



## Another fodder jolt

It is too early to write off Lalu Prasad, but recovery from this conviction won't be easy

Twenty years on, the Bihar fodder scam is still hounding Rashtriya Janata Dal leader Lalu Prasad. In 1997, he had to resign as Chief Minister after being charged with involvement in a conspiracy to fraudulently withdraw money from the treasury to pay non-existent suppliers of livestock feed. In 2013, he was sentenced to a five-year prison term in a case relating to the withdrawal of ₹37 crore from the Chaibasa district treasury. He remains disqualified from electoral contest as a result of that conviction, although he was granted bail by the Supreme Court in December 2013. His conviction on Saturday by a Central Bureau of Investigation court relates to withdrawals worth ₹84.50 lakh between 1994 and 1996 from the Deogarh treasury. As it has been established even in earlier trials that a large-scale scam had taken place in the name of purchasing fodder for cattle, any more convictions in one or more of the many cases spread across Bihar and Jharkhand will come as no surprise. Mr. Prasad had failed to convince the Supreme Court earlier this year that repeatedly trying him in respect of the treasury withdrawals in different districts violated his constitutional protection against double jeopardy. The court has ruled that different transactions ought to be established independently, even if the acts of embezzlement arose out of an overarching conspiracy. As Mr. Prasad awaits his sentence, which will be known on January 3, he is already in jail, along with 15 others. Instead of one, he now has two convictions against his name. He has to wait until a higher court exonerates him in both before he can regain eligibility to contest elections.

Mr. Prasad's political fortunes have been fluctuating. He could take credit for the victory of the grand alliance of the RJD, the Janata Dal (United) and the Congress in the November 2015 Assembly election in Bihar, but that unity was short-lived. It was an allegation that went back to Mr. Prasad's days as Railway Minister that ruptured the ties between his party and Chief Minister Nitish Kumar of the JD(U). Mr. Prasad and his family members were named in a First Information Report filed by the CBI that claimed that his wife Rabri Devi and son Tejaswi Yadav received a prime piece of property in Patna as a *quid pro quo* for a contract to develop and run two railway hotels. With Tejaswi Yadav refusing to resign as Deputy Chief Minister, Mr. Kumar quickly switched over to the BJP-led camp, to govern without the RJD's support. This meant that Mr. Prasad's influence as the leader of an 80-member legislature party was not as game-changing as it had appeared to be when the *Mahagathbandhan* was formed as an anti-Bharatiya Janata Party front in 2014. It may be too early to write off Mr. Prasad, who is perceived by some sections as a bulwark against communalism, but as the ghosts of the murky past return, his immediate political future looks bleaker. This jolt may not send him to political oblivion yet, but it may be one from which he will not recover easily.

## Best year ever

As Indian cricket wraps up a spectacularly successful year, key stress-tests lie ahead

The Indian men's cricket team had an exceptional 2017 – statistically, its best year ever. Across formats, only the all-conquering Australians of 2003, with 38 wins from 47 games, managed more victories than India's 37 in 53 matches this year. Virat Kohli's side didn't merely consolidate its hold on the No. 1 spot in Tests; it also routinely bullied the opposition in the shorter forms of the game. The lone blip came in the Champions Trophy in England, where India unravelled against a feisty Pakistan. But few will complain when a runner-up finish in a global tournament is the year's biggest failure. That match apart, an inevitability seemed to accompany India's success: whether it was a Test, a One-Day International or a Twenty20, the team took the field noticeably stronger than its adversary, and calmly, ruthlessly, set about proving it. It is often said that a side fashions itself in its captain's image. There were certainly moments during the year when India played with the glowering intensity Kohli is famous for. Ajinkya Rahane and Rohit Sharma stepped successfully into the breach when Kohli was absent; and both brought to the job the subtle impress of their personality. Besides, the side has leaders all around the pitch. The few times India was threatened in 2017 – and only Australia during the Tests early in the year did it more than once – it invariably found a hero.

The one discordant note in an otherwise harmonious 12 months was the controversy over Anil Kumble's exit as coach. The episode should have been handled better, but it is encouraging that it did not derail the team. Indeed, the overall system looks robust and fertile – rare plants such as the quick-bowling all-rounder (Hardik Pandya) and the left-arm wrist-spinner (Kuldeep Yadav) don't take root and flourish otherwise. Nor do specialist Test batsmen such as M. Vijay and Cheteshwar Pujara or pure glovemen such as Wriddhiman Saha. The thrust towards empowering bowlers, vital in a country smitten by batsmen, has not weakened. Clearly, the selectors and the team management – both in Kumble's time and now under Ravi Shastri – are on the same page; so is Rahul Dravid, who has played a significant developmental role with the junior and 'A' sides. If there is a sobering thought in these heady times, it is that the new year will bring stiffer challenges. A lot of 2017 was at home; but 10 Tests in 2018 will be played in South Africa, England, and Australia, tours that stress-test every fissure and fault line. India will not be afforded too many mistakes. Kohli's men have, however, given the team's fans reason to dream.

# Time for an icebreaker

The intellectual partition of India and Pakistan does no benefit to either country



SUHASINI HAIDAR

In the late 1960s, shortly after the India-Pakistan war, the official in the Ministry of External Affairs handling the Pakistan desk received a strange request during his meeting with the new Pakistan High Commissioner. “I hope that you would deal with Pakistan as a foreign country,” the High Commissioner told the slightly puzzled Indian official, explaining that the familiarity of Indian officials with both language and culture of Pakistan ran counter to Pakistan's desire to build their identity as a newly sovereign nation.

### Two years apart

While the two countries had been physically partitioned, and borders and check-posts now controlled people from crossing over, the ‘intellectual partition’ of India and Pakistan had not taken place at the time. Decades later, it would be hard for a Pakistani envoy to make such a complaint. India and Pakistan are not just foreign countries for each other, they are practically alien, with little to engage on in various spheres. The “intellectual and emotional partition” of the two countries is even more stark today, exactly two years since Prime Minister Narendra Modi landed in Lahore to attend his then counterpart, Nawaz Sharif's grand-daughter's wedding.

To begin with, Indian and Pakistani societies have learnt to look away from each other culturally. The process of this partition, which began in the 1950s, when poets and historians began to construct separate histories, is now complete, as Pakistani students learn a language more Arabic than

Urdu, of a polity that begins in 1947, and about an ancient history that relates to foreign invaders from the country's west more than the shared history with its east. On the Indian side, contemporary cultural linkages have been severed, with Abida Parveen and Ghulam Ali no longer able to perform in India, Pakistani actors barred from work in Indian films, and a television network stopping the very popular telecast of Pakistani soap operas. Sporting events are fewer, and there is little “healthy rivalry” when Indian and Pakistani teams do meet: instead a defeat becomes a national disgrace, while a victory is celebrated as a quasi-military conquest. Visas are still granted for pilgrimages on both sides, but for all other travel they are tightly controlled and granted as exceptions to the rule. Seldom have two countries which share language, idiom, music and religion been this closed to each other, including in times of war.

Bilateral trade, which had developed a low but steady normal, could be reduced even further now: as Indian development of Chabahar port in Iran circumvents Pakistan by sea, and an air cargo corridor to Afghanistan replaces land cargo entirely. Effectively, India is willing to double its trade costs and spend billions of dollars extra in order block out Pakistan, and Pakistan is willing to risk its trade route to Afghanistan and Central Asia, but won't allow Indian trade to Afghanistan come



GETTY IMAGES/ISTOCKPHOTO

through Wagah.

The only increased ‘trade’ is that of ‘trading fire’ at the Line of Control (LoC), where Pakistan attempts to push in infiltrators over the LoC into India under covering fire, and Indian troops fire back, taking also a high toll for civilians on both sides. After the 2003 ceasefire had been implemented, villagers on either side of the LoC had returned to their homes and rebuilt schools along the area. Most of that peace has been undone by the past few years of ceasefire violations, according to a study by the United States Institute of Peace called “A Line on Fire”. From 12 ceasefire violations (CFVs) on both sides combined and one civilian casualty in 2006, 2016 saw 51 dead in about 900 CFVs. The data for this year has surpassed those numbers, which includes four Indian Army soldiers killed this weekend. Yet, neither side gives credence to claims of the other. Even after the surgical strikes of September 2016, Pakistan's government refused to accept India's detailed account of the cross-LoC action.

The discourse on terrorism is even more divided. After the Mumbai attacks of 2008, Pakistan admitted in public statements at least that the perpetrators of the attacks would be brought to justice. Yet in the past three years, the Mumbai trial in Rawalpindi has all but ground to a halt. The Lashkar-e-Taiba's operations commander Zakiur Rehman Lakhvi is out on

bail, while 26/11 mastermind Hafiz Saeed, out of custody last month, plans to stand for elections in 2018. On the Pakistani side, there's growing belief that India funds groups such as the Tehrik-e-Taliban Pakistan (TTP) as well as insurgent groups in Balochistan. Mr. Modi's public support for the Baloch insurgency during his Independence Day speech last year did not help. The fate of Kulbushan Jadhav, whose release from Pakistani custody in other times may have been decided by mutual negotiation and a possible exchange of personnel, is now in the hands of the International Court of Justice.

### Difficult calendar

While both India and Pakistan have recently appointed new High Commissioners to Islamabad and Delhi, respectively, there is very little hope of any fresh initiative at this point. Pakistan heads into its electoral process in a few months, once the Senate elections are done in March and a caretaker government is put in place. By the time a new Prime Minister is in place there, the Indian general election campaign will begin to roll out. Given Mr. Modi's recent attack on former Prime Minister Manmohan Singh for meeting the new Pakistani envoy at a dinner during the Gujarat campaign, and suggesting collusion between the two, it is unlikely that the political atmosphere would allow for even diplomatic niceties to be maintained.

Yet, for a number of reasons, it is even more necessary for both sides to stem this intellectual partition today. India has long opposed “third-party interventions”, but the lack of dialogue with Pakistan is imposing just that, with every dispute between the two countries now being taken up at global forums: the United Nations, Financial Action Task Force, International Court of Justice, and World Bank for the Indus Waters Treaty.

Second, with the U.S. drawing India into its Afghanistan policy, and China's stakes in the China-Pakistan Economic Corridor, the subcontinent is becoming an area of contestation by players bigger than both India and Pakistan. Even in Afghanistan, their interests are being increasingly defined by the coalitional arcs being drawn: with the U.S., India, and Afghanistan ranged on one side; and Russia, China, Iran, Pakistan and the Taliban on the other.

### The alphabet soup

India's decision to stay out of the South Asian Association for Regional Cooperation (SAARC) meet in Pakistan has also complicated its standing as a regional leader. While alternative arrangements such as The Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIM-STECC), the Bangladesh, Bhutan, India, Nepal (BBIN) initiative and the Indian Ocean Rim Association (IORA) represent some parts of the region, they cannot replace the whole, and the region becomes easier to fragment, as China has managed to do by making inroads into Nepal, Bangladesh, Sri Lanka and the Maldives.

Finally, re-engagement will inevitably follow disengagement at some point, and the growing distance between the people of both countries will be much more difficult for their governments to bridge in the future. Even without bilateral talks, the two sides can explore simple engagements on the environment, medical tourism, energy pipelines and electric grids in the interim. In a world where connectivity is the new currency, and multiple alignments are replacing polar geopolitics, it is hard to justify the disconnected space that New Delhi and Islamabad are hurtling into.

—  
suhasini.h@thehindu.co.in

# Flawed, in the name of indecency

The government's advisory on telecast of condom advertisements is questionable on many counts

ABHINAV CHANDRACHUD

On December 11, the Ministry of Information and Broadcasting issued an advisory to television channels banning all “advertisements of condoms which... could be indecent/inappropriate for viewing by children” between 6 a.m. and 10 p.m. The advisory was issued because it came to the notice of the Ministry that “some channels” were carrying “advertisements of condoms repeatedly which are alleged to be indecent especially for children.” It was later reportedly clarified that the advisory only applied to “sexually explicit” advertisements meant to “titillate” the audience. While the intent might be laudable, the manner in which it has been drafted is likely to have a drastic and chilling effect on all condom advertisements (not merely “vulgar” ones) during prime time television viewing hours, when such advertisements ought to be shown in the public interest.

One must applaud the government's decision to grant a safe harbour to advertisements which it considers “indecent”, instead of banning them altogether. After all, the Ministry could have paternalistically directed all channels not to disseminate any indecent condom advertisements whatsoever, no matter the time of the day or night at which they were shown. By allowing “indecent” condom adver-

tisements to be disseminated between 10 p.m. and 6 a.m., the government has empowered parents to decide what their children can and cannot watch, while ensuring that adults are not deprived of content which they are entitled to view. The idea behind this type of regulation is that when it is late in the evening, parents are likely to be at home when they can better supervise their children. The ban imposed by the Ministry is also tolerable because it has been inflicted on advertisements, or “commercial speech” which, in constitutional law, is often considered to be a form of “low value” speech. Further, the government has not banned all condom advertisements, but only those which are indecent.

### Why it is flawed

However, the manner in which the advisory has been drafted is far too broad. The Ministry has advised channels to ban all condom advertisements which “could be indecent/inappropriate for viewing by children”. But how does one decide whether something “could” possibly be “indecent, inappropriate”, “sexually explicit” or “titillating”? In a famous case decided by the U.S. Supreme Court, Justice Potter Stewart once said that while it is difficult to define the meaning of hardcore pornography, “I know it when I see it.” The distinction between art and obscenity is often paper thin and



GETTY IMAGES

incredibly subjective. As Justice J.M. Harlan wrote in another case, “one man's vulgarity is another's lyric.” When different people see the same condom advertisement, many may disagree over whether it is “indecent”. Some may find it funny or informative, while others may consider it obscene or distasteful. The word “inappropriate” used in the Ministry's advisory is even more vague than the word “indecent”.

The Ministry has also made the fatal mistake of bracketing all “children” into the same conceptual category. What is suitable for viewing by a 17-year-old boy may not be appropriate for a three-year-old girl, and both may be considered “children”. It may have been a better idea for the government to have prohibited “indecent” condom advertisements during programmes that are likely to be viewed by young children such as cricket matches or cartoons. The advisory seeks refuge in a provision in the Cable Television Network Rules, 1994, which

bars any advertisement that “endangers the safety of children or creates in them any interest in unhealthy practices”. But can it really be considered an “unhealthy practice” for a sexually active 17-year-old to have safe sex? Whether we like it or not, some teenagers below the age of adulthood may engage in sexual relations. Further, it is human nature which is responsible for our sexual impulse, not condom advertisements.

### Narrow focus

One also wonders what place an advisory of this kind has in today's digital India. Television programmes shown even in the early hours of the morning can now be recorded on a digital video recorder and watched at three in the afternoon. Pornography is freely available on the Internet. Do we really need to shield the teenager, who knows how to illegally download the popular HBO series, “Game of Thrones” (which has nudity and extreme violence), from comparatively tame condom advertisements? Newspapers which carry graphic columns by “sex experts”, columns which offer advice to couples with sexual problems, are available for all and sundry to read. One also wonders where the government's priorities lie. The government believes that condom advertisements are “unhealthy” for children, but not advertisements which encourage them to consume fizzy drinks la-

den with high-fructose corn syrup, or junk food, low in nutritional value, all of which may have an adverse effect on the public health system. The government also has no qualms about advertisements which sexually objectify men instead of women.

Given how difficult it is to interpret words such as “indecent” and “titillating”, and in order to make their content suitable for viewing by children of all ages, an Indian television channel may now justifiably think twice before airing any condom advertisement, whether “inappropriate” or otherwise, between 6 a.m. and 10 p.m., as it is always better to err on the side of caution. This “chilling effect” on condom advertisements will be detrimental to the public interest. It will mean that sexually active Indians may not be exposed to condom advertisements during prime time viewing hours, when such advertisements could have been seen by the highest number of people. Though offended by indecency and innuendo, the government must not forget that condoms can help prevent unplanned pregnancies and restrict the spread of sexually transmitted (sometimes life-threatening) diseases.

—  
Abhinav Chandrachud, an advocate at the Bombay High Court, is the author of ‘Republic of Rhetoric: Free Speech and the Constitution 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.

### The 2G verdict

The court should have posed questions to the then CAG as well for letting his reports, especially his numbers, on 2G spectrum allocation acquire a degree of sensationalism and their context misrepresented. After all, this was the basis for the events that subsequently unfolded. If not in his report, he should have publicly explained what “notional loss” meant. Many began to bolster this as the money that exchanged hands under the table without reaching the government. In the din, no one was willing to realise that such a huge amount was not actually physically generated. In hindsight, we can now say that he deliberately let

sensationalism prevail in public space. He did not explain how his notional loss figures needed to be offset against the immense direct and indirect benefits to the nation from the low-cost mobile connectivity that resulted.

M. BALAKRISHNAN, Bengaluru

■ It may not be an exaggeration to say that people believe propaganda without waiting for a court verdict. There are examples to show how this has led to situations that have affected the political fortunes of parties. It is unfortunate that political vendetta is becoming a powerful weapon that can decide a political party's chances of winning an election. On its

part, the judiciary must lay down a definite time frame to dispose of such cases of political importance.

M.L.RAGHAVAN, Tirupur, Tamil Nadu

### Political impact

The fodder scam verdict, quite unusually, was awaited with greater curiosity, if not with bated breath, as it generated huge public interest, more so in the wake of the unexpected 2G spectrum case verdict (“Lalu convicted in 2nd fodder scam case”, December 24). History may be kind to ‘others’ but not to Lalu Prasad given his disregard for probity in public life. It would be interesting how his party and his trusted ally, the Congress, will steady the boat after the jolts caused by

the judgment (“With Lalu's conviction, Congress to walk a thin line”, December 24). The dream of a *Mahagathbandhan* for 2019 seems dampened as of now as Mr. Prasad is one of the key proponents of opposition unity for a BJP-mukt Bharat. Of course, the RJD may fight it out in the courts but one can never foretell the final judicial say.

SIVAMANI VASUDEVAN, Chennai

### Spirit of Christmas

India is a democratic country and everyone has the right to celebrate, or not, any religious festival. Article 18 of the Universal Declaration of Human Rights, the “Right to freedom of thought and religion”, says that “Everyone has the right to

freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom... teaching, practice, worship and observance”. Festivals of any religion bring people together irrespective of where they come from, the religious views they hold, their race, or colour. Nothing is alien to anyone today in this globalised era. Festivals integrate people of all faiths. The core reason of celebrating Christmas is to establish peace and goodwill. I hope the forces issuing threats against celebrating the festival understand this (“States told to ensure order during Christmas”, December 24).

JAMES EDWIN THOMSON, Chennai

### Robot touch

The Open Page article (December 24), “Fancy a robot as a household aide?” will remind many of the popular TV show in the 1980s, “Giant Robo”. New Zealand boasts of having created a robot named ‘SAM’, ‘the world's first artificial intelligence politician that can answer queries regarding local issues’. We have restaurants where robots have replaced staff. In this fast paced digital world, we ourselves, in a way, have become robots. But let us not forget that it is the superior human mind which created the machine in the first place.

T.S. KARTHIK, Chennai

MORE LETTERS ONLINE: www.hindu.com/opinion/letters/