

Foggy in Wayanad

Rahul Gandhi's decision to contest from Kerala opens up fault-lines in the anti-BJP front

ahul Gandhi's decision to choose Wayanad in Kerala, in addition to Amethi in Uttar Pradesh, to contest, could well be a defining moment in this election. Though Wayanad was under consideration for at least two weeks, the decision was nonetheless surprising as his principal opponent would be, not his national-level ideological rival the BJP, but a party of the Left, which is in the forefront of the fight for a secular alternative to the ruling formation. This paradox could turn out to be a central challenge in the emergence of a national coalition against the BJP because many parties that are opposed to the BJP are also opposed to one another. Mr. Gandhi's gambit amplifies that contradiction and marks a rupture between the Congress and the Left Front – fierce opponents in Kerala, but natural partners at the Centre. The national leadership of the Congress had kept an arm's length from the highly competitive politics in Kerala, where its State unit and the Left are face to face. The exigencies of national politics shape their cooperation elsewhere. Only recently, on Mr. Gandhi's watch, the Congress was in seat-sharing talks with the Left in West Bengal. Though the Congress has said Mr. Gandhi's candidature is not against the Left, the latter has been brutal in its reaction. The Congress claimed the foray signalled Mr. Gandhi's commitment to all regions. But the choice of Kerala, rather than Karnataka, where the Congress is locked in a direct battle with the BJP, is difficult to explain. If the Left frontally attacked the Congress, the BIP was disparaging. Amit Shah remarked Mr. Gandhi feared he would be held accountable by Amethi's voters; and Narendra Modi, in a statement with communal overtones, said Mr. Gandhi chose the seat because Hindus were in a minority there.

By fielding Mr. Gandhi from Wayanad, the Congress has taken a view that considerations of alliances are now secondary to its push to maximise its individual tally. The Congress has strong alliances in Maharashtra, Tamil Nadu and Bihar but a shaky one in Karnataka. Its U.P. ambitions were rejected by the SP-BSP axis; and differences persist within the party on aligning with the AAP in Delhi. After the 2004 elections, the Congress became the fulcrum of a national coalition, which was bound by a broad commitment to a pluralist India, as opposed to Hindutva's exclusivist and majoritarian politics. The Left had a significant role in its formation but ended the experiment in 2008 over differences with the Congress on the nuclear deal. State-level compulsions have led regional parties to cross from the BJP to the Congress and vice versa, but the primary fault-line is political mobilisation along religious lines. Without clarity of concept on addressing this fault-line, there can be no effective cooperation among non-BJP parties. Though it is unfair to put the entire onus of aggregating non-BJP politics on Mr. Gandhi, his candidacy in Wayanad can do nothing for the larger secular cause.

Space for campaign

EC went by rule book on ASAT issue, but PM should have upheld the spirit of Model Code

▼n ruling that Prime Minister Narendra Modi did not violate the Model Code of Conduct by announcing Lathrough a nationally televised address the demonstration of India's capability to bring down an operational satellite, the Election Commission has taken a possibly correct view of the Code's provisions. However, it remains a narrow technical view as it is a thin line that divides the idea of making a high-level declaration of a defence capability from using it for electoral advantage. Opposition parties had accused the Prime Minister of violating the Model Code by touting the demonstration of the anti-satellite (ASAT) missile test as a significant achievement of the ruling BJP. CPI(M) general secretary Sitaram Yechury had formally complained to the EC. There were questions about the timing of the test as well as the manner of announcement as the country is in election mode. A five-member committee formed by the EC concluded that the relevant provision was not attracted in this case. Part VII of the Code covering the "party in power" says that "...the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided." The committee's finding that there was no "misuse of official mass media" as Doordarshan and AIR took the feed from a news agency, and more than 60 channels did the same, is rooted in the letter of the code, not its spirit.

It is possible to come to an equally valid conclusion that Mr. Modi's action in making the announcement himself, rather than letting the DRDO, the agency involved, do so violates the bar on "furthering the prospects" of the ruling party by the nature of the publicity given to the achievement. The practice of using a private agency to record the announcement and asking it to share the feed, obliquely serves the purpose of generating publicity through the official media. As the legal maxim goes, what cannot be done directly cannot be done indirectly either. Given that Mr. Modi gave advance publicity to the announcement, there is really no virtue in claiming that DD and AIR were not used for the purpose. As a landmark achievement in defence research, it deserved a public pronouncement at a high level. Even then, letting the DRDO explain the achievement first would have served the purpose. That the motive was to proclaim the ASAT demonstration as an achievement of the regime in the field of national security became obvious when it was propagated by the ruling party that its predecessor did not have the political will to approve such a test. The BJP must demonstrate it will not use such achievements for partisan advantage.

Ensuring access to justice

The Supreme Court must set up more Benches, and disciplinary jurisdiction over lawyers must go back to the judiciary



RUMA PAL

The justice system in any democracy is set up, under the Constitution to serve the public without "fear or favour, affection or ill-will" as far as judges are concerned. Yet the protagonists, as far as India is concerned, in operating the system have stopped that very access - judges through lack of prescience, and many lawyers through their dishonesty in many forms.

Revisiting judges' advice

At an informal meeting, all of the then sitting judges of the Supreme Court (including myself) advised the then Chief Justice of India to decide against the request of the then Central government to sit in other places in the country under Article 130 of the Constitution. The reason we (judges) decided against it was because we felt that the authority of the Supreme Court would get diluted. The reasoning, in retrospect, was fallacious. Many High Courts in this country have different Benches for meting out justice without 'justice' being 'diluted'. For example, the Bombay High Court has four Benches - in Mumbai, Aurangabad, Nagpur and Panaji (Goa) and the quality of its decisions or status have certainly not been diluted thereby

The number of Benches depends on the size of the State, the idea being to facilitate easier access to justice. The direct consequence of the wrong decision has been three-fold. First, the Su-

preme Court sitting only in Delhi has resulted in excellent lawyers from other High Courts not appearing before the Supreme Court, possibly because it casts too large a monetary burden on their clients, many of whom are impoverished. Second, all lawyers, whatever their calibre or competence, who happen to be in Delhi now appear in the Supreme Court. Some of the good lawyers who were able to leave lucrative practices in the High Courts have settled down in Delhi, but they have established a monopoly, and, as a result, charge unconscionable fees even from charitable concerns – sometimes even when they do not appear at the hearing. This is also true of litigating lawyers at all levels of the judicial system. The third fallout of the failure to act under Article 130 is that the Supreme Court in Delhi has been flooded with work and been reduced to a District Court instead of a Court of Final Appeal and Constitutional Court as envisaged under the Constitution.

Unethical lawyers

But the fault in actually denying access to justice to citizens is the fault of unethical lawyers alone. That lawyers are generally dishonest is a well-known fact. Lawyers (frequently) humorously called liars, and because they are the middle-men between judges and the litigating public, they act like dishonest brokers. That is why William Shakespeare said, "The first thing we do, let's kill all the lawyers" (Henry VI). This is a somewhat unfair condemnation of those lawyers who are persons of high principles.

Some of the lawyers specialising in victim compensation cases do not charge any fees for their ser-



vices and render services free of cost. They generally obtain a blank cheque from the victim which is filled in after credit of the compensation to the bank account of the victim. Victims who open bank accounts for the purpose of victim compensation are being duped by some of the lawyers who link their or their assistant's mobile number to the account so that they can have access to all the information of the transactions in the bank account. Some of the lawvers specialising in victim compensation cases thus take huge money as a percentage of compensation amount awarded towards victim compensation. Such a practice is frustrating the whole purpose of victim compensation. The procedure is similar to that adopted by some advocates dealing with Motor Accident Claim Cases under Section 166 (application for compensation) of the Motor Vehicles Act, 1988. They agree to conduct the cases without a fee, but in the event of compensation being granted by the court, the advocates get a certain percentage. This is illegal, being a champer-

In some cases, as soon as an award of victim compensation is

made by any Legal Services Authority (LSA), a statutory body to render free legal services to the impoverished all over India, the lawyer gets in touch with the victim and somehow convinces him/her to file a writ petition before the High Court to show that without such writ petition the compensation will not be disbursed by the State LSA (SLSA). Ultimately when the amount of compensation is finally disbursed by the SLSA, the lawyer takes credit and shows that it was because of his noble initiative that the victim got the relief. and in exchange claims a hefty share in the compensation. Such lawyers effectively create a perception of rendering a benevolent service by not charging any fees so the victim could never suspect him/her of any malpractice. Incidentally, according to a study carried out by a research organisation, Vidhi, in the Delhi High Court, more than 70% of the delays in the disposal of cases are at-

son being sometimes unjust pleas for adjournments. The litigating public and lawvers (including women and students) - either because they do not trust the judicial system or they distrust lawyers in particular. or for whatever reason – write hundreds of letters to the Chief Justice of India and the Chief Justices and Justices of each High Court for relief. Some issues raised in these letters are administrative or statutory in nature. Apart from these letters, hundreds of letters are written to Chief Justices for relief on the judicial side. Given the huge workload before all judges, it is not possible to deal with all letter-appeals simultaneously on the statutory, administrative or judicial side, unless they are drawn

tributable to lawyers, a major rea-

specifically to the Justices' attention. Unfortunately the disciplinary powers available to Bar Councils both in Delhi and in States are more often than not ineffective. Some are politically motivated and some States do not have disciplinary committees at all. The disciplinary jurisdiction over lawyers was originally with the courts. As far as the older High Courts are concerned, this is clear from the respective Letters Patents under which the courts were set up. This continued till the power was taken away by the Advocates Act, 1961. Significantly, the Law Minister at that time was Ashoke Sen, a wellknown lawyer. The solution to the present situation is to give the disciplinary jurisdiction back to the courts and to repeal the Advocates Act, 1961.

The way forward

Therefore, to hound out the corrupt lawyers from the system at all levels so that justice may be truly rendered to the public, I have a few suggestions. First, the Supreme Court should reconsider setting up Benches in different States in keeping with the recommendations of the Law Commissions (125th Report and 229th Report). Second, the Bar Council of India should exercise its powers under the Advocates Act, 1961 more effectively. If not, the disciplinary jurisdiction must be returned to the judiciary as was the position prior to the Advocates Act, 1961 by repealing the 1961 Act. Third, lawyers should be made irrelevant by referring more cases to trained mediators, as the Supreme Court has done in the Ayodhya

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Deepening insecurity

The buzz around 'Mission Shakti' should be an opportunity to review India's defence strategy



fter 'Mission Shakti' - India's anti-satellite test there is a feeling that India needs this form of deterrence for its security. To be visibly strong in order to deter any enemy from attacking is a concern that goes back to pre-historic times. But when this ancient urge is exerted by nations with nuclear weapons, it must be an occasion to revisit the arms race, the Mutually Assured Destruction (MAD) doctrine and their long-term implications.

The doctrine emerged during the Cold War in the mid-20th century when the U.S. and the erstwhile U.S.S.R. had stockpiled so many nuclear weapons that if launched, the weapons could des-

troy both nations many times over. Since there was eventually a 'détente', or a relaxation of hostilities between the two, it is tempting to think that MAD is a valid doctrine that should continue to be applied by all countries with nuclear weapons capability. What is the basis of this belief? And does it actually work?

For more than 100 years now, scientists and writers of science fiction alike have fostered the illusion that some day humankind will have a weapon so terrible that the fear of its impact will end war for all times.

Deterrence and violence

Having invented dynamite and unleashed it upon the world in 1867, Alfred Nobel believed that "the day when two army corps can annihilate each other in one second, all civilized nations, it is to be hoped, will recoil from war and discharge their troops"

Since then incalculably more destructive weapons, including nuclear bombs and chemical weapons, have been deployed but this has not ended war. On the contrary, the invention of increasingly deadly weapons has fuelled a global arms race.

Globally, the annual spend on armaments is now estimated to stand at about \$1.7 trillion. Estimates of the total number of nuclear weapons in the world range from 15,000 to 20,000, with each one of these weapons being far more powerful than the bombs dropped by the U.S. on Japan in 1945. The U.S. and Russia still



maintain about 1,800 nuclear weapons in a state of high alert, ready for launch within minutes.

According to the Global Peace

Index, in 2017, the economic impact of violence globally was estimated at about \$14.76 trillion, which was 12.4% of global GDP. Since 2012, there has been a 16% increase in the economic impact of violence largely due to the conflicts in Syria, Afghanistan and

It is vital to note that having competing weapons, in terms of quality and quantity, has not acted as a deterrent either in the Israeli-Palestinian conflict or in the Syrian war or the prolonged conflict in Colombia. What did finally end the conflict in Colombia, after almost 50 years, was a protracted process of negotiation between all parties of the conflict.

The Global Peace Index also shows that over the last 70 years the per capita GDP growth has

been three times higher in more peaceful countries. This is partly why, compared to 10 years ago, 102 nations are spending less on military as a percentage of their GDP.

But that is a thin silver lining to a grim reality. Ban Ki-moon, while he was UN Secretary General, said, in 2009, "The world is overarmed and peace is under-funded The end of the Cold War has led the world to expect a massive peace dividend. Yet, there are over 20,000 nuclear weapons around the world. Many of them are still on hair-trigger alert, threatening our own survival."

According to the website of the International Campaign to Abolish Nuclear Weapons (ICAN), the failure of the nuclear powers to disarm has heightened the risk that other countries will acquire nuclear weapons. In 2017, the ICAN was awarded the Nobel Peace

Double-edged sword

Theoretically, MAD is supposed to eliminate the incentive for starting a conflict but it also makes disarming almost impossible. This is partly why, long after the Cold War ended, the U.S. is poised to spend enormous amounts of money over the next 10 years in updating and modernising its nuclear arsenal.

The tragic irony of this trend is that nuclear defence, particularly with warheads riding on rockets of supersonic speed, actually deepens insecurity in both countries by causing millions of lives to perpetually be at the risk of instantaneous annihilation.

All through the Cold War and even now, the MAD doctrine has been opposed on both moral and practical grounds by a variety of disarmament and peace groups. The most prominent of these, War Resisters' International (WRI), which will turn 100 in 2021, has 90 affiliated groups in 40 countries. Such groups ceaselessly serve as a counter to all those who glamorise or justify war or an arms race. Above all, they constantly draw attention to the fact that the only true security lies in dissolving enmity by going to the roots of any conflict.

Once the joy about India's technological achievements, in the realm of missiles, has settled down, perhaps attention can shift to the much bigger challenge of seeking answers to a key question: what really makes us, the world a whole, more secure?

Rajni Bakshi is the author of 'Bapu Kuti: Journeys in Rediscovery of Gandhi

we are faced with such a

miserable situation. Studies

have shown that buildings,

surfaces absorb and store

heat whereas vegetation

reflects heat. China has

realised rather late in the

day. Its vertical forests -

along their facades, with

buildings that are designed

to incorporate lush greenery

trees and hedging sprouting

from external gardens – are

now being seen as solutions

to tackle its deadly smog and

pollution. The key issue is

best time to prepare and

is before the monsoon.

been partly successful.

Rainwater harvesting has

the availability of water; the

plan for water conservation

roads and other hard

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Rahul from Wayanad

That the complexity of political alliances varies from State to State has always been an acceptable norm but the candidature of Congress president Rahul Gandhi for the Wayanad constituency in Kerala has kicked up a controversy and given the ammunition-starved BJP something to deride the Opposition about. While the barbed criticism of the Left is justifiable, the Congress should not allow things to go out of control as the BIP is always on the lookout for a fallout amongst the Opposition parties (Page 1, "Left unhappy as Congress says Rahul will contest Wayanad too", April 1). It is imperative that the Congress and the Left sort out their differences and concentrate on the task at hand – to stop the BIP's from getting another term. G.B. SIVANANDAM,

■ Opportunism and politics go hand in hand and it is no

surprise that Mr. Gandhi is looking at another seat. However, one is surprised by the indignation being expressed by rival politicians. When the Prime Minister chose to contest from Vadodara and Varanasi in 2014, it was hailed as a masterstroke. But when Mr. Gandhi does it now, it is called desperation. Finally, the Election Commission must explore the possibility of recovering the cost of the second election in either one of the constituencies in the event of the candidate winning in both. It does impose a wasteful expenditure of public funds. ANAND ARAVAMUDHAN,

■ The move is a blunder as it sends the message that the Congress is not secular. The point is that in north India, the Congress follows the same Hindutva agenda that the BJP does. The way the Congress is campaigning in Uttar Pradesh is an indication of this. Contesting from Wayanad will result in a contest with the LDF, which

is a supporter of a secular dispensation at the Centre. The Kerala PCC's enthusiasm after the announcement is to hide or end the groupism with the State Congress unit. B. PRABHA,

■ The decision is a clear indication of the fear of defeat in the Congress party. There can be no comparison with the Prime Minister Narendra Modi's move to contest from two seats in 2014. He was a first-timer with no traditional Lok Sabha seat. Only time will tell whether the Left in Kerala will play a friendly match. The move does also raise interest about the electoral fortunes of the dynasty. Dr. Jai Prakash Gupta. Ambala Cantt., Haryana

■ The Congress party, which failed in its attempt to form a Mahagathbandhan before the elections, has made sure that political disunity and acrimony will continue even after the elections. The party should have shown some political expediency by

keeping out of Kerala and exhibiting the same grace and maturity shown by the Bahujan Samaj Party and the Samajwadi Party (by not fielding candidates in Rae Bareli and Amethi in U.P.). Perhaps the Congress might have anticipated a similar gesture from the Left in Kerala. The electorate will wonder whether it is worth exercising their franchise in favour of a hotchpotch of parties that do not want to see eve to eve with each other. Despite being perceived to be on a sticky wicket due to its mediocre performance, the NDA suddenly finds itself at an advantage due to egoistic and unrelenting Opposition leaders. V. SUBRAMANIAN,

■ The stringent opposition, especially from the Left, primarily stems from that desperate realisation of the rich electoral dividends that the Congress would stand to reap/gain, which could have far-reaching ramifications in all constituencies of the

State. There are examples from the past of political leaders who have contested from two parliamentary seats and emerging victorious in both. Elections are to be fought on bread and butter issues instead of personality politics and sectarian issues B. SURESH KUMAR,

Water distress

As water sources in south India begin to show signs of severe distress and exploitation, the focus should move to environmentalists who have been struggling to point out that dwindling green cover and shrinking water bodies are issues within our control. Rampant real estate development and concretisation are also why

MORE LETTERS ONLINE:

NAGARAJAMANI M.V.,

CORRECTIONS & CLARIFICATIONS:

The headline of a story (April 1, 2019, some editions) regarding the PSLV mission read: "PSLV to launch *military's eye* in the sky." It should have said military's monitor.

In "Dramatic win for Hamilton" (Sport, April 1, 2019), the reference to Sergio Perez of Racing Line should be corrected to read as

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