduced into the Indian Penal Code to punish a deliberate insult to religious feelings.

Years later, in Zia-ul-Haq's Pakistan, Sections 295B and 295C were added to the Pakistan Penal Code which criminalised blasphemy against Islam and even made it punishable with death. In 2009, Asia Bibi, a Christian woman, was accused of blasphemy by her neighbours and jailed pending trial. She was sentenced to death in 2010 by a trial court.

Her case became a cause célèbre and Salman Taseer, the Governor of Pakistan's Punjab province, visited her in prison to express support. This act by Taseer, who was the son of M.D. Taseer who had negotiated Ilmuddin's burial, did not go down well. So enraged was his bodyguard Mumtaz Qadri, that he assassinated Taseer in 2011. When Qadri was produced in court for trial, he was showered with rose petals by lawyers. He was tried and hanged in 2016, and his funeral attracted a crowd that rivalled the one at Ilmuddin's.

Last month, the Supreme Court of Pakistan allowed Asia Bibi's appeal and declared her innocent of the charges. She has now been released and expected to be granted asylum in Europe. Her lawyer has fled Pakistan and the judges now fear for their lives. Pakistan faced the threat of mob violence led by the radical Tehreek-e-Labbaiq Pakistan party. Despite Prime Minister Imran Khan's initial bluster, an agreement has been signed with

mob leaders to end the violence.

The Chief Justice of Pakistan, Saqib Nisar, has reportedly defended himself by saying, "No one should have the doubt that the Supreme Court judges are not lovers of Prophet Muhammad... How can we punish someone in the absence of evidence?"

The thread

It is easy to dismiss the Sabarimala and Asia Bibi cases as being unconnected and belonging to different jurisdictions and contexts. But both belong to the same region and trajectory of history. India was built on a secular foundation while Pakistan was built on a majoritarian Muslim agenda. However, both countries profess at least lip service to the rule of law. Years of majoritarianism have brought Pakistan to the point where its institutions have had to defend themselves before doing justice to minorities. India is at a stage, where its majority is seeking to bring its institutions to acquiesce in majoritarian instincts. A majority whose forebears had committed themselves to a magnificent constitutional compact now has elements who seek to regress from those values.

The question is whether the people and the institutions succumb to pressure or adhere to principle. Each individual, regardless of birth ascribed identity, is a minority of one entitled to an individual guarantee of rights protected by the Constitution. It is in the adherence to individual rights that the greater public good rests. Those who sacrifice a little man or woman's liberty for the security of the many will find neither liberty, nor security.

Let us keep this in mind, as the Supreme Court agrees to hear in open court a review petition against its Sabarima judgment.

Sanjay Hegde is a senior advocate of the Supreme Court

Setting a proper diet plan

To tackle malnutrition, food prices must be regulated and the PDS strengthened in both developed and poor States

SHAILENDER KUMAR HOODA & RABIUL ANSARY

Despite being one of the fastest growing economies in the world, India has been ranked at 103 out of 119 countries, with hunger levels categorised as "serious", in the Global Hunger Index 2018. Strikingly, in July, three girls died of starvation resulting from prolonged malnutrition in the national capital Delhi, which has a high per capita income. India's child malnourishment level is not only the highest in the world but varies considerably across States. As per the National Family Health Survey-2016, the proportion of stunted (low height for age) children under five is significantly higher (38.4%) than global (22.9%) averages. The underweight (low weight for age) children rate (35.7%) is a lot higher than the global average (13.5%) too. India is home to over 53.3 million stunted, 49.6 million underweight and 29.2 million wasted (low weight for height) children under five.

Major challenges

Growing prosperity has hardly made any significant dent in chronic malnutrition of children. Faster economic growth has enormous benefits, but it is by no

means sufficient and sustainable if millions of children remain undernourished, as it not only impacts early childhood health and imposes disease burden but also affects education, wages and productivity when they grow up, which will impact India's growth. Where does the solution lie?

One problem lies with the current thinking of growth-oriented development. No doubt, the low income and Empowered-Action-Group (EAG) States face major challenges to improve malnutrition, but, two EAG States, Chhattisgarh and Odisha, have performed better on this front compared to Gujarat and Maharashtra where per capita income is almost double.

The development path prevalent in Gujarat is more about growth and investment, which, however, has not been able to translate as better nutritional status in the State. Odisha, which is a low income State, has a better network of Integrated Child Development Services (ICDS), public health facility/workforce per lakh population and educational attainment among women, which have translated into a better nutritional status when compared with Gujarat. Further, tribals, rural, poor and illiterate mothers' children



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are badly off in so-called developed States of Haryana, Gujarat and Punjab. These groups are also affected in poorer States of U.P., Bihar, Jharkhand and Madhya Pradesh. Around two-thirds of stunted/underweight children are from 200 districts of both less developed and developed States.

Agriculture v. hunger

Another prominent idea is the need to link agriculture and nutrition, as agriculture provides answers to most nutrition problems. Our estimates, however, show malnutrition continues to be high in agricultural surplus States like Haryana (34% stunted and 29.5% underweight). Worryingly, malnutrition in some of its agriculturally developed districts (Karnal, Panipat, Sonapat, Rohtak as well as in Gurugram) is even higher than the average of Odisha. Recently, Madhya Pradesh has registered double-digit growth in food grain pro-

duction making it one of the wheat granaries of India, but acute malnutrition is still critical in most of its districts with a high proportion of underweight (42.8%) and stunted children (41.9%).

To understand the contradiction between agrarian plenty and malnutrition, let us take the example of diversified food. With the increase in diversity in food intake, measured through Food Intake Index using 19 food items in all 640 districts, malnutrition (stunted/underweight) status declines. Only 12% of children are likely to be stunted and underweight in areas where diversity in food intake is high, while around 50% children are stunted if they consume less than three food items.

A majority of children across districts in Tamil Nadu consume a reasonably highly diversified food, leading to lower percentage of stunted/underweight children across districts. Children in a majority of districts in West Bengal, Odisha, Kerala and Karnataka consume mediocre level of food items and malnutrition is relatively lower than in Rajasthan, U.P., Jharkhand, M.P., Gujarat, Bihar and Haryana (children in many of their districts consume less diversified food). The diversified food intake is very low in a majority of Indian

districts; just 28% of children consumed over five items of the total 19 food items.

The way forward

An inclusive and holistic approach, including controlling/regulating food price, strengthening the public distribution system (PDS) and income support policies for making food cheaper are important steps. The ICDS was a high impact nutrition intervention, but its universal availability and quality are questionable due to poor functioning. The government must broaden the ICDS programme by ensuring diversity in food items in worst-hit districts. The launch of the National Nutrition Mission as a strategy to fight maternal and child malnutrition is a welcome step towards achieving the targets of underweight and stunted children under five years from 35.7% to 20.7% and from 38.4% to 25% respectively by 2022. But sustained budgetary commitment towards nutrition components is not sharply visible.

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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.

Review petitions

The Supreme Court's refusal to stay the majority judgment by a Constitution Bench, on September 28, on the Sabarimala temple case, and also agreeing to hear in open court review petitions on January 22, next year is a signal to protesters who are on the war path (Page 1, "SC refuses to stay Sabarimala ruling", November 14). Political parties would do well to tone down their stance, being aware that any government is bound to obey and execute the Supreme Court's order. The all-party political meeting today should be used to ease the tense situation at Sabarimala ("Pinarayi calls all-party meeting tomorrow", November 14).

B. PRABHA,
Varkala, Kerala

■ It would have been heartening had the top court

stayed its September 28 judgment until final status is reached after completion of hearing of the review petitions and connected writs. For argument's sake, if at the end, the old practice is restored, after, god forbid, having been violated during the interim period, devotees would feel it to be a permanent blot on the sanctity of the temple. How can the situation be explained away? The court order, remaining as it is, it is for the government to adopt a pragmatic step to convert the latest order into a win-win situation for all. Instead of repeating that the court order would be implemented, the government should look at the totality of the new order. In a democracy, governments are not merely there to implement judicial directives, which are obviously an interpretation of laws. If the will of the

people is not reflected in court judgments, it is for the government to point it out. It is for the government to restore peace and tranquility to the Sannidhanam and surroundings. It is further hoped that the proposed all-party meeting today will help lead the government on the right path.

P.R.V. RAJA,
Pandalam, Kerala

Rajinikanth on politics

Tamil film star Rajinikanth's seemingly cryptic and fuzzy comments, reportedly made on the issue of Opposition parties coming together as an anti-Bharatiya Janata Party alliance, are quite understandable given the hazy and uncertain political atmosphere. It is quite obvious that he prefers to be non-committal on the issue of his political stand right now. Moreover, with his big budget movie due to be released very soon, he would

most probably be focussed on that. It would be too much to expect him to speak his mind openly on political issues now. Perhaps we have to wait till he formally announces his plunge into active politics.

A. MOHAN,
Chennai

Wildlife alert

The fact is that instances of man-human conflict are growing and the authorities concerned need to draw up solutions to the satisfaction of all ("Avni: two chances to tranquillise missed," and "I did not order the killing: Forest Minister", November 14). In my hometown, which is in Bageshwar district, Uttarakhand, for instance, there are quite a few cases of encounters with leopards. The situation is bound to turn ugly and we cannot afford to have another Avni-like case playing out again. It

is better to plan well and think of acceptable and non-controversial solutions.

RAJESH LOHANI,
Nainital, Uttarakhand

Oil pricing

For four-plus decades now, the global economy has been linked to the state of oil demand and pricing. Energy-related economic sectors carry trillions of dollars in investments and a liquid gold-led economy deflates with a fall in crude prices. The era of liquid gold is alive and nations await an oil price rebound to reanimate their economies. The price recovery in the oil sector is an omen for pick-up in global growth. Sadly, we have done little all these decades to reduce our dependence on crude imports (Editorial, "Changing trends?" November 14).

R. NARAYANAN,
Navi Mumbai

Story in the figures

It was heartening to see a full page advertisement in *The Hindu* (Last page, November 14) celebrating the successful Odisha Investor Summit, and which has drawn investment intent worth ₹4,19,574 crore. In contrast was the half page advertisement, on the same day and on the front page, on the forthcoming Tamil Nadu Global Investors Meet which mentions "₹7397.07 crore investments". Tamil Nadu has been an industrial pioneer and it has to act fast if it is to retain its standing as an industrial leader. The economic health of the State hinges on the Tamil Nadu government doing the right things now. There should be an end to frittering away collective energy on mundane things such as films and film scenes.

K. RAMACHANDRAN,
Chennai

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