



## Questions of age

The SC has done right in refusing to extend POCSO to adults with mental retardation

The Supreme Court has shown due restraint in declining to apply the provisions of the Protection of Children from Sexual Offences Act to mentally retarded adults whose mental age may be that of a child. It would have been tempting to give a purposive interpretation to the term 'child' under POCSO, which refers to those below 18 years of age, and rule that it encompasses those with a 'mental age' of a person below 18. It would have been compelling to acknowledge how similarly a child and an adult with inadequate intellectual growth are placed when it comes to sexual assault: both may show the same lack of understanding about the situation they are in and incapacity to protest. No doubt, any expanded definition to encompass both biological and mental age within the POCSO framework would have helped extend its beneficial features to another section of vulnerable persons. The court has chosen the challenging path of analysing the import of such judicial interpretation, along with the question whether expanding the notion of age is within its remit. It has ruled that it is outside its domain. POCSO is meant to protect children from sexual offences. To extend it to adult victims based on mental age would require determination of their mental competence. This would need statutory provisions and rules; the legislature alone is competent to enact them. Judicial conferment of power to trial courts to treat some adults as children based on mental capacity would, in the Bench's opinion, do violence to the existing law protecting children from sexual offences. It noted that there may be different levels of mental competence, and that those with mild, moderate or borderline retardation are capable of living in normal social conditions.

The case before the court related to the rape of a 38-year-old woman with cerebral palsy. Her mother was concerned about the absence of a friendly and congenial atmosphere before the trial court. She approached the courts for a direction to transfer the case to a special court under POCSO, a law that mandates child-friendly procedures and features during the trial, taking into account her daughter's mental age, which she said was that of a six-year-old. In a fateful turn of events, the lone accused died during these proceedings, bringing the criminal case to an end. The implication of the Supreme Court ruling is that the onus is always on trial judges to keep in mind the degree of retardation of victims and their level of understanding while appreciating their evidence. It would be unfortunate if cases get derailed because of either the victims' inability to communicate effectively or because of the court's difficulty in understanding their words or gestures. It is now up to the legislature to consider the introduction of legal provisions to determine mental competence so victims with inadequate mental development may effectively testify against sexual offenders.

## Poles apart

Executive overreach in Poland is drawing people to the streets, and inviting the EU's ire

Poland's right-wing government has been waging a relentless war on democratic institutions ever since it assumed office in 2015. But it may have gone too far now with its moves to curb judicial independence, which have been categorically opposed by President Andrzej Duda. Mr. Duda, an ally of the ruling Law and Justice Party (PiS), vetoed two measures that militate against the rule of law. One of them requires all judges of the Supreme Court to step down, except those the President thinks should stay on. The second gives Parliament control over the mechanism that deals with their appointment. However, he did assent to another controversial measure which empowers the justice minister to sack the heads of lower courts. The government of Prime Minister Beata Szydlo was able to initiate these unpopular pieces of legislation because it has already stripped the tribunal that adjudicates on the constitutionality of laws relating to its powers. The government has claimed that the overhaul was intended to rid the judicial system of Soviet-era remnants. But most Poles seem to think otherwise. They have tasted economic prosperity and political freedoms in the post-Cold-War years and after the country's 2004 accession to the European Union. They have also grown accustomed to standing up for their rights against arbitrary encroachment, and with success. The government was forced to reverse a socially regressive policy on abortion that even criminalised termination of pregnancies regardless of circumstances, including rape.

Outrage against the latest judicial reforms has drawn thousands to the streets in protest against the PiS regime. Poland has been the poster child of the EU's integration, and the institutional clampdown in this otherwise thriving economy is understandably causing concern in other European capitals. The European Commission has said it would start legal proceedings. Under the Rule of Law Framework, it can strip a member-country of its voting rights. But given the sensitivities about national sovereignty, there are bound to be limits on the application of procedures, even where they may be sound under the law. Moreover, Hungary's continued clash with the EU over similar issues seems to have made little difference to its dismal record on democratic governance and accountability. Experience suggests that leading by example and exerting diplomatic pressure, rather than preaching from the pulpit, is a more realistic and effective course to adopt. The art and craft of stitching up pragmatic, if sometimes painful, political compromises has been the story of the EU, where the imperatives of staying together trump almost all else. Poland's robust civil society may, in the end, be more effective in keeping its government accountable.

# Privacy in the public domain

The greatest challenge to privacy is from the private sector. It also stems from an indifference to our own privacy



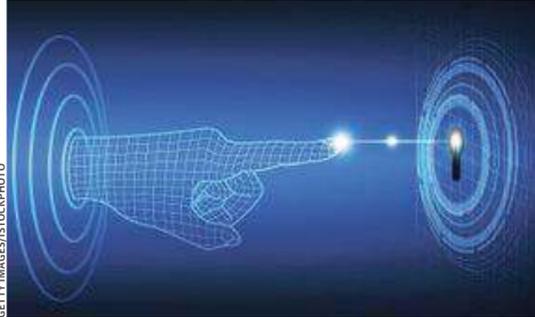
SUNDAR SARUKKAI

It is heartening to read the preliminary observations of the Supreme Court, made on July 19, regarding privacy as a fundamental right. Unfortunately, much of the debate on privacy seems to suffer from the leftovers of a certain traditional understanding of privacy and the private. In fact, it is no longer possible to decouple the idea of privacy from the mechanisms through which privacy is guaranteed. Since Aadhaar and many of the contemporary discussions on privacy are related to deep technological developments, the question of privacy should be rethought in the context of these technologies.

### Secrecy and security

Privacy is not a concept like the other fundamental rights. Moreover, our notions of privacy have changed and will continue to change. If there is one major catalyst for this change, it has been technology. Built homes are a simple example of how we develop a sense of privacy which is influenced by a technological development. Once we have a conception of home, we also have conceptions of bedroom, living room, toilet and kitchen. These spaces and conceptions created by very simple processes of technology create specific ideas of privacy.

Two common ways of understanding privacy are through secrecy and anonymity. We believe that our bank balance must be private. Companies do not normally make public the salaries of



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all their employees. Universities do not make public the marks or grades of their students in a way that violates the privacy of the student.

These notions of privacy are based on the need for security and protection. We do not want to divulge certain things about our wealth or life practices since they may be used by others to potentially harm us. So privacy becomes a way of protecting individuals or groups. But we also often over-throw privacy arguments for security purposes. We do not object to giving our biometrics when we apply for visas or when we join some private jobs.

Contemporary technology has made possible many new innovations that have changed the very meaning and significance of privacy. From smartphones to the darknet, the fundamental trajectory is one to do with privacy. However, there are two worrisome aspects. In any discussion on privacy, there is a deep suspicion of the government and state, most times rightly so. But this suspicion does not extend to technology and its private agents, those that are responsible for the breakdown of the value of privacy today.

Today, in times of growing

privatisation, the greatest challenge to privacy comes from the private sector. It also stems from an indifference to our own privacy. We do not seem to value privacy today as in earlier times. Social experiments have shown that people are willing to have private information about themselves made public if they receive some monetary advantage.

We do this all the time. When we search for a book or a ticket, we start getting advertisements related to these searches in our supposedly private emails. What we read, search, buy, talk and perhaps even think get stored, used and circulated. Everything is tracked and rerouted. We have no clue to the amount of information about our private lives that is out in the Web. All because we get free emails and free Internet access! Today, privacy has been deeply compromised through the offering of 'free' goods.

### The state and private players

Very often when we worry about questions of privacy, it is about the role of the government or the state. The state too can do much with the information on individuals that it collects through various voluntary as well as coercive means. The con-

cern about privacy thus was a concern about potential misuse of such information. However, information about individuals is arguably much more in the private domain today than it is within various governments. Moreover, the mining of this information is taken up far more assiduously by the private compared to government institutions.

The idea of privacy has always had a troubled relationship with privatisation. Private companies often have rules that protect them from being transparent in hiring policies, in affirmative action or even making public the salaries of all their employees. Private groups know best the power of the idea of privacy. They use this notion to protect themselves from governments and the public. They also realise that the greatest market that is perennially available to them is the market of trading information on privacy.

A related problem is that the government has begun to look more and more like the private sector. Today, almost all politicians are rich entrepreneurs and hold powerful business interests. The public-private binary does not function in any useful sense as far as the governing class is concerned. Thus, privacy is not only open to manipulation by the government but even more so by the private sector. This is so especially because it is the private sector that is at the forefront of developing technologies that facilitate this mining, storing and sharing of information.

### No free lunches

The Trojan horse through which the state and private players enter our domains of privacy is through contemporary technologies. These technologies have now come to be seen as necessary. The

fact that we so unthinkingly buy into this story shows the success of how these technologies have colonised us so effectively.

The price we pay for modern technologies is not only money. The economic model that runs consumerism of modern technologies is quite different from the model of selling groceries. We are seduced by the amount of free things we get in a technological gadget. The websites are free; we can download millions of books and songs for which we had to pay earlier. Why are we being given so much that is free? Like almost everything else in this world, there are always hidden costs. The major cost that we pay is the cost of our privacy – the information on each one of our private lives and, through this information, more effective control on how we act and behave.

This raises deeply troubling questions about making privacy a fundamental right. How will the Supreme Court judges be able to give a judgment on privacy as a fundamental right without also making possession, and the making of technology as 'rights'? How can they do this without imposing controls on predator technologies that enter the social world in the guise of making our lives comfortable? Some might argue that technology is only an intermediary tool that enables certain things, both good and bad.

But to hold this view is to be blind to the changing modes of technological domination through digital and Internet technologies. Technology is no longer outside human and social processes; it co-creates and co-constitutes the human and the social.

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## Time to change course

Chennai city will have no future if plans to fill the Ennore creek go ahead



NITYANAND JAYARAMAN & T.M. KRISHNA

Since December 2015, Chennai has limped from one extreme weather-related shock to another – the floods, the failed monsoon of 2016, Cyclone Vardah, and now the water crisis. Chennai's defining element is water. But the city shows scant regard for this precious but dangerous resource. Located squarely in the intervening floodplains of three rivers on a high-energy coastline, Chennai is a disaster-prone location. Any badly located city can be vulnerable merely by virtue of its location. But only a special kind of city – a city with a death wish – actively makes a bad situation worse.

Nothing speaks more elegantly to Chennai's death wish than what governments are doing to the wetlands in North Chennai. In June, the State government conceded the Government of India-owned Kamarajar Port Ltd's (KPL) request to divert 1,000 acres of the hydrologically sensitive Ennore wetlands for industrial installations that are best built on dry land. The proposal is pending Central government clearance. If permitted,

KPL's dream will turn out to be Chennai's worst nightmare, far worse than the 2015 floods.

### The importance of Ennore

Ennore Creek, a sprawling 8,000-acre tidal waterbody, is a place where climate change and disastrous land-use change converge. Two rivers with a total catchment of 5,000 sq km empty into the Ennore Creek.

This wetland's importance may not be apparent. Much of the creek looks dry year-round, when visible waterspread is only 1,000 acres. But when cyclonic weather pushes the sea surging landwards, or when rainwaters from the two rivers come rushing to meet the sea, the waterspread in the creek swells to its majestic fullness. Come rain or storm surge, the availability of room for the rain or sea water to stay is what keeps the city from going under.

The creek offers another protection too. It buffers the rich aquifers of the Araniyar-Kosasthalaiyar Basin from the sea, and keeps salt water from invading groundwater resources that supply several hundred million litres daily to Chennai even during the worst droughts.

In 1996, the Tamil Nadu government protected a 6,500-acre stretch of the tidal waterbody under the Coastal Regulation Zone (CRZ) Notification. But greed prevailed over good sense. More than 1,000 acres of the creek were lost



R. RAGU

to illegal encroachments that rise like dams across a river.

The offending installations block the path of rainwaters rushing down the Arani river and the mighty Kosasthalaiyar. Areas that never got flooded saw waters enter homes and remain for more than a fortnight in 2015. Tamil Nadu's lifeline, the Manali petroleum refinery, went under water for days.

### Seeds of disaster

The identities of the architects of the last disaster may not be clear. Also, they may arguably not have known the consequences of interfering with mega-drains. But such assumptions no longer hold good. Political leaders and bureaucrats have been told that the creek is a protected waterbody, and that encroaching on it is both illegal and

dangerous.

But neither impending danger nor illegality has stopped the State government from clearing KPL's proposal to construct coal yards, warehouse zones, car parking and export terminals for Ford, Hyundai and Nissan on 1,000 acres of Ennore wetlands. Justifying the decision taken in June, the State Coastal Zone Management Authority published a new map – subsequently exposed to be a fraudulent map – that denied the existence of the 6,500-acre creek.

The architects of future disasters in this case are neither anonymous, nor ignorant. They cleared KPL's proposal fully aware that the encroachments will endanger more than a million people in Thiruvallur and Chennai districts.

Such decisions arise not out of a love for encroachments, but out of perverted values, lack of accountability and an entrenched culture of discrimination. We refer to this in our collaboratively produced music video, the "Chennai Poromboke Paadal", or the "Song for Chennai Commons".

### Picking on the poor

After every flood, courts and governments turn their ire against the poor who huddle in horrible hovels along the edges of our stinking rivers. The larger, more dangerous encroachments are never touched. The 2015 floods are being used to

justify the removal of 55,000 families from the edges of Cooum and Adyar rivers to socially fraught and flood-prone ghettos in wetlands on the city's fringes.

The Cooum and the Adyar are elite, high-status rivers, running through elite neighbourhoods within the city. Purging the edges of the poor is seen as integral to the wholesome restoration of these rivers. Contrastingly, the Kosasthalaiyar and Ennore Creek are seen as working-class waterbodies. Here, the value of the "worthless" wetland is sought to be enhanced by industrial encroachers with state protection.

Our song about Chennai spotlights the undervalued Ennore Creek, because with every cut to the creek, Chennai will hurt a hundred times. The song has resonated with fishers to whom the creek is life, and with lakhs more across the world. When, not if, Ennore floods this year or next, people will know it was not an accident.

If plans to fill the creek persist, Chennai will have no future. The precious freshwater aquifer that Chennai draws from will be lost to salt. The precious freshwater that falls from the sky will turn the city into a watery grave.

Nityanand Jayaraman is a Chennai-based writer and social activist. T.M. Krishna is a Carnatic vocalist, author and public speaker

## 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.

### A different presidency

President Ram Nath Kovind has left many disappointed with his inaugural speech. It is odd that he chose to ignore mentioning India's first Prime Minister among those who shaped the destiny of the nation and also hyphenated Mahatma Gandhi with Pandit Deendayal Upadhyaya, the late Jan Sangh icon, in building an egalitarian society. One is saddened to discern an ideological tinge in the speech of the highest constitutional functionary. Given Nehru's contribution to the freedom movement, spread over several decades, sacrifices made and his achievements in building the nation in the post-Independence era, not acknowledging him as one of the leading architects in nation-building endeavours is regrettably and grossly unfair ("Diversity key to India's success, says Kovind", July 26).

President Kovind's first speech does convey the message that "it's going to be a different presidency" as aptly titled in a report (July 26). It is an egregious omission not to mention the name of the first Prime Minister, the builder of modern India, and strange to equate Mahatma Gandhi with Deendayal Upadhyaya. The BJP seems to have developed an antipathy towards Nehru, who was perhaps the most secular of our top leaders. One wants to see who the real Ram Nath Kovind will be when there is a constitutional crisis or even a hung Parliament. He has dropped enough hints about his political thinking in his very first speech, thanks to his speech-writers either in his secretariat or the PMO.

of India while boldly omitting reference to the first Prime Minister. It is unfortunate that the Opposition has even criticised the naming of a selfless social worker in Mr. Kovind's speech. It is the prerogative of any personality to remember his role models. Why does one need to toe the Congress's line which has only looked at members of the Nehru-Gandhi family? MADHU AGRAWAL, New Delhi

The Doklam stand-off Unswerving adherence to the path of neutrality and shunning exhibition of editorial prejudices – hallmark traits of *The Hindu* which got us old-timers addicted to it – are now showing signs of extinction as far as this daily is concerned. The headline on the first page was startling – "India admitted to aggression" (July 26). For a moment I wondered whether the news agent had supplied me

a Chinese newspaper. P.R.R. NAYAR, Thiruvananthapuram

Amidst the aggressive posturing and sabre-rattling by the Chinese state media and government officials, the article, "The crossroads at the Doklam Plateau" (July 26), injects much-needed nuance into the discourse surrounding the current dispute. Bhutan's historical position as an effective buffer zone between India and China and its long-standing friendship with India are invaluable in a hostile neighbourhood. The strategic advantage of this nation's goodwill towards India must not be frittered away by any overreach into its sovereignty for the purpose of countering China's overtures. India must avoid adopting a Big Brother attitude and view Bhutan as an equal partner. By respecting Bhutan's sovereignty and evincing concern regarding Chinese attempts to compromise the same, India can cultivate a

mutually advantageous partnership to tackle this tough situation. MANASWINI VIJAYAKUMAR, Bengaluru

State of the Railways The findings of the CAG on various aspects of functioning in the Indian Railways are alarming. It is evident that food served on trains will be the most vulnerable point of contamination. I travel frequently on so-called superfast trains. These are some observations. Passengers get foul-smelling coffee/tea most of the time and are apprehensive that it could be contaminated with water from the washrooms. The

quality of food served is nothing to write home about. Right from breadsticks to the milk powder, there is nothing appetising. The less one talks about hygiene the better. There is no point in thinking about bullet trains. What all passengers need is reasonably priced food items that are cooked well and wholesome. In the non-air-conditioned trains, there are all sorts of unauthorised vendors who hawk stale and rotten food right under the noses of railway authorities. P.S.S. MURTHY, Hyderabad

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

CORRECTIONS & CLARIFICATIONS: The report, "In Rajya Sabha, contesting claims over farm crisis" (July 26, 2017), there was an erroneous reference to Samajwadi Party leader Ram Gopal Verma. It should have been Ram Gopal Yadav.

It is the policy of The Hindu to correct significant errors as soon as possible. Please specify the edition (place of publication), date and page. The Readers' Editor's office can be contacted by Telephone: +91-44-28418297/28576300 (11 a.m. to 5 p.m., Monday to Friday); Fax: +91-44-28552963; E-mail: readerseditor@thehindu.co.in; Mail: Readers' Editor, The Hindu, Kasturji Buildings, 859 & 860 Anna Salai, Chennai 600 002, India. All communication must carry the full postal address and telephone number. No personal visits. The Terms of Reference for the Readers' Editor are on www.thehindu.com

# Thirty years of soul-searching — the lasting legacy of 1987

The most significant contribution of the much-maligned Indo-Sri Lanka Accord has been the restructuring of the island nation's postcolonial state

The Accord offered the best chance to resolve the Tamil national question but was undermined by successive governments in Colombo



JAYADEVA UYANGODA

Thirty years have passed, not so quietly, since President J.R. Jayewardene of Sri Lanka and Prime Minister Rajiv Gandhi of India signed the Indo-Sri Lanka Accord in July 1987. The accord's story has become part of history in India as well as Sri Lanka. However, has Sri Lanka's politics changed since the advent of the accord? The answer is both 'yes' and 'no.'

In Sri Lanka, the most important political change since 1987 has been the total military defeat and demise of the Liberation Tigers of Tamil Eelam (LTTE). The accord was one of the early attempts to bring Sri Lanka's ethnic civil war to an end by means of a political-constitutional solution. On his part, Rajiv Gandhi thought that a political solution in Sri Lanka on India's initiative would not only resolve the island nation's ethnic conflict, but also ensure a role for India in shaping the political trajectories of a post-war Sri Lanka. This thinking was subtly reflected in the accord's clauses as well as annexures.

The accord had two immediate objectives. The first was to end Sri Lanka's ethnic war by persuading the Tamil militant groups to lay down their arms and then join the so-called political mainstream. The second was to alter the constitutional and structural framework of the Sri Lankan state and offer regional autonomy to the minority Tamil community through devolution of powers. The two objectives have been met with only partial success.

The Tamil militant groups, with the exception of the LTTE, agreed to follow the political path opened up for them. The LTTE rejected the accord, and returned to war not only with the Sri Lankan state, but also with the Indian state. Within four months of the accord's signing, India — its sponsor — became a direct party to the war, demonstrating the utterly unforeseen twists and turns in Sri Lanka's politics of civil war.

And the war went on and on till May 2009 when the government of President Mahinda Rajapaksa achieved the seemingly impossible — a unilateral war victory by decisively defeating the LTTE, effectively and permanently ending the 'political-solution' approach to the ethnic conflict — an approach that



**Moment of opportunity:** Then Indian Prime Minister Rajiv Gandhi and Sri Lankan President J.R. Jayewardene signing the historic accord in July 1987. •THE HINDU ARCHIVES

guided the drafting of the accord in July 1987.

The second objective of the accord required a constitutional amendment. The 13th Amendment to Sri Lanka's 1978 Constitution was passed by Sri Lankan Parliament in November 1987. The new law, which closely followed the Indian constitutional model of power-sharing, created a system of Provincial Councils in Sri Lanka's nine Provinces. Though rejected by the LTTE as an inadequate solution to the Tamil national question, the 13th Amendment at least restructured, de jure, Sri Lanka's post-colonial state, which had remained un-reformable in the direction of pluralism and multiethnicity. This, in retrospect, is the single-most significant and lasting contribution that the much-maligned pact has made to Sri Lanka's contemporary politics.

The 1987 system of devolution was created on the basis of a set of important assumptions, as clearly articulated in the text of the accord. These included: Sri Lanka is a multiethnic and multicultural society; Tamil demand for secession is not politically tenable, though understandable; regional autonomy is the best alternative both to a unitary state and separation; and Sri Lanka's ethnic conflict can be best managed by political means, grounded in the acknowledgement that the ethnic minorities have legitimate political and other grievances and aspirations.

### Tracking the Councils

So, what has happened to Sri Lanka's Provincial Council system since November 1987? It has been a story of many twists and turns. In the merged 'North Eastern Province', the Eelam People's Revolutionary Liberation Front (EPRLF), the most leftist among Tamil militant groups, formed a coalition after

winning the first Provincial Council election, only to be confronted with a rigid, unsympathetic and evasive political class and bureaucracy in Colombo. The despair led the EPRLF to declare a unilateral declaration of independence and its members then retreated to India for political asylum.

Provincial Councils continued in the Sinhalese-majority Provinces, seven in all, where there was no demand for devolution. Confined to these seven Provinces and caught up in a powerful ideological paradigm of a centralised unitary state, the entire system of Provincial Councils found new political reasons for their existence other than regional autonomy. Two of them stand above others. First, the Councils, contrary to the original intention of the law, became institutional extensions of the Central government and the ruling party in Colombo. Second, they evolved into institutions through which political corruption and patronage politics got decentralised and democratised. Even the Northern Council, which was formed anew after the war in 2013, and run by a Chief Minister of the Tamil National Alliance, has not been able to reverse this institutional paralysis.

Since July 1987, there have been significant changes in Sri Lanka's politics, amidst which there is one constant. It is the resistance to reforming the state, and the state's failure to become truly pluralistic and multiethnic. This is despite popular support for such reforms and pledges made by political leaders to win elections. Thirty years since the accord, Sri Lanka is fast losing momentum to bring constitutional reform, yet again.

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M.A. SUMANTHIRAN

July 29, 1987 was a watershed in Sri Lanka's history. That was the day Indian Prime Minister Rajiv Gandhi signed an accord with Sri Lankan President J.R. Jayewardene in Colombo, in which Sri Lanka promised to share power with the Tamil people. One cannot also forget the attack on the Indian Prime Minister later that day by a Naval Rating at a Guard of Honour. If not for his quick reflexes, the rifle butt that was swung at him would most certainly have cracked his skull. The history of Sri Lanka would have been very different had he not survived that assault, as also the history of the Tamil people in Sri Lanka if Rajiv Gandhi was not assassinated four years later in Tamil Nadu.

### A unique accord

The Indo-Sri Lanka Accord itself was unique in that it was a bilateral international agreement between two sovereign nations, where one promised the other that an internal political rearrangement would be made in order to solve the Tamil national question. It was indeed ironic that a President (Jayewardene) who popularised and deified the concept of "unity, sovereignty and territorial integrity of Sri Lanka" assured the neighbour as to how he would solve an "internal" political question and then invited the Indian Army into Sri Lanka to help implement the accord. Following on this promise, the Constitution of Sri Lanka was amended, Provincial Councils were created and two of those — North and East — were merged, albeit temporarily, but which lasted for nearly two decades.

Upon the main Tamil political party, the Tamil United Liberation Front (TULF), expressing dissatisfaction over the devolution arrangements, President Jayewardene subsequently in November 1987 gave a further written undertaking to India that those areas would be rectified. That was not followed up since by then fighting had erupted between the Indian Peace Keeping Forces (IPKF) and the Liberation Tigers of Tamil Eelam (LTTE). Jayewardene's successor, Ranasinghe Premadasa, terminated the engagement with India on the strength of direct negotiations with the LTTE, thus ending the role India



**Missed chances:** Sri Lankan President Maithripala Sirisena with former President Mahinda Rajapaksa in Colombo in August 2015. •GETTY IMAGES

could play in the full realisation of the principles embodied in the accord.

Although very little mention is made of the Indo-Sri Lanka Accord in the Sri Lankan government narratives thereafter, every attempt to solve the unresolved Tamil national question has indeed been on the lines of that accord, which theoretically remains in force even today. The question as to whether Sri Lanka was breaching the agreement arose when the Supreme Court by a judgment in 2006 "demerged" the Northern and Eastern provinces. That still remains a moot question. Sri Lanka though, for its part, has constantly assured India that a satisfactory power-sharing arrangement would be made. It is noteworthy that it was during President Mahinda Rajapaksa's tenure that no less than three joint communiqués were issued with India, promising to "implement the 13th Amendment to the full and building upon it so as to ensure meaningful devolution of power". Thus even without explicit mention of the Indo-Sri Lanka Accord, Colombo at least pays lip service to its obligations under this agreement even now.

### New Constitution

A major deviation from the policy of non-acknowledgment of the accord occurred when President Maithripala Sirisena mentioned it as one of the agreements which, if implemented, would have prevented the enormous loss of life in Sri Lanka. He said this in his address to the Sri Lankan Parliament on January 9, 2016 while speaking on the resolution to set up a Constitutional Assembly to draft a new Constitution for the country. The other agreements mentioned by him are the S.W.R.D. Bandaranaike-S.J.V. Chelvanayakam Pact of 1957 and the Dudley Senanayake-Chelvanayakam

Agreement of 1965.

One and a half years after that speech by President Sirisena, the Constitutional Assembly is yet to receive even an interim report from the Steering Committee, which is mandated with the task of drafting a new Constitution, although six subcommittee reports were presented in December 2016. A draft interim report was available at the same time, but has been delayed owing to political manoeuvring by different political actors whose main objective seems to be winning the next election and not solving the vexed Tamil national question, which has plagued Sri Lanka since independence and which gave rise to a three-decade bloody war.

The Indo-Sri Lanka Accord gave Sri Lanka the best chance to recover from the devastation caused by the anti-Tamil pogrom of July 1983, when Colombo accepted New Delhi's good offices to solve this issue. But insincere approach by successive Sri Lankan governments, beginning with the one led by Jayawardene who tried to short-change the principles in the accord by the half-baked 13th Amendment, saw an escalation of the conflict, which has now resulted in the issue being taken to a global level. The present effort by the Sirisena-Ranil Wickremesinghe government is yet the best opportunity to arrive at a local consensus that can satisfactorily solve this issue and set Sri Lanka on a new prosperous path. But that local consensus must necessarily conform to the principles enunciated in the Indo-Sri Lanka Accord if it is to succeed. The continuation of India's "good offices" in this regard is also vital for this success.

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## SINGLE FILE

### The war within

The Congress is its own biggest enemy as Assembly polls in Gujarat draw near

MAHESH LANGA



SANDEEP SANEHA

It's barely five months before Gujarat goes for crucial Assembly polls. The Bharatiya Janata Party (BJP), the ruling party since 1998, is already in the thick of things with Prime Minister Narendra Modi visiting the State once a month and party national president Amit Shah holding region-wise conventions of party workers. Notwithstanding anti-incumbency of almost two decades, the party has set itself an ambitious

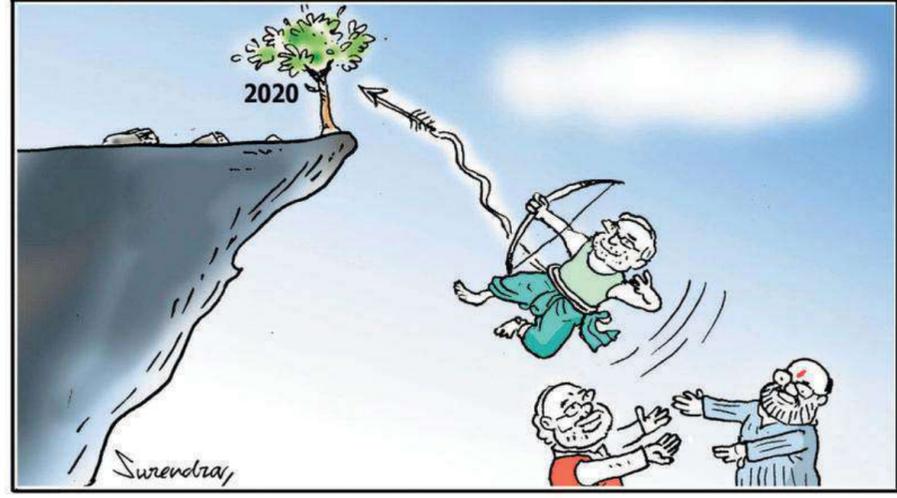
target of winning 150 out of 182 Assembly seats to break the Congress record of 149 seats way back in 1985.

Meanwhile, the State's only Opposition party remains mired in fratricidal factionalism — over its prospective CM candidate or who should have authority to pick candidates — instead of taking on the ruling party, highlighting the government's failures and exploiting the cold war between the Amit Shah camp and that of former CM Anandiben Patel. Leader of Opposition Shankersinh Vaghela has resigned from the Congress while as many as 11 of its legislators reportedly voted for the BJP candidate in the presidential polls. The speculation is that several MLAs may switch over to the saffron front as the polls near.

### Riven by dissension

The Gujarat Congress is under the control of a few rootless leaders most of whom have not won even a single Assembly or parliamentary poll — the likes of Himatsinh Patel, Sagar Raika, Himanshu Vyas and Gaurav Pandya. In the 2012 Assembly polls, two main leaders of the Opposition party, then State unit chief Arjun Modhwadia and then legislature party leader Shaktisinh Gohil, had lost by more than 15,000 votes each. Infighting is not limited to the top level; it's pervasive and has percolated to most of the district units. It's not the case that the Congress has no talent or base in Gujarat: its vote share has remained above 30% despite consecutive drubbings at the hustings. However, the vice-like grip of a few has prevented the rise of any new faces. Leaders like Mr. Vaghela, Bharatsinh Solanki, Siddharth Patel, Mr. Modhwadia and Mr. Gohil have been rotating posts such as Congress Legislature Party leader or party president among themselves in the last one decade. The party has no urban face in a State which is rapidly urbanising with 43% urban population, as per the 2011 census. In the two largest cities, Ahmedabad and Surat, the Congress has only two MLAs out of 28.

Two years ago, the party did win a majority of district and taluka panchayats following the Patidar agitation. Elements still remain favourable: the quota stir may not be as intense and forceful as it was in 2015 but there certainly are undercurrents; and social unrests involving the Dalits and OBCs still simmer. Party strategists in the BJP are reportedly toying with the idea of consolidating OBCs, Dalits and tribals, who constitute around 70% of the population, to offset Patidar losses, and replacing over half the sitting legislators to minimise anti-incumbency. But as a senior Congress legislator says, his party has to fight on two fronts, one against the BJP and the other in-house. Will it get its act together?



## CONCEPTUAL

### Dividend yield

FINANANCE

The return that an investor in a stock earns in the form of cash dividends. The dividend yield is calculated by dividing the dividend declared by a company during the year by the current market price of its share. It increases as there is an increase in the size of dividends paid by the company or a decrease in its share price. Since cash represents real earnings, stocks with high dividend yields are considered to be relatively safer investments and protected from volatile swings in the market. So, many conservative investors adopt the strategy of investing in stocks with high dividend yields.

## MORE ON THE WEB

**What we know on the 39 Indians missing from Mosul**  
<http://bit.ly/indiansinMosul>

## FAQ

### Planet of machines

Can AI make human life redundant?

**JACOB KOSHY**  
**What is superintelligence?** The prognosis that artificially-intelligent (AI) machines will get to a point where humanity could, in theory, be made redundant. The decades-old idea triggered a social media squabble this week between Elon Musk, the CEO of Tesla, and Mark Zuckerberg, the Facebook chief. Mr. Zuckerberg said accelerated progress in AI is a good thing as it could eliminate deaths in car accidents and spell the end of disease. On the other hand, Mr. Musk thought that, if not "regulated", AI could lead to doomsday scenarios of machines taking over the Earth.

**Is there a history to this debate apart from science fiction?** Silicon Valley titans, from Mr. Musk to Bill Gates and physicist Stephen Hawking are acknowledged fans of an Oxford philosopher, Nick Bostrom, who has spent little over a decade warning that humans have an option of either achieving

"transcendence" or becoming extinct. Transcendence, in this context, involves conquering death and people outsourcing large parts of their mental life to artificial brains. A lot of Mr. Musk's arguments stem from those of Mr. Bostrom, who relies on probability theory to forecast the future.

**Who's right?** It depends on the time frame one's considering. The most visible threat that AI now poses is the possibility of jobs being taken over by machines. But robots taking over shop floors, or autonomous cars making drivers redundant don't yet constitute a 'rise of the machines' because, as AI optimists argue, old jobs being made redundant imply new ones being created.

However, Mr. Musk and company argue that traditionally, regulation comes about after a disaster strikes. In the case of AI, an accelerated improvement in neural networks could mean that even a

single machine, with a mental capacity dwarfing humans, could reorganise the world in a manner that it deems fit. Attempts by humans to rein it in would have little success in such a scenario.

**How exactly can research in AI be regulated?** Nobody has any clue. Geoffrey Hinton, one of the gurus of artificial neural networks, said in an interview to *The New Yorker* that each incremental step towards improving AI is only seen as a challenging problem that begs a neat solution. In the early 20th century, the knowledge that atoms contain destructive, lethal capacity didn't hinder fundamental research in the field. Governments did, for a while, ban stem cell research on the grounds that it involved 'destroying' nascent life. However, banning computer scientists from trying to connect semiconductors in the most efficient way to simulate the human brain would be a hard sell even for a totalitarian regime.

## FROM THE HINDU ARCHIVES

**FIFTY YEARS AGO** JULY 27, 1967  
**Kerala Minister justifies school closure**

The Education Minister, Mr. C.H. Mohamed Koya, to-day [July 26] justified the decision to extend the period of closure of all educational institutions till August 7. He said the Government did not wish to expose young people to any risk in the "explosive situation created by the serious food crisis." The Minister was making a statement in the State Assembly on an adjournment motion, tabled by Mr. K.M. George (Kerala Congress). The motion was disallowed by the Speaker. Mr. Koya said that there was already unrest among the students, as seen in their demonstrations and Gheraos. The Government had at first limited the closure to three days, but the food situation had not improved and the parents and teachers, who feared that "anything may happen at any time," favoured the extension of the period.

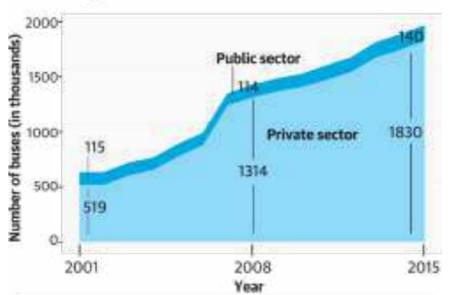
**A HUNDRED YEARS AGO** JULY 27, 1917  
**Bombay council.**

At the resumed sitting of the Bombay Legislative Council to-day [in Poona on July 26], H.E. Lord Willingdon presiding, the Hon'ble Mr. V.J. Patel's Bill on Free and Compulsory Primary Education in municipal areas of the Presidency was read a first time, and referred to a Select Committee. Almost all speakers supported the principle underlying the Bill while many non-officials criticised the clause inserted in the Bill to satisfy legal requirements. His Excellency wound up the debate in a sympathetic speech, in the course of which he said: As the head of the Presidency it has been a severe blow to me to feel that our finances have been curtailed owing to war. I am certain when the war is over, this question of compulsory primary education will have to be seriously and comprehensively considered, not only by this Government but all over India.

## DATA POINT

### Crowded out by private players

The share of the public sector in total bus ownership (largely that of the State road transport undertakings) has declined between 2001 and 2015 in the country. While the total number of buses in the country (both private and public sector put together) has increased substantially from about 6.34 lakhs in 2001 to 19.71 lakhs in 2015, the share of the public sector as a percentage of total buses owned has fallen from 18.1% to 7.1% during this period. It has hovered in the 7-8% range since 2007.



Source: Road Transport Yearbook, 2013-14 and 2014-15