



The shadow of 1984

Sajjan Kumar's conviction reignites hope of substantial justice for riot victims

Five years ago, there wasn't even a sliver of hope that any influential Congress leader would be brought to justice for the anti-Sikh pogrom of 1984. A trial court had acquitted former MP Sajjan Kumar, rejecting the testimony of witnesses who said he was seen instigating riots in the Raj Nagar area of Delhi Cantonment on November 1, 1984, in the aftermath of Indira Gandhi's assassination. In reversing the acquittal and sentencing Kumar to imprisonment for the remainder of his life, the Delhi High Court has reignited hope for substantial justice. The 207-page judgment by a Division Bench, comprising Justice S. Muralidhar and Justice Vinod Goel, is proof, if any were needed, that the Delhi Police and its Riot Cell had failed to carry out a genuine investigation. From the deliberate failure to record any untoward incident in the station's daily register to avoiding the examination of key witnesses, there is a long trail of evidence that points a damning finger at the police and the state machinery. This case is an example not only of the slowness of judicial processes but also of derailed investigations. It was only after the Central Bureau of Investigation entered the scene and revived this particular case related to the murder of five members of a Sikh family in 2005 – based on a recommendation by the Nanavati Commission – that the investigation made meaningful progress.

The entire CBI case turned on the testimony of Jagdish Kaur, who is described by the High Court as a "fearless and truthful witness", and its corroboration by two others. Her deposition was sought to be impeached on the ground that she had not named Sajjan Kumar before the Ranganath Misra Commission. As it turned out, she may actually have done so, in Punjabi; the English version of her statement did not have it. In addition, the court found that Kumar had been named in nearly a dozen affidavits in 1985 itself, but none had been investigated. In one case, a prepared charge sheet had not been filed in court. Such was his influence that in 1990 when the CBI went to arrest him, the officers were held hostage until an anticipatory bail order was obtained, even as their vehicles were burnt by his supporters outside his house. The 73-year-old former strongman may now pin his hopes on an appeal to the Supreme Court, but there is little doubt that judicial decisions such as this reinforce the hope that political patronage, administrative complicity and plain muscle power cannot prevail over the truth all the time. The court has also flagged the need for a separate law for punishment for crimes against humanity and genocide, both seen so far as part of international law but rarely invoked in domestic crimes. Given the major communal flashpoints in recent history that have been cited by the court, the issue is worth positive consideration.

Right prescription

The Delhi High Court restores the retail sale and private manufacture of a life-saving drug

In a crucial development that exposes the flaws in health policy-making in the country, the Delhi High Court quashed a government ban on the retail sale and private manufacture of oxytocin. Notified by the Union Ministry of Health and Family Welfare in April, the ban referred to a 2016 Himachal Pradesh High Court judgment, which discussed oxytocin's misuse in dairy cattle, fruits and vegetables. However, soon after the order was issued, health experts pointed to the absurdity of it. Oxytocin is a life-saving drug used to stem post-partum bleeding among new mothers. Because of this it had been listed by both the World Health Organization and the Health Ministry as an essential medicine. Around 45,000 women die from post-partum complications in India each year, and in 38% of the cases the reason is haemorrhaging. Without the easy availability of inexpensive oxytocin, efforts to stem the maternal mortality epidemic could have suffered a costly setback. These worries led to the All India Drug Action Network (AIDAN), a patient-rights group, to challenge the order in the Delhi High Court.

In its judgment on December 14, in response to AIDAN's and drug manufacturers' petitions, the court struck down the ban, calling it "unreasonable and arbitrary". The court found that the government had failed to weigh the danger the ban posed to thousands of young mothers. What is more, it had failed to show that the drug was widely misused for veterinary purposes, the purported reason behind the order. Several bits of evidence cited in the judgment support this analysis. Even though the Centre claims to have made 25 illegal drug seizures across India in a three-year period, 12 of them didn't actually find oxytocin. Among those that did, none involved licensed drugmakers. Karnataka Antibiotics & Pharmaceuticals Limited, the only authorised oxytocin producer after the ban, did not have the capability to manufacture it until mid-2017. It is mystifying why the Centre clamped down on licensed manufacturers with a proven track record, while roping in a state firm with no real experience. The most damning observation in the judgment is that the Centre focussed on the health of milch animals, without considering the well-being of women. This was despite the fact that all statutory bodies, including the Drugs Technical Advisory Board, had advised against a ban. This episode ought to led to the ill-conceived order. Several questions must be answered. On what basis did the Centre overrule the advice of multiple statutory bodies? What led to its acceptance of sporadic reports of the drug's misuse, without clinching proof? It is time for a post-mortem of how health policy is made, because that is the only way to safeguard the right to health of Indian citizens.

Centrism holds in India

The Congress succeeded by offering itself as the default alternative for farmers and the youth, not by soft Hindutva



SAJJAN KUMAR

Centrism, as an essential characteristic of Indian politics, signifies the institutional incentive that political parties have to adopt a set of policies aimed at harmonising societal and cultural contradictions rather than accentuating them. Some of its essential elements are: centrality of an accommodative approach, appeal to minorities, welfarism and a broader space for dissent from the Left and the Right. No wonder, given the richness of Indian society and its multiple fault lines, centrism has been the hegemonic framework ensuring electoral success since Independence. Barring a few exceptions, this also accounts for the relative marginalisation of a leftward and rightward agenda in India until 2014. Can the setbacks to the Bharatiya Janata Party (BJP) in the Hindi heartland States of Rajasthan, Madhya Pradesh and Chhattisgarh be seen in this context?

Centrism's rightward shift

The spectacular success of the BJP in the 2014 general election marked a rightward shift wherein Narendra Modi, a fulcrum of "sub-altern agency", developmental aspiration and fierce Hindutva, claimed to speak for 125 crore Indians. He privileged the developmental aspirations of the electorate in his speeches, thereby arguing that 'politics of development' is 'politics of inclusion', wherein everyone, including the minorities by implication, has a rightful place.

The whopping success of the Modi-led BJP in abstract terms signified the ability of right-wing frames to contain all the constitu-

tive elements of centrism and thereby make a persuasive claim of not being exclusive of any section of Indian society. It appeared that in the era of developmental aspiration, the Right had emerged as a better claimant to carry forward the mantle of centrism than the centrist parties.

The idea of 'India First' and 'Achhe Din' implied the heralding of welfare-laden Indian citizenry across the board, claiming their rightful place in the comity of nations. The votaries of the economic right affirmed and celebrated the easy fit between centrism and the Right under Mr. Modi. Rural India shared the enthusiasm.

However, the political trajectory of the BJP since 2014 has two big takeaways. The promised material plurality never came and the unsaid cultural singularity emanating from the Hindutva discourse acquired prominence. The former is visible in the initiation of a series of welfare policies, especially for poorer sections, like cheap housing (Pradhan Mantri Awas Yojana), toilets for all, disbursement of LPG cylinders (Ujjwala Yojana), the health insurance scheme (Ayushman Bharat), besides schemes such as Beti Bachao Beti Padhao, Sukanya Samridhi Yojana, Atal Pension Yojana, Pradhan Mantri Fasal Bima Yojana, and Pradhan Mantri Jan-Dhan Yojana.

The ground narratives reveal that none of these welfare schemes has been successful in capturing the imagination of the people, amid general price rise and joblessness. Moreover, the debilitating impact of demonetisation on pre-existing rural distress and agrarian crisis is getting strong credence with a corresponding resonance among rural voters. It seems the government's material policies/schemes resemble a scenario of people being served with starters upon starters without a main course.

Simultaneously, parallel to the



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material plurality, India has witnessed the emergence of a series of cultural policies/issues focussed around the themes of cow, Mandir, changing names of places and questions of citizenship, all emanating from Hindutva's framework of cultural singularity.

This attempt to not only infuse the cultural singularity of Hindutva with material plurality of welfare schemes but also see the former superseding the latter problematises the claim that centrism could have an easy fit with a rightward polity. Centrism, by definition, desires a parity between the material and the cultural in their pluralities. As a corollary, a singularity in any realm is the antithesis of centrism. Thus, the emerging crisis of the material realm and attempts to overshadow it with cultural politics reveal that while the Right could negotiate with the framework of centrism in a material realm by speaking for all, in the cultural realm it remains diametrically opposed to this pitch, excluding the minorities in subtle ways. Hence, the argument that both the centre and centrism witnessed a rightward shift seems shaky.

A look at the elections

To contextualise the interplay of 'cultural singularity and material plurality' in the electoral verdicts in the just-concluded Assembly elections, especially in three Hindi-speaking States where the BJP

and the Congress were pitted directly against each other, one needs to go back a bit back and take the Uttar Pradesh election as the starting point where Mr. Modi used the binary of 'kabristan-shamshan' and 'Diwali-Ramzan' while exhorting voters to choose the BJP to end the "exile of development" in the State.

Not to be left behind, both Bahujan Samaj Party (BSP) chief Mayawati and Samajwadi Party chief Akhilesh Yadav competed to emerge as champions of 'Muslim interests' and, by extension, of secularism. Ms. Mayawati claimed in almost all her rallies that she gave 100 seats to Muslims – a rhetoric the BJP exploited to the hilt. Demonetisation and people's suffering – the material issues – took a back seat in political calculations. The unprecedented victory of the BJP and the selection of firebrand Hindutva leader Yogi Adityanath as U.P. Chief Minister signified the ascendancy of cultural singularity being a condition to developmental politics.

The glimmers of this were visible in the Gujarat election though the equations had changed by then. The BJP suffered serious setbacks in rural seats. The historic win in Tripura gave the BJP the mistaken confidence about the invincibility of cultural issues qualifying the material promises. It rejected the subsequent setbacks in by-elections as aberrations until it suffered defeat in the recent Chhattisgarh, Rajasthan and Madhya Pradesh Assembly elections in varying degrees.

The factors that revived the Congress from dormancy were the material crisis after demonetisation and the Goods and Services Tax. The combination of rural distress, joblessness and rural inflation are the issues that significantly account for the BJP's electoral loss. There is no reason to believe that these issues will not be relevant in 2019, as is argued in the oft-

repeated electoral cliché that the dynamics for the Assembly and Lok Sabha elections are qualitatively different. Also, it would be wrong to read too much in the Congress's recent flirtation with soft Hindutva. The Congress did not get votes due to Congress president Rahul Gandhi's temple visits. The cultural posturing of the Congress was just a symbolic labelling beneath which lay its position of being a default alternative and spelling promise for farmers and the youth.

All attempts to whip up issues of a Ram temple and name-changing did not prevent the BJP from losing a substantial portion of votes to the Congress. The success of cultural politics presupposes the delivery of a basic minimum denominator of material interest. The BSP, too, did not resonate with Dalit voters in the three States despite controversy and anger around the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, as the party did not have any material narrative. Similarly, Muslims voted more enthusiastically for the Telangana Rashtra Samithi (TRS) in Telangana rather than the Owaisi-led All India Majlis-e-Ittehadul Muslimeen on account of the TRS's populist welfare policies.

Road to 2019

This marked material crisis informing the Indian polity indicates the shrinking space of cultural politics. Hence, the road to 2019 lies in the framework of centrism that guarantees electoral success in re-structuring material politics without any polarising attempt to privilege the cultural singularity of Hindutva or its rhetorical counterpart from the Left's attempt to forge a Dalit-Muslim alliance.

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SANJAY KUMAR

Ever since voters have been provided the 'None of the Above' (NOTA) option if they do not want to vote for any of the candidates in the fray, political parties now cite many voters having chosen NOTA as a reason for losing an election. This may be true in very close contest, when voters are in small numbers and the margin of victory and defeat is rather small. But overall, there has hardly been any election in India where NOTA has been instrumental in altering an electoral verdict.

What the data show

In the recent round of elections to five State Assemblies (Telangana, Rajasthan, Madhya Pradesh, Mizoram and Chhattisgarh), where the margin of votes between the main contenders, the Congress and the Bharatiya Janata Party (BJP) was narrow – for example only 0.1% in Madhya Pradesh and about 0.5%

in Rajasthan – the BJP cited NOTA voting as among the main reason for its defeat. However, had the Congress been in the BJP's position, it too would have blamed NOTA. Thus NOTA is a convenient political scapegoat. Even voters have started to believe that NOTA has become a very important factor in Indian elections.

In the recent State Assembly elections, the results indicate a decline in NOTA votes in four States, Telangana being the only exception. The decline was from 1.9% to 1.4% in Madhya Pradesh; 1.9% to 1.3% in Rajasthan; 3.0% to 1.9% in Chhattisgarh; and 0.6% to 0.4% in Mizoram. In Telangana, there was a marginal increase from 0.7% to 1.0%. The data show no bigger attraction for NOTA in these five States in the last five years. It is the same in States other than these five which have gone to the polls in recent years.

In the 2014 Lok Sabha elections, only 1.08% voters opted for NOTA nationally. There was hardly any significant NOTA vote except in Puducherry where 3% voters opted for it and 2.8% in Meghalaya. In a number of States, the NOTA votes were in the range of 1-1.5% of



V. SUDERSHAN

the total votes polled. When the average size of a Lok Sabha constituency is about 27 lakh voters, it is difficult to imagine that a small percentage of votes could alter electoral outcomes in a large number of constituencies.

It is widely believed, and true to some extent, that NOTA could be a useful tool (such as in a local body election) if constituencies are smaller in size, with fewer voters. But this is still not seen as a viable option among voters even in a State Assembly election. The preference for NOTA in Assembly constituencies reflects the trend of the 2014 Lok Sabha elections. An average Assembly constituency in a State in the Hindi heartland has

LETTERS TO THE EDITOR

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Rahul as PM

In a country where political dynasties and arbitrary party high command nominations for regional posts reign supreme, it is not surprising that DMK president M.K. Stalin has appealed to other Opposition leaders to strengthen the hands of Congress president Rahul Gandhi, and strongly endorse his candidature for the post of Prime Minister in 2019 (Page 1, "Stalin proposes Rahul as PM candidate at Oppn. meet", December 17). What is amusing and ironical is that the DMK chief finds the Prime Minister, Narendra Modi, having the arrogance of a king ruling by virtue of hereditary rights, while conveniently forgetting what aided his own vertical ascent in his party hierarchy, sidelining many a veteran in the party. It is also baffling how the Congress chief has taken a sudden interest in the

culture of Tamil Nadu. While the Opposition pitching for unity to take on the might of the BJP next year is understandable, what is unacceptable is the uncharitable language being used by some in the Opposition against Mr. Modi. The occasion chosen to endorse and propose Mr. Gandhi as the PM candidate suggests that the bonhomie on show on Sunday was well rehearsed so that the other aspirants, if any, are notified in advance to contain and ration their ambitions.

SIVAMANI VASUDEVAN,
Chennai

■ The warning sounded by the Chief Minister of Andhra Pradesh, N. Chandrababu Naidu, who was also present at the Opposition meet in Chennai, about the possibility of the ruling party manipulating electronic voting machines is a point to be noted. The Election Commission of India should also have a voter verifiable

paper audit trail, or VVPAT, in place. The general election has to be fair.

R.M. MANOHARAN,
Chennai

Note to court

After the initial claim that the Supreme Court verdict on the Rafale deal settles all doubts, the Centre has come up with the strange argument – perhaps the first of its kind in Indian judicial history – that the Supreme Court had erred in 'English grammar'. Whether the judges erred or were misled by the government, the judgment points to a sort of loss of trust for the judiciary. People expect the judiciary to be blemish-free. One wonders whether some time-consuming investigation is required to tell us whether the government shared with the CAG the pricing details of the deal.

Why could not a statement that is straight to the point and confusion free be submitted to the court? The

court should have also asked for more clarity. Moreover, when it is public money that is involved in the deal, the details have to be in the public domain especially when it is a democratic system like ours. What is the security aspect in people knowing the price paid for each jet? The elimination of the public sector HAL is strange. The deal should go before a JPC or some other any other appropriate body of inquiry.

P.R.V. RAJA,
Pandalam, Kerala

■ It is said that the Union government has had to approach the Supreme Court to correct "grammatical misinterpretation" in the Rafale judgment. It is incomprehensible how hardly any care was taken while drafting the highly sensitive and confidential report. The slipshod work has shown the government in a bad light.

V. JOHAN DHANAKUMAR,
Chennai

Sindhu in Guangzhou

Star shutter P.V. Sindhu has finally overcome her string of defeats in a number of prestigious sporting events and can now rid herself of the tag of being only a 'silver specialist' ("Sport page", "A golden finish for Sindhu", December 17). She must now step up her game and ensure greater consistency.

FUZHAI AHMED,
Malappuram, Kerala

A 'great doctor'

The article, "Those physicians of the mind" ('Open' page, December 16), was such a practical piece of writing. I remembered the days in 1971 when my brother was being treated at the Tambaram Sanatorium

CORRECTIONS & CLARIFICATIONS:

In a Business page report headlined "RIL to expand its refining capacity to over 100 mtpa" (Business page, Dec. 16, 2018), the full form of mtpa was wrongly given as *metric* tonnes per annum. It should have been *million* tonnes per annum.

An Open page article headlined "Those physicians of the mind" (Dec. 16, 2018) had misspelt the name of an American author. It should have been *Norman Cousins*.

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