

11 EXPLAINED



SOCIAL INTELLIGENCE

Whenever you're fed up & stressed about life, just remember that you'll be dead & forgotten soon & there's no afterlife. Hope that helps.

RICKY GERVAIS,
English media personality who describes himself as "Godless Ape, Comedian, Actor, Writer, Director." 12.6 million followers on Twitter

EYEBALL TO EYEBALL

Where things stand on the Dolam plateau

SUSHANT SINGH answers key questions on the India-China standoff at the Sikkim trijunction, and pieces together a detailed situation report

To begin with, where exactly is the stand-off happening — is it in Doka La, Doklam, Donglang or Dolam?

The location of the stand-off is Dolam plateau, which is in the Doklam area (as referred to in the statements of the Ministry of External Affairs and the Embassy of Bhutan in New Delhi). The Dolam plateau is different from Doklam plateau (which is a disputed area between Bhutan and China, but has no contiguity with India). The Doklam plateau lies around 30 km to the north east of Dolam plateau. Doklam is called Donglang in Mandarin.

The Doklam or Donglang area is close to the northern end of a funnel-shaped valley, called the Chumbi Valley. The valley opens out in the Tibet region of China. At its base (in Tibet), the Chumbi 'funnel' is 54 km wide. At its tip, the 'funnel' is just 11 km wide. This is Batang La, which lies to the east of Gangtok. The Chumbi 'funnel' measures 70 km from its tip in the south to its base in the north.

Where then, is the 'trijunction'?

The trijunction is the point where the borders of India (Sikkim), Bhutan and China (Tibet) meet. The trijunction is disputed — India claims it is at Batang La, while China claims it is around 6.5 km to the south, at Gyamothen. Both claims are based on competing interpretations of the 1890 Calcutta Convention between Britain and China. As per the agreement between the Special Representatives of India and China in 2012, the two sides have to maintain the *status quo* until their competing claims are resolved in consultation with the third party, Bhutan. Gyamothen is 20 km as the crow flies from the West Bengal border.

Is this also the Line of Actual Control (LAC), then?

No. Interestingly, the border between China and India in the Sikkim section is seen as 'settled', as the basis for alignment has been agreed between the two countries. Although work on delineating the boundary on the map and demarcating it on the ground has not even started, it is not included in the three sectors — eastern, middle and western — which are acknowledged by the two countries as disputed. The 220-km boundary in Sikkim is not the Line of Actual Control (LAC) as is the case with the rest of the 3,488 km India-China border.

So where exactly is Dolam plateau?

The ridge line running from north to south, on which Batang La and Gyamothen are located, has a pass known as Doka La in between these two places (La means a mountain pass). Another mountain ridge runs east from Batang La, via Merug La and Sinche La to the Amo Chu river. It then turns southward, and runs along the Amo Chu. There is a ridge line that runs east/southeast from Gyamothen towards/along the Amo Chu river. This ridge is called the Jampheri ridge.

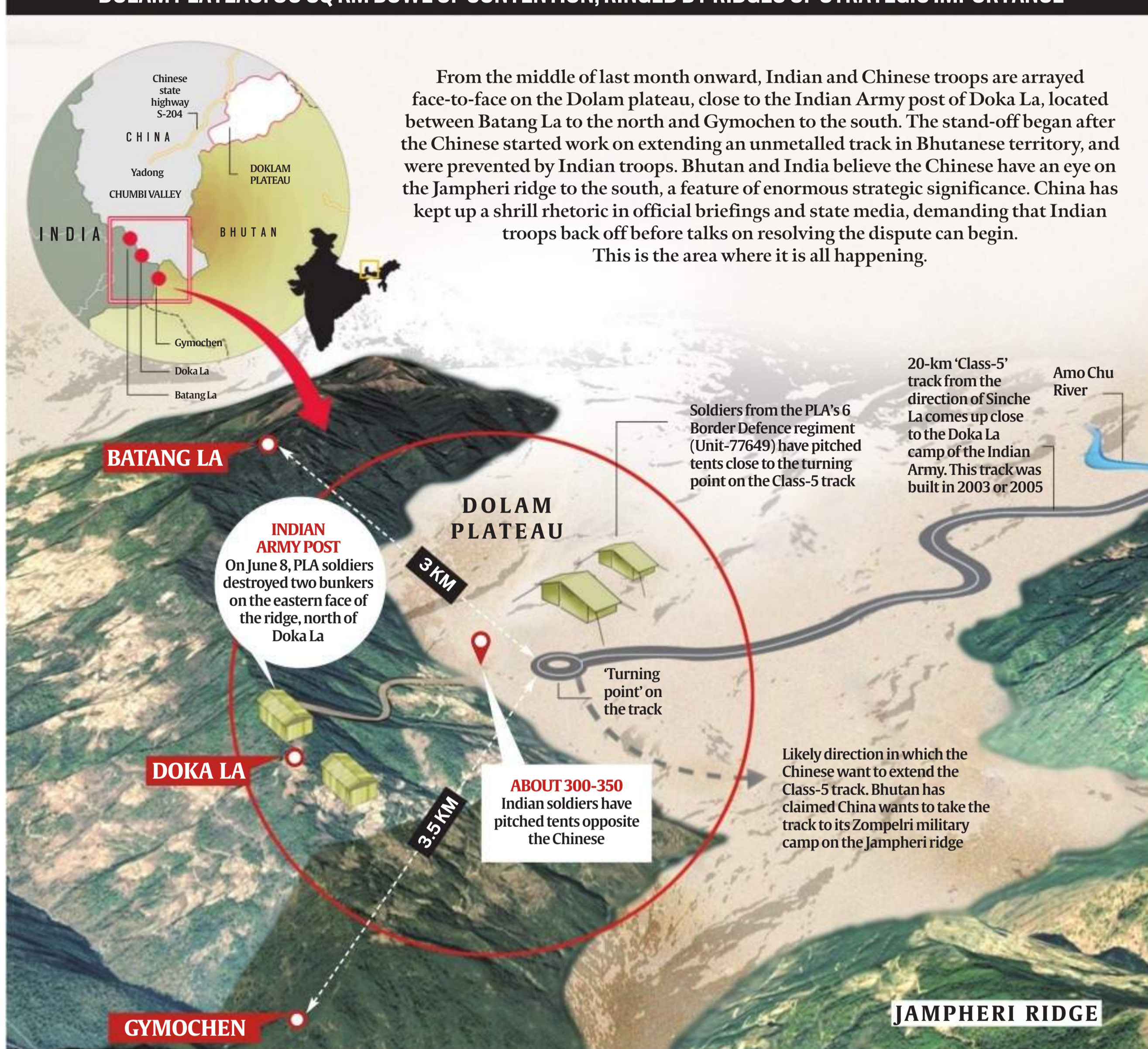
These ridge lines, rising about 500 m higher than the flat area in the centre, enclose a 89 sq km bowl, which is the Dolam plateau. A rivulet called the Torsa nala rises from the base of Doka La and zigzags through the plateau east to meet the Amo Chu river.

What is this "motorable road" that the Chinese are supposed to have built?

The main road leading into the Chumbi Valley is the Chinese state highway S-204, which winds down south from Shigatse (or Xigatse) in Tibet to a point called Yatung (or Yadong), located northeast of the Nathu La pass. From Yatung, a blacktop metalled road goes to Asam, deeper inside the Chumbi Valley. Several unmattled tracks emanate from Asam, one of which comes up to a point close to Doka La. This 20 km long track is classified as a "Class-5 track", meaning it is capable of taking a vehicle of load class 5, which is a jeep or a small load carrier. The track was reportedly constructed by the Chinese as early as in 2003 (though some sources claim it was completed in 2005). The statement by Bhutan called this Class-5 track a "motorable road".

At the end of this 20 km track, is a "turning point", a wider area where large vehicles

DOLAM PLATEAU: 89 SQ KM BOWL OF CONTENTION, RINGED BY RIDGES OF STRATEGIC IMPORTANCE



Illustrative diagram of the Dolam plateau at the India-China-Bhutan trijunction in the Sikkim sector, showing the relative positions of the Indian Army post at Doka La, the 20 km-long Chinese 'Class-5' track, and the Jampheri ridge. The drawing is approximate, and not to scale. Sarfaraz Alam/Terrain Image from Google Earth

From the middle of last month onward, Indian and Chinese troops are arrayed face-to-face on the Dolam plateau, close to the Indian Army post of Doka La, located between Batang La to the north and Gyamothen to the south. The stand-off began after the Chinese started work on extending an unmattled track in Bhutanese territory, and were prevented by Indian troops. Bhutan and India believe the Chinese have an eye on the Jampheri ridge to the south, a feature of enormous strategic significance. China has kept up a shrill rhetoric in official briefings and state media, demanding that Indian troops back off before talks on resolving the dispute can begin.

This is the area where it is all happening.

Objectives of military conflict: Nehru, through his spymaster

ANIRUDDHA GHOSAL
NEW DELHI, JULY 23

IN 1956, Prime Minister Jawaharlal Nehru told his Director of the Intelligence Bureau BN Mullik that a "country [fights] a war to gain an objective". Victory does not guarantee gaining the objective — in fact, in several "great victories" of the past, the "objective had not been gained, leaving behind a long trail of hatred and conflict".

Six years on, India would find itself fighting an ultimately disastrous war with China in which no clear objective was served, but which continues to cast a long shadow over bilateral relations.

As the two armies face off at the Sikkim trijunction, China last month reminded India of "historical lessons", and Defence Minister Arun Jaitley retorted that "the situation in 1962 was different and India of 2017 is different".

In the same conversation with Mullik, recounted by the legendary spymaster in his memoirs, *My Years With Nehru: 1948-1964* (first published in 1972 and now out of print), Nehru had quoted the Sanskrit play *Mudra-rakshasa* on how "Chanakya brought about the disruption of several princes [who] fought against Chandragupta and [their] defeat without actually fighting a war", while arguing that "if one could gain the objective without fighting a war, this would be most welcome". (*Mudra-rakshasa*, or 'The Minister's Signet Ring', is believed to have been written by Vishakhadatta some time in the 6th century AD, and purports to describe historical events of 900 years earlier, specifically, the schemes of the wily adviser to Chandragupta Maurya, to outsmart Rakshasa, the minister of the last Nanda king. Chandragupta ultimately conquered Pataliputra, and established the Mauryan dynasty in c. 321 BC.)

China's objective in 1962, according to their official military history, had been to secure the borders in its western sectors. It perceived India as a threat to its rule over Tibet, which was aggravated by the reception that the Dalai Lama had received in March 1959. Back in 1952, relatively early in Mullik's 1950-64 career as DIB, Nehru had cautioned the Bureau against taking a "negative approach" towards international communism. China and Soviet Russia were geographically close; "America could be absolutely hostile to China and yet that would be of no security danger to her", he said. But India "has a 2,000 mile frontier with China and had to take care of that. It was one thing to take care of a quiet frontier but quite another to defend a hostile frontier."

In 1955, he reasoned that if "India had to" defend a "hostile frontier" with China "then all her resources would be spent in just defending it. Therefore, in India's national interest a war must be avoided".

Nehru believed that "China would not follow a policy which was harmful to her in spite of communism; it would be the national policy which would come to the fore every time... It was a case of pure opportunism and not idealism any longer." He subsequently described the war as a "bad shock". Mullik writes that Nehru's "apprehensions came true and the progress which ha[d] been maintained up to 1962 came to a grinding halt as a result of the unprovoked Chinese aggression and then went on a reverse gear from 1965 onwards after the Pakistani war. The recovery came several years later".

Also, "After the Chinese invasion, it was reliably learnt that there was joint effort by Pakistan and China to train Naga hostiles, and another gang of 400 Naga rebels... (had) slipped into [East] Pakistan through Tamenglong and Churachandrapur".

can reverse and return. This turning point is a few metres away from the Indian Army post at Doka La, around 3.5 km short of Gyamothen, and approximately 3 km from Batang La.

Do Chinese patrols visit this area?

Chinese military patrols have been regularly coming up to the turning point on the Class 5 track from Asam. Chinese graziers often come up to the Torsa nala. Chinese military patrols have also been known to go almost up to the Jampheri ridge, but this is rare. In a sense, while the *de jure* border is aligned with Batang La, the *de facto* border has been at Doka La.

What happened on the plateau in June?

On June 8, PLA soldiers came in and destroyed two self help bunkers (SHBs) on the eastern slope of the ridge, slightly north of Doka La. These SHBs technically fall in Bhutanese territory, but are needed by the Indian soldiers to cover the plateau with effective fire. The Chinese had earlier destroyed two SHBs in the same area in 2008.

On June 16, some 100 men arrived at the 'turning point' with 4-5 bulldozers and earthmoving machines to begin work on ex-

tending the track southward towards the Jampheri ridge. The Royal Bhutan Army has a fair weather post called Chela Post on the ridge; Indian and Bhutanese army patrols "link" on Jampheri ridge every month. Bhutan claimed in a statement that the Chinese were building a track up to its Zompelri military camp on the ridge.

As the Chinese track construction party began survey and alignment work on the Dolam plateau, Indian soldiers came down from Doka La and formed a human chain to physically prevent the Chinese from working. The Indians also moved down earthmoving machinery with an aim to undo the work to be done by the Chinese. These dozers were highlighted in the pictures that the Chinese Foreign Ministry released on June 29.

While the equipment continues to be on standby, soldiers from both sides have pitched tents in the area. After the first couple of days, the Chinese have not attempted to resume construction, and the stand-off continues. There are 300-350 Indian soldiers in the area under a Commanding Officer. The Chinese troops are from the PLA's 6 Border

Defence regiment (Unit-77649).

Can the troops continue to stay there even in winter?

Yes. Harsh as the weather is at that altitude in winter, both Indian and Chinese troops are accustomed to these conditions. The logistics supply lines and turnover of men is also not a problem because the deployment is only a short distance away from the Indian positions at Doka La.

But why is India so insistent on stopping the road?

As acknowledged by New Delhi, Indian troops are technically in Bhutanese territory to prevent the Chinese from extending the Class-5 track up to Jampheri. While Indian insistence on stopping the track construction is in line with its claims on the location of the trijunction, the main reason for taking a strong stance is the military importance of the Jampheri ridge. The MEA noted this in its statement when it said that "such construction would represent a significant change of *status quo* with serious security implications

for India".

While access to the Jampheri ridge will reduce China's distance to the "chicken's neck" in the Siliguri Corridor to around 50 km, that would still not bring it within artillery range. But there are other security implications for the Indian defensive deployment in the area, if the Chinese track reaches Jampheri. The Indian and Bhutanese demand, therefore, is for restoration of the pre-June 16 situation in the area. But China insists that India should withdraw its troops from the area before any talks can take place.

Can the conflict escalate?

Diplomatic engagement can open a way, but a solution that allows both sides to 'save face' is not immediately visible. The Chinese have ratcheted up rhetoric through official statements and in state-run media, and the space for a honourable disengagement appears to be shrinking. Though undesirable, an escalation of the conflict remains a possibility. However, the engagement between the two countries during the visit of the Indian National Security Advisor (who is also the Special Representative for talks with China) to Beijing later this month will provide a better answer.

SIMPLY PUT

Indian Ocean churning: why today's Maldives no-trust vote is crucial



IN FACT

BY JYOTI MALHOTRA

EXPRESS EDITORS INTERPRET

THE INDIAN Ocean is churning once again as the world watches the unified Maldivian opposition press for a no-confidence vote on July 24, amid concerns that President Abdulla Yameen may disbar Opposition MPs and even use troops to prevent the impeachment of the Speaker.

Few can imagine how this coral paradise — with high-end resorts in its 1,000-odd islands costing upwards of several lakhs of rupees per

night — has latterly become an extension of the great game for regional influence being played out between India and China.

The smallest country in South Asia has a population of barely 400,000 people. But its atolls and islands straddle the strategic navigation and communication sea lanes over 800 km north to south in the Indian Ocean, making it a crucial for countries with global ambitions.

Chinese President Xi Jinping persuaded Male to become a key link in his expansive Belt and Road Initiative when he visited there in September 2014, *en route* to India.

In an interview to *The Indian Express*, former Maldivian President Mohamed Nasheed said President Yameen had given 16 geo-strategically located islands to the Chinese, and was considering gifting an atoll to Saudi Arabia. (Wahabbism is spreading fast in the Maldives, and its citizens have been found fighting alongside the Islamic State.) As the crow flies, the southern city of Addu is only 736 km from Diego Garcia, an atoll just south of the Equator, on which the US has a massive naval and military base.

The outspoken Nasheed, whose ambiva-

lent relationship with New Delhi meant India refused to back him when he was deposed in 2012, now seems much more conciliatory. Indian officials were unhappy when he inaugurated the Chinese embassy on the day Prime Minister Manmohan Singh landed in the Maldives for the 2011 SAARC Summit.

"What is in Maldives' interest very much depends on what is in India's interest. If India feels its safety and security is compromised, we must be mindful of that. We cannot be inviting rising powers and giving them long-term construction projects which are actually strategic in nature," Nasheed said, referring to the several deals Yameen has agreed to with Beijing.

In exile since 2015 when the big powers persuaded Yameen to send him to London — he was in jail before that, and his family feared he might be poisoned — Nasheed has, over the last year, brought together former rivals in a coalition against the President, led by his own Maldivian Democratic Party.

They are former President Abdul Maumoon Gayoom, who was bailed out by Rajiv Gandhi in 1988 in an attempted coup and who ran the

Maldives, before and after, with an iron hand for 30 years until Nasheed defeated him in the country's first democratic election in 2008; the head of the Jumhoore party, Gasim Ibrahim, an magnate who owns several exclusive resorts; and the pro-Islamist Adhaalath party, the self-proclaimed branch of the Muslim Brotherhood in the Maldives, one of whose leaders, eye surgeon Mauroof Hussain, was trained in India.

Last week, Gayoom's son and parliamentarian Faris Maumoon was arrested by Yameen's forces. His father had just returned from Singapore, where he occasionally lives, and he saw it as a challenge by half-brother Yameen. Gasim was recently held at the airport as he tried to go abroad for medical treatment. Nasheed, meanwhile, relocated to Colombo, and has been lobbying with world powers to help restore democracy in the Maldives.

The world has been watching intently — or at least, tweeting about the political tensions. India is said to be in touch with all sides.

On July 18, Atul Keshap, the US ambassador to Sri Lanka and the Maldives, who is based on Colombo, said: "Arrests & intimi-

ation of elected legislators including @afarismaumoon [Ahmed Faris Maumoon] impedes the normal function of Parliament & #democracy in #Maldives". British High Commissioner to Sri Lanka and Ambassador to the Maldives James Dauris tweeted the same day: "Concerning that MP @afarismaumoon arrested in #Maldives today. Freedom to hold government to account is a fundamental element of democracy."

On July 19, Shelley Whiting, the Canadian envoy to the two countries, wrote: "Concerned by ongoing harassment & intimidation of #Maldives opposition MPs. Democracies allow free expression of different political views."

For the moment, these western powers are waiting to see how India reacts to the ongoing tensions. In March, when the joint opposition tried to impeach the Speaker, Yameen got troops to evict recalcitrant MPs. Certainly, no one wants another coup — the requirement, from India's perspective, is to find a leader who will not only behave democratically but also refuse to kowtow to the Chinese.

Yameen has tried to keep New Delhi happy with his "India First" policy. But he evicted

GMR, the Indian company building an airport in Male (GMR later won \$ 270 million in arbitration), and got in a Chinese contractor. He is allowing Beijing to build a port at Gaadhoo island in Laamu atoll, which sits at the entrance to the so-called One and a Half Degree Channel, a major international shipping passage.

Nasheed said that the no-confidence vote will be followed by Parliament investigating various frauds and money-laundering allegedly committed by Yameen, as well as the murder of 11 high-profile citizens, including the anti-establishment blogger Yameen Rashid. Parliament, he said, will also overturn all the laws that Yameen had passed to subvert the constitution, including those against freedom of speech and expression.

Certainly, Nasheed's long agenda is easier published than done. Although the joint opposition has 45 MPs in a house of 85, Yameen will do his best to disqualify a few. The vote may never take place. Chaos could return to the streets of Male. And the world will be watching the churn in the Ocean again.

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The Indian EXPRESS

FOUNDED BY

RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

THIS EQUALS THAT

Arun Jaitley is wrong: In a society committed to the rule of law, a murderer isn't the same as an insensitive politician

IT WAS A discussion in Rajya Sabha last week on Thursday, the subject was lynchings and attacks on Muslims and Dalits, and Union Finance Minister Arun Jaitley was speaking. He said that all sides have condemned the killings, that the Prime Minister has spoken about it thrice, that there can be no justification of the violence and the right to equality and religious belief comes with the obligation of mutual respect and tolerance. But the senior minister chose not to leave it at that. "But... have we twisted the definition of secularism?" he continued. Jaitley read out from Article 48, and harked back to the discussions on cow protection in the Constituent Assembly. He spoke — in the same breath — of the lynchings in the name of the cow and those who, despite a prohibition in law, "see nothing wrong in a cow being slaughtered", a pointed reference to Karnataka chief minister Siddaramaiah's statements, insensitive at most, on beef and the slaughter of a calf in Kerala by Youth Congress activists. "By doing this, they do as much damage to the country as the gau rakshak on a train", the minister said.

It is necessary to rewind and listen carefully to Jaitley's intervention in Rajya Sabha on Thursday to get a full sense of the challenge to the rule of law and to democracy itself in India today — posed by the mob killings of citizens belonging mainly to the minority community in the name of the cow. It is a challenge made most formidable by the government's response to it. When it is not denying it, as Jaitley's response illustrates, it is lacing its condemnations with a whataboutery that should be called out as inappropriate and unseemly in any constitutional democracy worth its name. The Prime Minister's own statements, on all three occasions, have fallen short of facing up to the phenomenon. He has not called the hate crime by its name. He has portrayed the rampaging gau rakshaks, emboldened by a permissive political environment and rash of bans on the slaughter, sale and transport of the cow, as only "anti social elements" taking law into their own hands. Now by, in effect, painting an equivalence between the crime of the lynch mob and the perceived disrespect shown by some to religious sentiment centred on the cow — Jaitley also spoke of "selective morality" and "selective call of conscience", lending his weight to the dominant imaginary of Hindus-under-siege — the minister has underlined his government's continuing refusal and failure to recognise the horror and enormity of the hate crime it is constitutionally obligated to act on.

Jaitley's exposition is a special let-down because as a senior BJP politician who has held an array of high offices — including as former minister of law and justice — his is a voice heard with seriousness and respect across a range of subjects. He was the young student leader who went to prison in the fight against the Emergency in the 1970s. He is one of the most articulate and measured advocates of his party and government now. His Rajya Sabha intervention on Thursday does not do justice to his formidable record of commitment to an individual's right to life, liberty and justice.

SOUTHERN SPECTRE

Deficient rainfall in the south is a warning. Centre must convene meeting of three states on drought relief, sharing of river water

MONSOON IS perfect. Even in the best of years, there are patches that register deficient rainfall. During the current southwest monsoon season (June-September), India as a whole, so far, has received rainfall that is 3 per cent above the historical average or "normal" for this period. But the country's southern tip — the old Mysore region (south interior Karnataka), Kerala and Tamil Nadu — has had roughly 25 per cent below-average rains. This comes on top of rainfall deficiency that amounted to over 35 per cent last year. Simply put, this contiguous belt has replaced Maharashtra as the new epicentre of drought, with back-to-back rainfall failures similar to what Marathwada experienced in 2014 and 2015 (thankfully not in 2016 and this year).

It's unlikely the current drought in the peninsula would cause any food inflation that the RBI has to be worried about. Lower sugar, maize or jowar production in Tamil Nadu and Karnataka will be more than made up by output rebound in other states, especially Maharashtra. The same goes for milk, where the big producing states — from Maharashtra, Gujarat, Rajasthan, Punjab and Haryana to Uttar Pradesh and Madhya Pradesh — have all recorded enough rain to ensure plentiful fodder and feed availability. But merely because the country's overall agricultural production will not take a hit cannot be reason to ignore the crisis that's bound to unfold in the deep south — it may be no less political, more so with assembly elections less than eight months away in Karnataka.

Last September saw a major stand-off when the Karnataka government, in deference to a Supreme Court order, was forced to release water from its reservoirs on the Cauvery river basin to the Mettur dam across the border in Tamil Nadu. It triggered violent protests by pro-Kannada groups who contended that there was hardly any water in the Krishna Raja Sagara and other Cauvery reservoirs to meet their own farmers' irrigation needs. The reservoir levels now are lower than even last year's. Fresh tensions could erupt in about a month from now, when farmers in Tamil Nadu's delta districts start transplanting their main Samba paddy crop. This is precisely the time for the Centre to convene a meeting of the three states to initiate drought relief work in advance and also arrive at some understanding on sharing of waters, of the Cauvery or the Periyar. And the political parties concerned should refrain from fanning the fires of parochialism.

FREEZE FRAME

E P UNNY



S.Y. QURAIISHI

Cleaning the House

Must tainted legislators be debarred from polls? For how long? Answers are about to come in

CRIMINALISATION OF POLITICS has been a matter of great concern, particularly in the last two decades. The Supreme Court's latest order asks the Election Commission to clarify its position on the PIL seeking a lifelong ban on candidates convicted in criminal cases. Just a couple of months ago, the EC had supported the petitioner. In the hearing on July 18, however, the EC's advocate took a different stand. "[The] Commission has not taken any decision and doubts whether it falls in the legislature's domain," he told the court. Since this stand was inconsistent with the one taken earlier, the Supreme Court came down heavily on the EC. "Can you afford to remain silent when it is within the domain of the commission? If you don't want to be independent, if you want to be constrained by the legislature, constrained even to express your views, say so freely," it said.

Such a rebuke to the commission is unprecedented. The Supreme Court, in fact, has been extremely supportive of the EC, so much so that I have always described it as the commission's guardian angel. When the matter comes up before the court next, it is expected that the EC will unequivocally reiterate the plea to debar convicted MPs and MLAs for life from contesting elections. "The Commission has not taken any U-turn and is unambiguously in sync with the petitioner's prayer to debar the convicted legislators (MPs and MLAs) for life," the commission's officials have clarified.

My personal opinion is that the lifelong ban is too harsh. Under the present law, the minimum bar of a politician from election is eight years (two years of minimum imprisonment followed by six years of ban). That is enough to kill his political career.

The positive aspect of the unpleasant situation is that the need for cleansing politics of criminal influence has been flagged once again. The issue has two dimensions: One, how to deal with the politicians after conviction and, two, before conviction, while they are still under trial.

Protecting the parliamentary system from criminalisation has been the intention of the law from the beginning. Section 8 of the Representation of the People (RP) Act, 1951 disqualifies a person convicted with a

sentence of two years or more from contesting elections. But those under trial continued to be eligible to contest elections. The *Lily Thomas* case (2013), however, ended this unfair advantage.

The SC has repeatedly expressed concern about the purity of legislatures. In 2002, it made it obligatory for all candidates to file an affidavit before the returning officer, disclosing criminal cases pending against them. Civil society organisations like the Association for Democratic Reforms (ADR) analyse and publish this information. The concern of the apex court has been increasingly clear from a series of judgments. The famous order to introduce NOTA was intended to make political parties think before giving tickets to the tainted.

According to the ADR's analysis of EC data, 187 MPs in the current Lok Sabha face criminal charges (that is, 34.4 per cent). Of them, 113 face serious criminal charges. The number has gone up from 162 (76 serious charges in 2009 and 128 (58 serious) in 2004. This obviously shows the political class and legislature in a poor light.

What is the way out? There are three possible options. One, political parties should themselves refuse tickets to the tainted. Two, the RP Act should be amended to debar persons against whom cases of a heinous nature are pending from contesting elections. Three, fast-track courts should decide the cases of tainted legislators quickly.

Far from denying tickets to criminals, all political parties seem to have been in competition to give them more and more tickets. They have been unitedly opposing the proposal to debar perpetrators of even heinous offences during pendency of trial on the grounds that false criminal cases may be filed by opponents. This concern is partly valid. However, the EC's proposal itself has three safeguards. First, all criminal cases would not invite the ban — only heinous offences like murder, dacoity, rape, kidnapping or moral turpitude. Second, the case should have been registered at least a year before the elections. Third, the court must have framed the charges.

The opponents of the proposal also argue that the jurisprudence followed in the coun-

try holds that a person is innocent until proven guilty. Then what about the over 2.7 lakh persons today who are undertrials (and are therefore "innocent") and locked up in jails? Their fundamental rights of liberty, freedom of movement, freedom of occupation and dignity are denied. Does this not violate the fundamental right of equality? If the rights of an undertrial can be suspended within the ambit of the law, what is the problem about temporarily suspending the right to contest an election, which, incidentally, is only a statutory right?

Another pertinent question is will fast-track courts be illegal as they will treat the cases against politicians differently from the lakhs of other cases awaiting a decision for years? No. Fast tracking has been the accepted norm. Special CBI courts, consumer courts, special courts for economic offences and, more recently, fast-track courts for rape cases do create special categories for adjudication, and nobody has dubbed them discriminatory.

The RP Act also recognises the principle of fast-tracking, requiring the high court to decide on election petitions within six months. The fact that courts have been taking years to decide on election petitions makes it an issue of dereliction by the judiciary of its statutory obligation, not a deficiency of the law. This has been addressed by the landmark judgment of March 2014, in which the SC accepted the urgent need for cleansing politics of criminalisation and directed all subordinate courts to decide on cases involving legislators within a year, or give reasons for not doing so to the chief justice of the high court. The government of India promptly offered full support for the implementation of this order. It is important to see how the SC judgement has been implemented on the ground.

With the SC positively inclined and the PM's concern for a corruption-free India through electoral reforms, the problem may finally be nearing resolution.

The writer is former chief election commissioner of India, and author of 'An Undocumented Wonder — The Making of the Great Indian Election'



FAIZAN MUSTAFA

A LITMUS TEST

Supreme Court must interpret Constitution in a manner that ensures right to privacy

IN INDIA, PEOPLE have the right to life, but fake encounters and mob lynching happen. In spite of the right to free speech, publications feel compelled to withdraw articles critical of government or corporates. There is a right to equality but discrimination is still rampant. When the mention of fundamental rights in the Constitution is not able to ensure their full implementation on ground, one wonders what will happen if privacy is not recognised as a fundamental right. In such a situation, citizens may not have protection against surveillance and even profiling by the state, the state could target those who speak against it, even voting preferences may be influenced, telephone tapping could be routinely resorted to and our mails intercepted. This is indeed a terrifying prospect.

The right to privacy is not explicitly mentioned in the Constitution. But then the right to "due process" too was not there and, in fact, was dropped by the framers of the Constitution. Yet, the apex court read it into the "right to personal liberty". The court, in fact, silently brought about what may be called a "rights revolution" by judicially creating several fundamental rights.

When the democratic state turned totalitarian under Indira Gandhi and started abusing its powers to amend the Constitution, the Supreme Court as protector of civil liberties stood firm and applied the brakes first, in 1967, by denying Parliament power to amend

the Constitution and then, in 1973, through the "basic structure" doctrine which too is not there in the text of the Constitution. If the text of the Constitution alone is going to determine the nature of the right to privacy, then the collegium system, the right against arbitrariness and the freedom of press too could go soon. Voluntary surrender of personal information to private entities cannot be equated with mandatory data collection by the state. The right to privacy judgment will be a litmus test for the apex court.

Will the court follow the rich traditions of 1967 and 1973 and rise to the challenges of the information age? One hopes there would not be another *ADM Jabalpur* (1976) kind of decision where the majority accepted the government's argument that when the right to life and personal liberty is suspended, citizens have no remedy against illegal detention.

It is erroneous to believe that eight- and six-judge benches have authoritatively held that there is no right to privacy. In the *Satish Chandra* case (1954), the fundamental question was whether the state's power of search and seizure violated the right against self-incrimination under Article 20(3). In a positivist mould, the court refused to read right to privacy under this provision. Then came the *Kharak Singh* (1963) case where a dacoity accused was released and put under surveillance. Police constables would knock at his

door, wake him up during night and disturb his sleep. The majority conceded that "everyman's home is his castle" and struck down domiciliary visit regulations. But without any elaborate discussions, the court yet again said that there was no fundamental right to privacy in India. But there was the powerful dissenting judgment of Justice Subba Rao, with whom Justice J.C. Shah concurred. They argued that even though the right to privacy is not specifically mentioned in the Constitution, it is a necessary ingredient of the right to personal liberty. In the *Gobind* case (1975) the minority opinion of Kharak Singh case became the majority opinion. The court has recognised right to privacy as an integral part of right to personal liberty. Today, liberty is a part of the basic structure of the Constitution.

Despite the recognition of privacy as a fundamental right, the government will continue to have powers to impose "reasonable restrictions". It is no body's case that the right to privacy is an absolute right. Moreover, global experience shows that the denial of privacy neither promotes national security nor curbs terrorism, it merely takes away citizen's freedom to be left alone and curtails his/her choice in personal decisions.

The writer is vice-chancellor, NALSAR University of Law, Hyderabad. Views are personal

JULY 24, 1977, FORTY YEARS AGO

SRI LANKA POLLS

THE PRESIDENT OF the Republic of Sri Lanka, William Gopallawa, invited Junius Richard Jayewardene (72) to form a government after his United National Party swept the polls, capturing 135 seats so far in the 168-member National Assembly. Jayewardene wiped out his main rivals in South Sri Lanka leaving Prime Minister Sirimavo Bandaranaike's Sri Lanka Freedom Party with just five seats.

DEFENSIVE INDIRA

THE IMPRESSION OF millions of viewers who last night watched David Frost's interview with Mrs Indira Gandhi on BBC TV, is that behind the bold face she tried to wear

she is concerned over the possibility of her being taken to court to answer as yet unframed charges. (The interview was briefly reported yesterday). Answering a question whether she thought that the Janata government wanted to take her to court, she replied that "that's what they say." She also said "Nobody likes it because there is no reason, no truth in what they say."

DÉTENTE IN TRIPURA

THE RADHIKA RANJAN Gupta group of Janata legislators in Tripura have reached an understanding with the state CPM on the question of forming an alternative Janata-CPM coalition government headed by Gupta.

The Gupta group of Janata legislators met the Marxist leader Nripen Chakraborty and reportedly struck a deal on the question of forming an alternative ministry to avoid President's Rule. The state committee of the CPM is presently in session at Agartala to endorse Chakraborty's deal with the Gupta group.

BELCHI UPROAR

A CALL-ATTENTION MOTION what happened at Belchi in Bihar threw the Rajya Sabha out of gear. There were uproarious scenes through the three-and-a-half hour stormy discussion on the incident in which nearly a dozen Dalits were burnt to death.



13 THE IDEAS PAGE

India & US, spot the difference

Donald Trump and Narendra Modi represent two types of populist leadership



ZOYA HASAN AND MARTHA C. NUSSBAUM

AFTER THE RECENT meeting between Donald Trump and Narendra Modi, we would all be well advised to pause and reflect about these two men, so similar and yet so different. Both our countries have elected controversial populist strongmen who rode a wave of public anger to great and, to many, alarming, power. As scholars who study political systems both descriptively and normatively, we have long thought that cross-country comparisons yield insight. Donald Trump and Narendra Modi exemplify different types of the populist strongman leader, with different potential consequences for democracy's future.

Trump and Modi both rose to power as the result of popular rage against longstanding political elites. Corruption, insider politicking, and common people's perceived lack of access to power were prominent themes in both campaigns. Both campaigns fed, as well, on the real distress of the have-nots in our respective societies.

In India, the promise of equal empowerment through education and employment has not been fulfilled by successive governments ruling at the Centre over many decades. Modi promised a faster economy and more jobs, although he hasn't delivered on either. The failure of his one big policy initiative in three years — demonetisation — damaged the economy, making it more difficult to deliver on his development promises.

In the US, lower middle-class men, especially, have seen their incomes stagnate and their health status plummet. While the US is currently at full employment, the jobs that are available require more education than this class has been able to attain, and their children probably won't be able to afford it, given the rapidly escalating costs of university education. Despite these real problems, Trump squeaked in through the electoral college, losing the popular vote, while Modi won by a landslide.

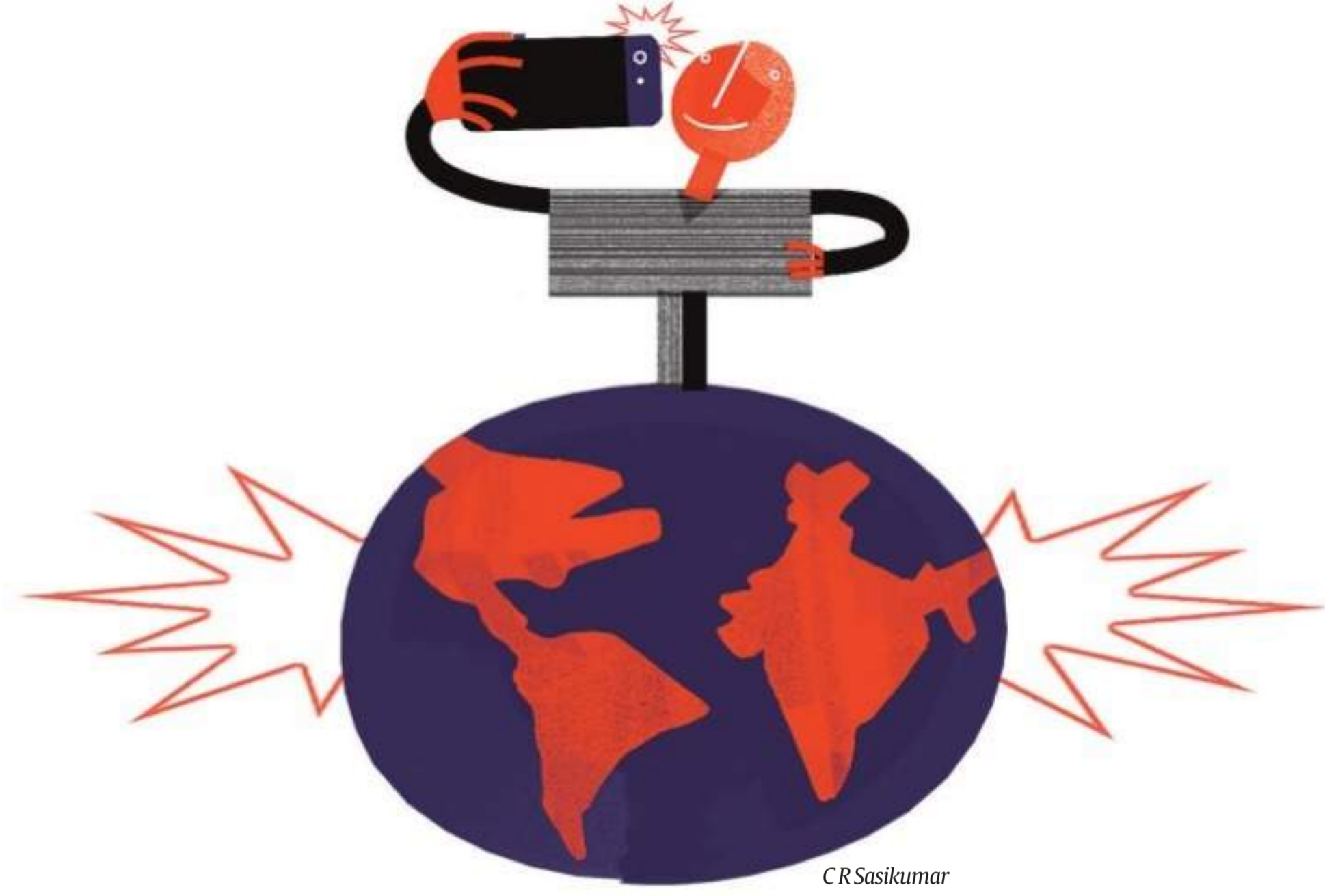
Trump is vigorously opposed by both Democrats and many members of his own party, who have prevented him from enacting any major policy initiative so far, while Modi's opposition remains in disarray. The Opposition rarely confronts the government over beef lynching, cow slaughter, love jihad and anti-Romeo squads, obviously for fear of offending Hindu sentiment. Unlike the US situation, mass opposition to the Modi regime is yet to materialise even three years after the establishment of saffron dominance.

Trump and Modi appear drawn to a hard line against radical Islam, which was reiterated in the joint statement after the Trump-Modi meeting in Washington on June 26. Both are anti-intellectual and abhor criticism. Both have indulged corporate elites in various ways.

In India, there is a disturbing determination to polarise opinion around hyper-nationalism for vote-catching reasons. Opponents are dismissed as anti-national. In fact, any criticism of the government is deemed anti-national. Both leaders have contempt for mainstream media and both rely on social media for publicity and image management.

However, unlike the American media, the Indian media are in nationalist overdrive, portraying themselves as watchdogs of the Opposition rather than the government.

Trump and Modi exemplify two different



CR Sasikumar

types of the populist leader: What we might call the Narcissist and the Ideologue. Trump is a textbook case of narcissism. Everything is all about him. Almost every tweet and certainly every speech proclaims that what he is, or has, or does, is the Biggest, the Best, the Most Fantastic. Like most narcissists, Trump appears to have severe difficulty working with others on terms of reciprocity and respect. He turns on people, hiring and then firing.

Trump has regular tantrums; he can't control his constant flow of often petulant and vulgar words. When he thinks he is not lauded enough, he insults anyone and everyone: Judges, politicians of parties, journalists, women, trusted leaders of allied nations. His boundless thirst for approval makes him happier on the campaign trail than actually crafting and implementing policy. He has done very little indeed, despite controlling both houses of Congress, in part because of his difficulty working with others, in part because of his short attention span where real policy matters are concerned.

Most important, narcissists have no stable policies. Trump wants praise above all, so he is prepared to veer, often wildly. Elected largely by the lower middle class, he has governed in favour of wealthy elites who have his ear. His positions flip-flop unpredictably — on Israel (he simply dropped the idea of relocating the US embassy to Jerusalem, a major campaign promise), on China (his campaign promise, soon forgotten, was to punish China on trade), on climate change (he campaigned on the view that it was a hoax, but now says it is real), on gay rights (formerly favouring them, he has increasingly veered to the right in order to retain the support of his base).

On health care, his positions shift unpredictably from day to day, so that Congress increasingly ignores him. Indeed we can go further: Trump sees the world as a child sees it — as a set of personal friends and personal enemies. His Middle East policy follows his longstanding friendship with Saudi royalty, and therefore assails Qatar without knowing much about the enormous complexities of such a stance.

Contrast Trump with Modi — one of India's most powerful politicians in decades. He is a consummate politician who has been chief minister of Gujarat for three terms. Modi's career has been an embrace of RSS ideology, including its idea of a Hindu rashtra in which

Trump is vigorously opposed by both Democrats and many members of his own party, who have prevented him from enacting any major policy initiative so far, while Modi's opposition remains in disarray. The Opposition rarely confronts the government over beef lynching, cow slaughter, love jihad and anti-Romeo squads, obviously for fear of offending Hindu sentiment. Unlike the US situation, mass opposition to the Modi regime is yet to materialise even three years after the establishment of saffron dominance.

Muslims and Christians are, at best, second-class citizens. Whatever his precise role was in the Gujarat communal violence, it was not a noble one, and it deserved the decision of the US State Department to deny him a visa for religious discrimination. Yet, he has convinced many Indians that he can make India great after six decades of no development (as he claims). He has persuaded the lower middle classes that he is on their side even if his policies hurt them dearly as demonetisation did. The middle classes see him as a leader who thinks and speaks like them; they see the government as serving Hindu self-interest.

In keeping with his long association with the RSS, Modi is disciplined and works to a plan. He has patience and a long attention span. He does appear to enjoy adulation, but not in the manner of the narcissist: He doesn't let it turn him away from his ideological programme. Modi does not veer; he enforces. He is working for a radical transformation of India so that it becomes a strong Hindu nation. A permissive climate of hate and retributive violence has been cultivated to achieve this. The concerted strategy of turning Hindus against Muslims doesn't stop with elections. In fact, it has escalated after each election. First cow slaughter, and now buffalo trade is the target to shore up the "Hindu vote". Both the narcissist and the ideologue pose threats to democracy.

From Trump one can fear an international crisis caused by whim or stupidity. One can worry about assaults on freedoms of press and speech. There is also the danger of getting nothing done, when the nation has large problems to solve. But, given Trump's policy preferences, getting nothing done is probably good for America.

The danger posed by the ideologue stems from the fact that total electoral dominance becomes the sole goal of the democratic project. Worryingly, Modi has also encouraged a cult of personality — which is creating a template for the growth of authoritarian tendencies. The very idea of a democracy in which all citizens possess equal rights irrespective of caste, class or faith, is under threat from a majoritarian ideology.

Hasan is Professor Emerita, Jawaharlal Nehru University and Nussbaum is Ernest Freund Distinguished Service Professor of Law and Ethics at the University of Chicago

WHAT THE OTHERS SAY

"The British public are starting to realise that exiting the EU is about much more than limiting immigration and cutting the amount of money we send to Brussels."

— THE INDEPENDENT

No country for reconciliation

As a Muslim and Kashmiri, I find the middle ground is disappearing



IMAD-UL RIYAZ

IN INDIA TODAY, people from communities oppressed both historically and recently — including Dalits, Kashmiris and Muslims — strive to stand up to the violent machismo that appears all around us. I still remember vividly when fear hit home. My mother woke up one morning and called me, in tears and scared. I could sense she must have been trembling, her heart pounding. She had just had a nightmare. She dreamt that I, her elder son, was with her and part of a group being chased down by armed forces on their way to a local Sufi shrine (a place meant to symbolise peace). Teargas was being fired at us from behind. With tears and itchininess in her eyes, she along with all the others who were part of the crowd was on the run for her life. In a dark alley, she lost sight of me. She shouted out my name, but could not find me.

I was still half asleep when she had called that morning. However, the sounds of her sobs still give me goosebumps. I had never seen her cry like that before. Not even when I lost my maternal grandfather.

My father had always maintained more poise. Hiding behind the veil of patriarchy, he never advertises his fears. But he calls me at least five times a day, often to discuss the most trivial matters. It is an obvious and earnest attempt to make sure that he keeps up with his eldest son's whereabouts and makes sure he is safe. His primary responsibility remains to call me and inform me about potential places of harassment. He advises me to avoid posting on social media and networking websites and platforms. He fears that I may be a victim of lynching, like Muslims elsewhere. His son, living in Delhi, is vulnerable on two fronts — for being a Kashmiri and for having a Muslim name.



ONE OF 800 MILLION A VOICE, UNDER 35

This is the same collective silence that I witnessed when I was denied a space to live in north campus. When someone wrote "Pakistani" on my back in the classroom during a group exercise. When an acquaintance, in the course of a normal, casual conversation said: Muslims are meant to be shown their place. This has happened to me, a person who believes in idea of Kashmir within the ambit of Indian Constitution. If it happens to me, I presume it can happen to anyone.

It doesn't matter on which side of the line I stand.

The writer, 25, is a social worker based in Delhi

LETTER TO THE EDITOR

UNFAIR TO EDITOR

AS LONG-term admirers of its unique role in the Indian democratic debate, and as contributors to its pages over the years, we are deeply distressed that the publishers of the *Economic and Political Weekly*, the Sameeksha Trust, have taken down from their website two extensively researched investigative articles about the powerful Adani Group, in a no-discussion response to the threat of legal action from the business group. The Editor, who wanted to provide more resistance, even without taking the permission of the trustees, has been forced to resign. The pursuit of truth is crucial in public discussion, but it is not secured by acting in panic. It is important to give authors of investigative articles a fair chance to respond before deciding how to deal with a threat of legal action. In India today, where liberty and freedom of expression are severely under attack, courage with critical judgment must have a hugely important role.

Angus Deaton, Princeton University
Amartya Sen, Harvard University

ENGAGE CHINA

THIS REFERS TO the article, 'Danger at Dolam' (IE, July 18). In the past few months, the government's lack of alternate strategies to level the playing field with China has been exposed. It's not just about the Doklam plateau standoff. China has shown its willingness to engage India in matters of vital national and strategic importance — Kashmir, Sikkim, Arunachal Pradesh. It's imperative to have strategies that not only involve direct confrontation, but ones that are firm nevertheless and backed by internal laws. China's weakest points are its strategic attachment to two issues namely the South China Sea and OBOR. India should engage nations which are friendly with it but have also joined OBOR, and persuade them to avoid aspects of OBOR which involve CPEC.

Th Luwangamba, Delhi

LETTER OF THE WEEK AWARD

To encourage quality reader intervention, The Indian Express offers the Letter of the Week award. The letter adjudged the best for the week is published every Saturday. Letters may be e-mailed to editpage@expressindia.com or sent to The Indian Express, B-1/B, Sector 10, Noida-UP 201301. Letter writers should mention their postal address and phone number.

THE WINNER RECEIVES SELECT EXPRESS PUBLICATIONS

PRIVACY ISSUES

THIS REFERS TO the editorial, 'Build A fortress' (IE, July 20). The linking of Adhaar to various government schemes raises several questions of privacy. There are cyber security issues as well. Data leakage of Reliance Jio subscribers data is a recent example. There is a need to have stringent cyber security framework so that there is no compromise with the privacy of individuals.

Navdeep Kaur, via email

FLAG FREEDOM

THIS REFERS TO the editorial, 'Fly the flags' (IE, July 21). In the US, each state possesses its own flag, and it does not seem to have damaged neither the popularity nor the sentiment surrounding the "star-spangled banner". The Indian flag, and the history and emotions it evokes, are not so fragile as to need exclusivity. In fact, federalism demands that multiple loyalties be held together.

Bishwadeep Ganguly, via email



NEXT DOOR NEPAL

BY YUBARAJ GHIMIRE

Searching for scapegoats

Political actors in Nepal are trying to blame foreign outfits for their own failures

WITH ITS DOMESTIC POLITICS in disarray, the key actors in Nepal's polity now seem to hold outsiders guilty for everything that is going wrong. Nepal's journey towards a radical political agenda — denying traditional forces and institutions any space — and the simultaneous peace process that first brought the Maoist insurgents to the mainstream 11 years ago had these "outsiders" as trusted partners and catalysts. The twin processes relied on them. Both the local actors — the half dozen top leaders of as many parties — and the key foreign diplomats of democratic countries as well as the UN would decide the agenda from their respective fora and have them ratified in parliament without debate and due process. Now, while the international actors cannot speak out publicly, the local actors feel they were misguided all these years.

The rift between the two sides is quite visible now. Last week, the foreign ministry shot-down a visit of Jeffrey D. Feltman, UN Under Secretary General in-charge of political affairs, that was to start from July 22. He was advised to visit on a mutually agreeable date after the constitutionally mandated elections are over in January. This would have

been Feltman's third visit in as many years, and the first after the couple of remaining UN field offices outside the capital were shut down because the government suspected them of aiding and abetting "secessionist activities" in Nepal's plains area.

The Maoists, former insurgents and currently in the government, are particularly upset with the UN. The latter mediated in the peace process but did not push the general amnesty clause in the transitional justice mechanism. This enhanced the chances of Maoist leaders being tried and punished for human rights violations during the decade-long conflict. Incidentally, it was Maoist leader K.B. Mahara, now the country's foreign minister, who deferred Feltman's visit.

That is not an isolated act on the part of the government against the distant "outsiders". It is tightening the screws on I-NGOs. There has been a selective approach to the renewal of the I-NGOs licenses as some of them are suspected of supporting religious conversion and the politics of ethnic and regional identity. The government's move against these donors follows the near total rout of forces pursuing identity politics in the recently held local bodies elections.

According to the international economic co-operation coordination division under the finance ministry, Rs 23 billion was spent by 74 I-NGOs in 22 Tarai districts during the recently concluded financial year, not so much on construction of physical infrastructure, but in the name of creating awareness on political rights and religious conversion.

How firm can the government be while dealing with rich and powerful "outsiders", especially when local political actors are more divided than ever and their credibility stands diminished? Only courageous introspection, a politics of reconciliation and course correction — especially over the monarchy vs republic and federalism vs effective power devolution issues — will make all forces — traditionalists, democrats and radicals — the joint owners of the new political agenda.

Instead of reading the public mood and frustration, the local actors that have monopolised power are only targeting and blaming the distant foreigners. They, however, seem to realise that the confidence and support of two powerful neighbours — India and China — although in confrontational mood at present, will be crucial along with effective local

initiative.

Both India and Nepal are in talks about high-level bilateral visits, including by the prime ministers of both countries. Nepal Prime Minister Sher Bahadur Deuba may visit India towards the end of August. Narendra Modi is looking for an opportune moment for his third visit to Nepal as India's PM, ostensibly to lay the foundation of a major hydroproject, an Indian undertaking. However, the visit will be mainly aimed at neutralising the anti-India sentiment triggered by India's excessive involvement in Nepal and the post-earthquake economic blockade. The high-level exchange with China continues and Nepal is desperately trying to reschedule President Xi Jinping's visit that was cancelled in October 2016.

While India seems to favour a pro-democracy approach in Nepal, China has been asserting a pro-sovereignty approach asserting the peoples right to chart out the political course best suited to them. Nepal's future if stability lies in blending these approaches and seeking the endorsement of its two big neighbours.

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