



## Justice for the mob

Acquittal in the emblematic case of Pehlu Khan's murder imperils the country's image

It is a sign of the times that vigilante mobs can get away with daylight murder. Even after visual evidence becomes available; and even when the victim names his assailants in a dying declaration. The acquittal of all those charged by the Rajasthan police with beating dairy farmer Pehlu Khan to death in April 2017 is a stark reminder that there is a humongous gap between capturing video footage of a man being beaten up and bringing the culprits to book. The Additional District Judge of Alwar has given the benefit of doubt to the six men charged with Khan's murder. A principal reason given is that the six persons named by Khan were not charge-sheeted by the police. It seems that the derailment of the prosecution case began early. Based on mobile phone call records and the statement of staff at a cow shelter, the police gave a clean sheet to the named suspects and booked a different set of people, including three minors. The police failed to conduct an identification parade, while there was an apparent contradiction between government doctors declaring that the victim died of injuries, and a private hospital's claim that the cause was cardiac arrest. It is not difficult to surmise that infirmities were built into the case in advance. The court also need not have held inadmissible the footage of the incident, as the Supreme Court had ruled last year that authentic and relevant electronic evidence can be accepted even in the absence of the required certification under the Evidence Act.

Last year, Jharkhand managed to obtain convictions in two cases of lynching, but the Pehlu Khan lynching case had emblematic significance. It was vital that it was properly investigated and the culprits convicted. Unfortunately, the wholesale acquittal is a setback to combating the rampant vigilantism of our times. Each such incident imperils India's image as a modern democracy. There is ample evidence to suggest that the institutional bias in favour of cow vigilantes is working against the interest of justice. The CID-Crime Branch took over the case two months after the incident, and filed a charge sheet. Those charge-sheeted were granted bail not long after. Even after the change of regime late last year, the police obtained permission to prosecute two sons of Pehlu Khan for transporting bovines in violation of a State law. This indicates the assiduity with which cattle protection laws are implemented, while lynch mobs in the garb of cow protectors are treated with kid gloves. The Rajasthan Chief Minister, who recently got a new expansive law enacted to punish lynching, has promised to take the matter on appeal. A mere appeal may not suffice; orders for a fresh investigation and trial – one that would lead to the formal indictment of all those responsible for the murderous attack – may be needed to restore a sense of justice.

## Making CSR work

Non-compliance by corporates should be decriminalised and made a civil offence

It was first encouraged as a voluntary contribution by business; six years ago it evolved into a co-optation of the corporate sector to promote inclusiveness in society and now, corporate social responsibility or CSR has become an imposition on India Inc. Key amendments to the relevant sections of the Companies Act in the last session of Parliament have now made non-compliance with CSR norms a jailable offence for key officers of the company, apart from hefty fines up to ₹25 lakh on the company and ₹5 lakh on the officer in default. Finance Minister Nirmala Sitharaman is said to have assured representatives of India Inc. when they met her last week that this amendment will be reviewed. Yet, it is curious that the government rushed through with amendments on the CSR law even as a committee constituted by it was finalising its report on the same subject. As it happened, the committee, headed by the Corporate Affairs Secretary submitted its report on August 13, well after Parliament had passed the amendments. On the specific issue of penalties, the committee has proposed that non-compliance be decriminalised and made a civil offence. "CSR is a means to partner corporates for social development and such penal provisions are not in harmony with the spirit of CSR," the committee's report says and rightly so. CSR should not be treated as another tax on businesses.

Every company with a net worth of ₹500 crore or turnover of ₹1,000 crore or net profit of ₹5 crore should spend 2% of the average profits it made over the previous three years on social development. The experience since this provision was operationalised in 2013 has been mixed. Filings with the Ministry of Corporate Affairs show that in 2017-18, only a little over half of those liable to spend on CSR have filed reports on their activity to the government. The other half either did not comply or simply failed to file. The average CSR spend by private companies was just ₹95 lakh compared to ₹9.40 crore for public sector units. These are early days yet, and compliance will improve as corporates imbibe CSR culture fully. The committee's suggestion to offer a tax break for expenses on CSR makes sense as it may incentivise companies to spend. It has also recommended that unspent CSR funds be transferred to an escrow account within 30 days of the end of the financial year. It should be recognised that CSR is not the main business of a company and in these challenging times they would rightly be focusing their energies on the business rather than on social spending. The government should be careful to not micromanage and tie down businesses with rules and regulations that impose a heavy compliance burden. Else it might end up with the opposite of what it intends – to rope in corporates as citizens to promote social inclusion.

# A considered step that opens up new vistas

The abrogation of Kashmir's special status is a major move towards ensuring an inclusive India



M. VENKAIAH NAIDU

The recent decision by the government to abrogate Article 370 has resulted in a countrywide debate on the subject. The general perception is that a vast majority of people in the country feel that the abrogation is a welcome step. They also feel that the abrogation should not be viewed through a narrow political prism as it centres around the unity and integrity of the nation. In fact, it is also seen as a major step towards ensuring an inclusive India.

### Historical perspective

Before delving into the issue, one should understand the essence of Article 370; it was only a temporary, transitional arrangement and was never intended to be a permanent provision.

Under Part XXI of the Constitution of India, which deals with 'Temporary, Transitional and Special Provisions', the special status was conferred upon Jammu and Kashmir (J&K) after Maharaja Hari Singh signed The Instrument of Accession on October 26-27, 1947.

However, an important nugget of history is that Article 370 was not incorporated at the time of accession. It was included in October 1949 at the instance of Sheikh Abdullah, who was a member of the Constituent Assembly that drafted the Constitution. It became operative only in 1952.

Under Article 370, Jammu and Kashmir State was allowed to have a separate Constitution and a Flag. Its Constituent Assembly, initially, and the State legislature, subsequently, were empowered either to adopt or not to adopt any law passed by the Indian Parliament. Except for matters such as 'Defence', 'External Affairs', 'Communi-

cations' and matters mentioned in 'The Instrument of Accession', the Indian Parliament had no jurisdiction on extending its legislations to the border State without the concurrence of Jammu and Kashmir.

While considering the proposal to incorporate it in the Constitution, Prime Minister Pandit Jawaharlal Nehru advised Sheikh Abdullah to convince B.R. Ambedkar, who apparently was not in favour of it.

In the book, *Dr. B.R. Ambedkar Framing of Indian Constitution*, by Dr. S.N. Busi, Dr. Ambedkar was cited as saying: "Mr. Abdullah, you want that India should defend Kashmir. You wish India should protect your borders, she should build roads in your area, she should supply you food grains, and Kashmir should get equal status as India, but you don't want India and any citizen of India to have any rights in Kashmir and Government of India should have only limited powers. To give consent to this proposal would be a treacherous thing against the interests of India, and I, as the Law Minister of India, will never do. I cannot betray the interests of my country".

Even Pandit Nehru had pointed out in Parliament on November 27, 1963 that "Article 370 is part of certain transitional, provisional arrangements. It is not a permanent part of the Constitution. It is a part as long as it remains so."

### Hardly unifying

History shows that instead of bringing people of Kashmir closer to the rest of India, Article 370 has only widened the chasm. This schism has been systematically widened by vested interests. While Article 370 has failed to benefit the people in a meaningful way, it was used by separatists to drive a wedge between those living in J&K and the rest of India. It was used by a neighbouring country to spread terrorism.

The demand for abrogation of Article 370 has been under consid-



GETTY IMAGES/ISTOCKPHOTO

eration for a long time. In fact, Parliament had discussed this way back in 1964. A discussion on a private member's bill seeking abrogation of Article 370 found near-unanimous support back then.

It would be pertinent to point out that the non-official resolution moved by Prakash Vir Shastri in the Lok Sabha was supported by leaders like Ram Manohar Lohia and K. Hanumanthaiya, a senior Congress leader.

Hanumanthaiya not only pointed out that the members, irrespective of party affiliations, wanted the abrogation of Article 370 to be made into law but also went on to say: "To go against or to say anything against this unanimous opinion in this House is to disown constitutional responsibility in a convenient manner. Article 370... stands in the way of full integration."

Of the 12 members who favoured its abrogation, seven belonged to the Congress including Inder J. Malhotra, Sham Lal Saraf (from J&K), H.V. Kamath, Socialist, Sarjoo Pandey (CPI) and Bhagwat Jha Azad, former Chief Minister of Bihar.

The country felt that this provision needed to go sooner or later. As Jawaharlal Nehru's colleague and then Home Affairs Minister Gulzarilal Nanda had told Parliament decades ago, "Article 370 is nothing more than a shell emptied of its contents. Nothing has been left in it; we can do it in one day, in 10 days, 10 months. That is entire-

# Giving shape to an elusive strategic concept

The post of Chief of Defence Staff will enable more efficiency in defence planning and help civil-military relations



P.S. RAGHAVAN

The Prime Minister's announcement in his Independence Day address on Thursday, appointing a Chief of Defence Staff (CDS), is one that could have a far-reaching impact on the management of defence in India.

The issue of efficient management of the higher defence organisation came into sharp focus after the Kargil war in 1999, when the K. Subrahmanyam-headed task force was asked to examine questions about the anticipation and detection of Pakistani intrusions in Kargil and the military response. The strategic expert and his team highlighted the systemic issues bedevilling our national security structures, which included poor coordination and technological inadequacies.

On its recommendations, the Government tasked a Group of Ministers (GoM) in the early 2000s to undertake a review of national security management. Their recommendations covered intelligence, internal security, border management and defence. These resulted in an overhaul, which included the appointment of a National Security Adviser, a strengthening of intelligence coordination mechanisms, upgrading the technological capacity of security agencies, and sharpening institutional responses to traditional and emerging inter-

national security challenges. Defence management was the one area in which the implementation of the GoM's recommendations was disappointing.

The issues are well-known. The first is a pervasive sentiment in the armed forces that they are not formally involved in decision-making on defence planning and strategy. This perception is reinforced by the fact that the Service Headquarters are not within the Ministry of Defence; they are treated more like attached offices. This structure has led to cumbersome, opaque and antiquated decision-making processes, from administrative requirements to weapons acquisitions.

### Changing face of conflict

From an operational perspective, the concept of military conflict today extends beyond land, air and sea, into the domains of space, cyber, electronic and information. Effective defence preparedness requires a 'jointness' of the Indian Army, Indian Air Force and Indian Navy in incorporating these domains into their war-fighting strategies. It also requires a prioritisation of the weapons requirements of the forces and optimisation of their resource allocations based on a clearly defined national defence strategy.

The GoM had recommended better efficiency by integrating the armed forces headquarters into the Ministry of Defence (MoD). It had also pitched for the appointment of a CDS, who could promote an integrated approach to inter-service prioritisation and resource allocation as well as a pooling of



GETTY IMAGES/ISTOCKPHOTO

common structures to avoid unnecessary redundancies. The CDS was to administer tri-service institutions such as the Andaman and Nicobar Command. In today's context, his charge would also presumably include the recently established tri-service space and cyber agencies. He would provide coordinated military advice to the Defence Minister, incorporating the perspectives of the individual services. He would develop the national defence strategy, which itself should flow from a national security strategy that factors in traditional and non-traditional threats as well as internal security requirements and external strategic objectives. This would be in collaboration with the civilian defence leadership of the MoD.

### A thread of resistance

All recommendations were accepted barring the one on the CDS. Opposition from sections of the armed forces and the bureaucracy and from a political party resulted in this last-minute decision. There was apprehension that a CDS would undermine of the authority of the three service chiefs over their forces. The establishment in

ly for us to consider."

Parliament and the Government have now come to the conclusion, finally, that such a dysfunctional provision has no relevance in the current context and that the time has come to integrate Jammu and Kashmir fully into the rest of India. Without having improved the lives of people in any way, Article 370 had become an impediment to the very development of the State.

### A leveller

The people of the country also need to know, as pointed out by the present Home Minister, Amit Shah, in the Lok Sabha recently, that key Central laws made for the welfare of citizens of the country could not be implemented in J&K due to Article 370. With its abrogation, a total of 106 Central laws will now be extended to J&K. Some of the key pieces of legislation include the Prevention of Corruption Act, the Land Acquisition Act, the National Commission for Minorities Act, the Right to Education Act and those relating to empowering local bodies.

With Article 35A becoming void, the decades old discrimination against the women of J&K has been eliminated. They can now purchase and transfer property to their children, even if they get married to a non-resident.

In my view, the abrogation of Article 370 is indeed a step in the right direction to safeguard the unity and integrity of India.

The State of Jammu and Kashmir has been an integral part of our country. It will always remain so. So, the action to remove Article 370 is purely an internal matter. It goes without saying that India will not allow outsiders to meddle in its internal affairs. People should guard against false and mischievous propaganda by a section of the Indian and western media, which probably still believes in the colonial mindset of 'divide and rule'.

Parliament has carefully consi-

many countries of theatre commands under the CDS reinforced this fear. The other concern was that an all-powerful CDS would distort the civil-military balance in our democracy.

This opposition was based on misperceptions and "turf" considerations. Many democracies have the institution of a CDS or its equivalent, with varying degrees of operational control over their armed forces. It has not diluted civilian control over their governance. Instead, it has meant greater participation of the military in defence decision-making alongside the civilian bureaucracy, enhancing the coherence and transparency of policies. In almost every case, the appointment of a CDS has been a top-down decision, to which the system has subsequently adjusted.

### Need for indigenisation

The role envisaged for a CDS in India is that of developing multi-domain military strategies, strengthening tri-service synergies and enabling perspective planning. It is only after achieving jointness in training, exercises and infrastructure that the feasibility of regional commands can be explored in the specific context of India's geography and the nature of its internal and external threats. The CDS can contribute to rational defence acquisition decisions, preventing redundancy of capacities among the services and making best use of available financial resources.

While implementing this reform, we should also focus on the important objective of indigenisation. It is a shame that India is still

dered and taken a decision that this transitory provision needs to go and that J&K must be fully integrated with the rest of India. The naysayers who are alleging that constitutional impropriety has been committed must know that the Bill was passed by two-thirds in the Rajya Sabha and four-fifths in the Lok Sabha after an elaborate discussion.

### Game changer

I am sure that this integration fulfils a long-standing demand of many sections of the people in J&K, including Ladakh. The speech of the Ladakh MP, Jamyang Tsering Namgyal, in the Lok Sabha recently, was truly noteworthy, where he pointed out that Ladakh was not just a piece of land but a precious gem of Bharat. I am also confident that the status of a State would be accorded once things improve and total normalcy is restored in Jammu and Kashmir.

The Government's decision would facilitate greater investments by both individual entrepreneurs and major private companies in different sectors including hospitality, tourism, education and health. It would naturally generate much-needed employment for local youth. It would also enable greater scrutiny of the implementation of the schemes of the Government of India.

In conclusion, it should be noted that the abrogation of Article 370 is a national issue involving our country's safety, security, unity and equitable prosperity. It is a step in the right direction that the Indian Parliament has taken with an overwhelming majority. It is a step that opens up new vistas for the all-round development in a State that was relatively neglected. It is a stepping stone to enable an improved quality of life for the people of Jammu, Kashmir and Ladakh.

M. Venkaiah Naidu is the Vice President of India

## 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.

**UNSC meet on Kashmir**  
China, being a permanent member of the UN Security Council, seems to be pandering to the whims of its all-weather friend, Pakistan. The decision, at the goading of China, to hold a closed-door discussion on Kashmir is a matter of surprise as it is a subject that involves the internal affairs of India (Page 1, August 16). Much has changed since 1947. The move also shows the big brother attitude of China which has many problems of its own. China

should first concentrate on making peace with the Hong Kong protesters and also respecting Tibet and the Uighur Muslims. It has no right to be sermonising about Kashmir, which is being sorted out in a peaceful manner in democratic traditions.

SRAVANA RAMACHANDRAN,  
Chennai

**Population control**  
The most significant issue that the Prime Minister highlighted in his Independence Day speech on Thursday was of

population control ("PM puts population back on govt. agenda", August 16). While the two-child norm has been able to slow down the rate of population growth, there is a need to have smarter moves in the present situation. Apart from an incentivisation of smaller families, large families must lose state sponsored welfare benefits and privileges. An interventionist move or policy formulation must also balance sustainability without affecting the segment of a young and

working-age population.

N. SADHASIVA REDDY,  
Bengaluru

### Climate planning

The increasing frequency of heavy rainfall in many States is a reality, probably linked to climate change. The havoc being caused is a wake-up call. From people to wild animals being affected to disrupted agricultural operations, the list can go on. While the Assam floods threatened already endangered species, in Kerala, it was the washing up of tons of

plastic material that reflected our gross negligence of environmental issues. Thus, man could be responsible for the changed conditions. Widescale deforestation and the plundering of natural resources are cause for worry. The simple lesson is that we need to respect nature.

JANGA BAHADUR SUNUWAR,  
Bangrakote, Jalpaiguri, West Bengal

■ Kerala is pursuing development projects at the expense of nature (Editorial

page, "Lessons after the great deluge", August 16). Taking over lakebeds and floodplains to allow construction is affecting percolation. Mangrove vegetation is also being mindlessly exploited. Rampant mining, now widespread, is leading to the loss of precious topsoil and landslides. Revisiting the Gadgil report is a must for regions falling under the Western Ghats.

ABHISHEK M.R.,  
Ajjarakad, Udupi, Karnataka

MORE LETTERS ONLINE:  
www.hindu.co.in/opinion/letters/