



The health checklist

Equity in access to doctors, diagnostics and medicines for rural India must be a priority

The frail nature of rural India's health systems and the extraordinary patient load on a few referral hospitals have become even more evident from the crisis at the Baba Raghav Das Medical College in Gorakhpur. The institution has come under the spotlight after reports emerged of the death of several children over a short period, although epidemics and a high mortality level are chronic features here. Medical infrastructure in several surrounding districts and even neighbouring States is so weak that a large number of very sick patients are sent to such apex hospitals as a last resort. The dysfunctional aspects of the system are evident from the Comptroller and Auditor General's report on reproductive and child health under the National Rural Health Mission for the year ended March 2016. Even if the audit objections on financial administration were to be ignored, the picture that emerges in several States is one of inability to absorb the funds allocated, shortage of staff at primary health centres (PHCs), community health centres (CHCs) and district hospitals, lack of essential medicines, broken-down equipment and unfilled doctor vacancies. In the case of Uttar Pradesh, the CAG found that about 50% of the PHCs it audited did not have a doctor, while 13 States had significant levels of vacancies. Basic facilities in the form of health sub-centres, PHCs and CHCs met only half the need in Bihar, Jharkhand, Sikkim, Uttarakhand and West Bengal, putting pressure on a handful of referral institutions such as the Gorakhpur hospital.

Templates for an upgraded rural health system have long been finalised and the Indian Public Health Standards were issued in 2007 and 2012, covering facilities from health sub-centres upwards. The Centre has set ambitious health goals for 2020 and is in the process of deciding the financial outlay for various targets under the National Health Mission, including reduction of the infant mortality rate to 30 per 1,000 live births, from the recent estimate of 40. This will require sustained investment and monitoring, and ensuring that the prescribed standard of access to a health facility with the requisite medical and nursing resources within a 3-km radius is achieved on priority. Such a commitment is vital for scaling up reproductive and child health care to achieve a sharp reduction in India's deplorable infant and maternal mortality levels, besides preventing the spread of infectious diseases across States. It is imperative for the government to recognise the limitations of a market-led mechanism, as the NITI Aayog has pointed out in its action agenda for 2020, in providing for a pure public good such as health. We need to move to a single-payer system with cost controls that make efficient strategic purchase of health care from private and public facilities possible. Bringing equity in access to doctors, diagnostics and medicines for the rural population has to be a priority for the National Health Mission.

Trump's misstep

U.S. President fails to draw a moral distinction between neo-Nazis and counter-protesters

White nationalist rallies are not new in the United States. But the demonstrations in Charlottesville, Virginia, on Friday and Saturday were unprecedented in recent American history in terms of the number of participants and the scale of violence that followed. Those who turned up in Charlottesville, barely 200 km from Washington DC, have sent a clear message that the far right in the U.S. is ready for a long battle on a white supremacist agenda. On Friday night they took out a torch-bearing procession reminiscent of the Hitler Youth night rallies, shouting, "blood and soil", protesting plans to remove a Confederate monument from the city. Saturday's demonstration turned violent as counter-protesters mobilised an equally strong group against the white nationalists. This took a tragic turn when a demonstrator rammed a car into the counter-protesters, killing a woman and injuring several others. For years, the Alt-Right movement of white nationalists has been mobilising using online platforms. They supported Mr. Trump in the November election. Steve Bannon, the former editor of *Breitbart News* that gave a "platform" to the Alt-Right, was chief executive of Mr. Trump's campaign, and is now his chief strategist. With Mr. Trump and Mr. Bannon in the White House, the Alt-Right clearly feels emboldened. David Duke, a former "Imperial Wizard" of the Ku Klux Klan, who took part in the Charlottesville rally, admitted as much in plain words when he said, "It is the fulfillment of President Donald Trump's vision for America."

Mr. Trump could have shown leadership by instantly denouncing the ultra-nationalists and upholding values enshrined in the Constitution. But he failed the test, completely. He first condemned the violence "on many sides". Two days later, apparently under pressure from his team, he criticised "the KKK, neo-Nazis, white supremacists and other hate gangs". But within a day he made another U-turn, holding both "the Alt-Right and the Alt-Left" responsible for Saturday's events. In effect, Mr. Trump failed to make a moral distinction between the neo-Nazis who rallied with swastikas, Confederate battle flags and anti-Semitic banners and those who assembled to protest that intolerance. Mr. Trump also launched a Twitter attack against Merck CEO Ken Frazier, an African-American, who quit the President's advisory council over his response to the Charlottesville violence. And he told Fox News that he was "seriously considering" a pardon for Joe Arpaio, a former Sheriff who faces allegations of racial profiling and discriminatory police conduct. Organisers of the Alt-Right demonstration have thanked Mr. Trump for his "honesty and courage" and vowed to hold many more such rallies. Unfortunately, the U.S. President does not see such endorsement from neo-Nazi groups as a problem.

The architecture of censorship

Censorship exists in India to the extent it does because it is both easy and efficient to accomplish



GAUTAM BHATIA

Independence Day is an occasion to celebrate freedom from a colonial regime that not only cast chains of economic and political bondage upon Indians, but also fettered their freedom to think, dissent, and express themselves without fear. Demands for a right to free speech, and for an end to political, cultural and artistic censorship, were at the heart of our freedom struggle, and which culminated in the celebrated Article 19(1)(a) of the Indian Constitution. Last week, however, two events revealed that 70 years after Independence, the freedom of speech still occupies a fragile and tenuous place in the Republic, especially when it is pitted against the authority of the State. The first was the Jharkhand government's decision to ban the Sahitya Akademi awardee Hansda Sowvendra Shekhar's 2015 book, *The Adivasi Will Not Dance*, for portraying the Santal community "in bad light". And the second was an order of a civil judge at Delhi's Karkardooma Court, restraining the sale of Priyanka Pathak-Narain's new book on Baba Ramdev, titled *Godman to Tycoon*.

Neither the ban on *The Adivasi Will Not Dance*, nor the injunction on *Godman to Tycoon*, are the last words on the issue. They are, rather, familiar opening moves in what is typically a prolonged and often tortuous battle over free speech, with an uncertain outcome. Nevertheless, they reveal something important: censorship exists in India to the extent it does because it is both easy and efficient to accomplish. This is for two allied reasons. First, the Indian legal system is structured in a manner that achieving censorship through law



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is an almost costless enterprise for anyone inclined to try; and second, the only thing that could effectively counteract this – a strong, judicial commitment to free speech, at all levels of the judiciary – does not exist. Together, these two elements create an environment in which the freedom of speech is in almost constant peril, with writers, artists, and publishers perpetually occupied with firefighting fresh threats and defending slippery ground, rather than spending their time and energy to transgress, challenge and dissent from the dominant social and cultural norms of the day.

The Jharkhand ban

The Jharkhand government's ban on *The Adivasi Will Not Dance* followed public protests against the writer, with MLAs calling for a ban on the book on the ground that it insulted Santal women. The legal authority of the government to ban books flows from Section 95 of the Code of Criminal Procedure (which, in turn, was based upon a similarly worded colonial provision). Section 95 authorises State governments to forfeit copies of any newspaper, book, or document that "appears" to violate certain provisions of the Indian Penal Code, such as Section 124A (sedition), Sections 153A or B (communal or class disharmony), Section 292 (obscenity), or Section 295A (insulting religious beliefs). Under Section 96 of the CrPC, any

person aggrieved by the government's order has the right to challenge it before the high court of that State.

The key element of Section 95 is that it allows governments to ban publications without having to prove, before a court of law, that any law has been broken. All that Section 95 requires is that it "appear" to the government that some law has been violated. Once the publication has been banned, it is then up to the writer or publisher to rush to court and try and get the ban lifted.

The CrPC is therefore structured in a manner that is severely detrimental to the interests of free speech. By giving the government the power to ban publications with the stroke of a pen (through a simple notification), the law provides a recipe for overregulation and even abuse: faced with political pressure from influential constituencies, the easiest way out for any government is to accede and ban a book, and then "let the law take its own course". Furthermore, litigation is both expensive and time-consuming. Section 95 ensures that the economic burden of a ban falls upon the writer or the publisher, who must approach the court. It also ensures that while the court deliberates and decides the matter, the default position remains that of the ban, ensuring that the publication cannot enter the marketplace of ideas during the course of the (often prolonged

and protracted) legal proceedings.

The Karkardooma injunction

The most noteworthy thing about the Karkardooma civil judge's injunction on *Godman to Tycoon* is that it was granted without hearing the writer or the publisher (Juggernaut Books). In an 11-page order, the civil judge stated that he had given the book a " cursory reading", and examined the "specific portion" produced by Baba Ramdev's lawyers in court which he found to be potentially defamatory. On this basis, he restrained the publication and sale of the book.

In this case, it is the judicial order of injunction that is performing the work of Section 95 of the CrPC. Effectively, a book is banned without a hearing. The book then stays banned until the case is completed (unless the writer or publisher manages to persuade the court to lift the injunction in the meantime). Once again, the presumption is against the rights of writers, and against the freedom of speech and expression.

In fact, the Karkardooma civil judge's injunction order is contrary to well-established principles of free speech and defamation law. Under English common law – which is the basis of the Indian law of defamation – it is recognised that injunctions, which effectively amount to a judicial ban on books, have a serious impact upon the freedom of speech, and are almost never to be granted. The only situation in which a court ought to grant an injunction is if, after hearing both sides in a preliminary enquiry, it is virtually clear that there could be no possible defence advanced by the writer or publisher. The correct remedy, in a defamation case, is not to enjoin the book from publication on the first hearing itself, but to have a full-blown, proper trial, and if it is finally proven that defamation has been committed, to award monetary damages to the plaintiff.

In 2011, the High Court of Delhi

held that this basic common law rule acquired even greater force in the context of Article 19(1)(a) of the Constitution, and reiterated that injunctions did not serve the balance between freedom of speech and a person's right to reputation. The high court reaffirmed the basic principle of our Constitution: that the presumption always ought to be in favour of the freedom of speech and expression. In this context, the Karkardooma civil judge's order granting an injunction before even hearing the writer and publisher is particularly unfortunate.

The way forward

While the banning of *The Adivasi Will Not Dance* reflects the structural flaws in our criminal law that undermine the freedom of speech, the injunction on *Godman to Tycoon* reveals a different pathology: even where the law is relatively protective of free speech, it will not help if judges – who are tasked with implementing the law – have not themselves internalised the importance of free speech in a democracy.

The first problem is a problem of legal reform. The solution is obvious: to repeal Sections 95 and 96, take the power of banning books out of the hands of the government, and stipulate that if indeed the government wants to ban a book, it must approach a court and demonstrate, with clear and cogent evidence, what laws have been broken that warrant a ban. The second problem, however, is a problem of legal culture, and therefore, a problem of our public culture. It can only be addressed through continuing and unapologetic affirmation of free speech as a core, foundational, and non-negotiable value of our Republic and our Constitution.

Gautam Bhatia, a Delhi-based lawyer, is the author of 'Offend, Shock, or Disturb: Free Speech Under the Indian Constitution'

Reading Kim Jong-un's mind

At least the U.S. administration must do this in order to defuse the current crisis



STANLY JOHNY

Is North Korea's leader Kim Jong-un a "crazy fat kid" and a "total nut job", as U.S. President Donald Trump has described him, or is he a rational leader who makes his foreign policy choices to protect the interests of his regime? Every discussion around the North Korean nuclear crisis could eventually settle around this basic question. If he is an irrational, crazy and impulsive leader, it's difficult to reach a diplomatic settlement with him. A military solution to the North Korean issue is even more difficult and risky as Mr. Kim could use the country's nuclear arsenal in retaliation. That's a cul-de-sac. On the other hand, if there's a strategy behind Mr. Kim's perceived madness, it at least opens avenues for further engagement.

Overcoming an asymmetry

Most accounts of the Korean crisis are written from the perspective of Pyongyang's rivals where an erratic, despotic regime is portrayed as relentlessly pursuing dangerous weapons in defiance of interna-

tional public opinion and sanctions. But if one looks at the whole issue from a North Korean security point of view, it is not hard to find a method behind the North's actions. It's a country that's been technically at war with its neighbour for almost seven decades. There are also multiple U.S. bases in South Korea, the Philippines, Japan, Guam Island and a naval presence in the East China Sea and the Pacific, in the vicinity of North Korea. In terms of conventional military might, the impoverished North knows that it's no match for the U.S. This has forced it to make extreme choices to overcome the asymmetry in capabilities.

This strategic insecurity was reinforced in the 1990s when Russia became a directionless, timid, floating power after the disintegration of the Soviet Union and China gradually moved closer to the U.S. These were the only allies North Korea had. In 1992, China established formal relations with South Korea, which deepened Pyongyang's concerns. Adopting a two-pronged strategy, it fast-tracked its missile and nuclear programmes and expressed a willingness to negotiate. The purpose, as it seems now, was to prompt world powers, mainly the U.S., to sit down to talk and make assurances on security. This strategy met with success as the Clinton administration respon-



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ded constructively. In 1994, Pyongyang agreed to freeze the operation and construction of nuclear reactors in line with the Agreed Framework signed with Washington. In return, the U.S. promised two proliferation-resistant nuclear reactors.

The George W. Bush administration took a hawkish stance towards Pyongyang. In 2002, Mr. Bush lumped North Korea with Iraq and Iran in the "Axis of Evil". Pyongyang withdrew not only from the Agreed Framework but also from the NPT, and accelerated efforts to gain nuclear weapons. With President Barack Obama following the tested and failed policy of sanctions and intimidation, the North steadily expanded its military capabilities. And now, Donald Trump has to deal with a North Korea equipped with nuclear bombs and intercontinental ballistic missiles that can reach U.S. territory.

Both the diplomatic and military options are now a lot more difficult than those in the early 1990s. A limited attack by the U.S. could snowball into a full-fledged nuclear war, threatening millions in East Asia. The North's nuclear facilities are spread across its mountainous regions making it difficult to destroy them. So are the country's missile capabilities, which reportedly have mobile launchers that could survive an attack on defence bases. There are thousands of pieces of artillery along the Demilitarised Zone that could be used to attack Seoul which lies roughly 50 km from the border.

For a diplomatic solution, the North will have to make great compromises. In the 1990s, North Korea was an aspiring nuclear power and all it needed to surrender was its ambition in return for security. Now that it is a nuclear power, will it abandon its nuclear weapons in return for security assurances? It's unlikely to happen as the examples of Iraq and Libya show. Both Saddam Hussein and Muammar Qadhafi, respectively, had given up their nuclear ambitions, saw their regimes toppled by Western invasions and then were killed. Even the example of Iran would not be encouraging for North Korea. Tehran agreed to curb its nuclear activities and open its reactors for routine international in-

spections in return for the lifting of international sanctions during the Obama presidency. The Trump administration has taken an extremely hostile view, added more sanctions on Tehran, joined hands with its regional rivals, and even threatened to cancel the certification of Iran's compliance with the nuclear deal. Mr. Kim would be asking himself how he could trust American security assurances even if they come by.

China template

North Korea would rather prefer a Chinese model. China exploded its first nuclear bomb in 1964, which led to it being treated as a rogue nuclear power. But China was accepted into the mainstream international order in the 1970s. Even the U.S., its main rival, initiated a diplomatic process with Beijing. Mr. Kim may be betting on both his nuclear deterrence as well as his chances of being accommodated as a nuclear power in the international system, a game of chicken scenario. Conflict is inevitable if the U.S. and North Korea keep going down the path they are now on. If one swerves, the other will benefit. But will both swerve for a tie and re-launch a diplomatic process afresh?

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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.

Rhetoric won't do

The vision of the NDA government to make India free of casteism, violence, communalism, secularism and nepotism is laudable (Editorial - "Future perfect", August 16). The Internet is inundated with analyses of discourses by the Prime Minister and the need for big reforms, and good and transparent governance. However, mere rhetoric will not take the country anywhere when a pragmatic approach and leadership are a must. Several government schemes such as demonetisation, GST and the digitisation of India have yet to bear any fruit. In addition, the ethics involved in some of the BJP's political campaigns is questionable. Instead of thinking about 2022, the government needs to look at 2019. The people cannot be taken for granted as despite all the hero worship, they are not naive.

DEEPTI JAIN,
New Delhi

Idea of an AIJS

The writer's approach to an all India judicial service seemed myopic to me ("No case for an all India judicial service", August 16). It is undeniable that there is a need to overhaul our legal education system and secure reasonable, if not handsome, pay scales for judges. The current system of elevating judges to the district and High Court level is opaque and gives room for corrupt practices. On the contrary, an AIJS will usher in an era of transparency in the Indian judiciary. When all other branches of government are looking to transparent methods of working, it's time the judiciary followed suit.

KIRAN BABASAHEB RANSING,
New Delhi

I differ with the views expressed. The writer does not even address the time and money lost in litigation, where almost every preliminary and mains

No chance!

There can be no second opinion that the Bharatiya Janata Party wants to make inroads into Tamil Nadu using the back door (Editorial - "Making friends", August 16). It is also nauseating that the two factions of the AIADMK make a beeline for Delhi at the drop of a hat "to get instructions from the ruling dispensation", pawning their self-respect and that of the State in the process. Given the fluid situation prevalent in the State and the non-functioning of the State government, the best alternative would be to impose President's rule, paving the way for a fresh and early election. Knowing full well that it is only the Dravida Munnetra Kazhagam which can win the elections hands down, the BJP is quite clever in not wanting to take to that route. The current plan is fraught with problems as delaying elections for months together will only

PARAS DALAL,
New Delhi

expose the cunning and the opportunism that prevail.

YVONNE FERNANDO,
Chennai

Bird haven under threat
Saamanatham and Karuviangukam, a series of tanks located on the Madurai Outer Ring road in Tamil Nadu, are a birdwatchers' paradise. Many species have been found to migrate here. A recent count showed that as many as 20 species found at

the famous Vedanthangal sanctuary were also here. Avid birdwatchers were shocked to come across a practice adopted by those who fish here, of firing loud crackers to scare away the birds. After this, most birds do not make an appearance for days. The authorities should ensure that this bird haven is protected.

VADAMALAIAPPAN T.,
Aiyur, Tamil Nadu

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CORRECTIONS & CLARIFICATIONS:

A story on the effect of black carbon (BC) and aeroplane emissions (August 16, 2017) erroneously said in the headline that aeroplanes may upset monsoon. BC emissions don't directly impact the monsoon because they are located in the stratosphere. This is 12-18 km above ground and too far away from the region where monsoon clouds abound. Monsoon clouds are located 4 km above ground and BC emitted from ground sources (vehicles, wood burning) are known to disrupt monsoon systems. The corrected headline should read: "Aeroplanes may be affecting ozone layer". The report headlined "46 killed as massive landslide buries vehicle" (August 14, 2016), erroneously said a Volvo bus was involved in the accident. It was not a Volvo bus.

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

Naming a right

With the Supreme Court set to rule on privacy, India is on the cusp of constitutional history



UJJWALA UPPALURI

The nine-judge Bench headed by Chief Justice J.S. Khehar determining whether a fundamental right to privacy exists is only the 15th time in the Supreme Court's history that such a large Bench has convened. There is no escaping the enormity of this constitutional moment – these nine judges will definitively shape the evolution of our Constitution. What is at stake is nothing less than the terms of a fundamental relationship between us – citizens of a constitutional democracy – and the state.

When Aadhaar was initially challenged in 2015, the Union of India argued that we had no right to privacy. That claim does not merit a response. Now, joined by some States, it mounts the slightly better argument that a right to privacy must not be declared because it is an expansive right without clear boundaries. It also argues that there is no need to declare privacy as a separate right because the phrase 'personal liberty' in Article 21 already covers it. This article responds to these arguments by returning to the Supreme Court's own decisions and to first principles of adjudicating constitutional rights.

Tending our rights

Since the Supreme Court began defending fundamental rights in 1950, it has displayed a deep commitment to preserving the right to 'life' under Article 21. Over time, it has tended this right with great care and has declared that it guarantees a right to food, shelter, education, health and clean environment. However, the companion right in Article 21 – to 'personal liberty' – has not fared so well. By comparison, it is an anaemic and stultified right, relied on by courts only when unavoidable, and even then only in the narrowest possible terms.

Like many constitutional courts across the world, the Indian Supreme Court often recognises unenumerated rights – those which are not included in the Constitution's text – as being part of the fundamental rights that are written into the Constitution. As citizens of a democracy in whose service the Constitution and the government exist, surely we



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must welcome expansive rights. All constitutions, including India's, are intended to maximise citizens' freedoms and tightly restrain the government's capacity to curtail them.

In India's own constitutional history, we have seen that all rights travel the same path to being declared so fundamental that the Constitution and courts must defend them. Take a right that is much like the right to privacy in our instinctive understanding of its importance, and in its location at the very heart of 'personal liberty' in Article 21: the right against torture. Like 'privacy', the word 'torture' does not appear in Article 21. Like 'privacy', the word 'torture' is not obviously included in the narrow understanding of 'personal liberty' as protection against being restrained without good cause.

As the Supreme Court began to confront the rampant use of torture as a tool for investigating crimes, it began acknowledging the need for constitutional protections. In 1980, for example, Justice Krishna Iyer said: "We are deeply disturbed by the diabolical recurrence of police torture resulting in a terrible scare in the minds of common citizens that their lives and liberty are under a new peril..."

In 1996, in *DK Basu v. State of West Bengal*, the Court finally acknowledged that while torture might have been acceptable historically, it was no longer conscionable in law or morals. The court converted this recognition into a guarantee that citizens could claim against the police by giving it a name – the 'right

against torture' – and declaring that it flows from Article 21's guarantee of 'personal liberty'. But it did not stop at simply declaring this right. As unprecedented forms of interrogation often aided by new technology became prevalent, it expanded the right's scope to retain its efficacy in the face of this change. In 2010, three judges ruled categorically in *Selvi v. State of Karnataka* that 'torture' must include not only physical torture as most earlier cases had done, but also mental torture.

The 'freedom of speech and expression' in Article 19(1)(a) travels the same path. Even though it never uses the word, the Supreme Court was very quick in its early years to say that this right covers the press. Where early cases related to 'speech' in newspapers or magazines, the right now embraces such diverse activities as communicating digitally (*Shreya Singhal v. Union of India*) and expressing gender identities (*NALSA v. Union of India*).

The arcs of the right against torture and Article 19(1)(a) point to a fatal flaw in the claim that there is no need to declare the right to privacy since it is already a part of personal liberty. Various fundamental rights share with the right to privacy the characteristic of being specific forms of liberty. Allowing such an argument would reduce much of Part III – the heart and soul of the Constitution – to no more than an exercise in redundancy. Rather, rights are declared because they protect a value acknowledged as important and distinctive enough to merit constitu-

tional force.

Privacy follows the same logic. It is only once the court affirms the obvious position that a fundamental right to privacy exists that we can turn to considering the legitimacy of the government's actions in infringing upon it. The Union's argument that the privacy right is incapable of definition is disingenuous. All rights, however seemingly precise, see contests about where their boundaries lie. Invariably, they all evolve and expand over time. This is an aspect of constitutional adjudication that we must embrace. Constitutions, including rights, must be capable of responding to contemporary challenges.

A range of concerns

Even standing alone, a right to privacy embraces a wide range of things – from preventing the state from watching us without cause, to affirming that we can form and choose our identities, to deciding what information about us is collected by the state using the force of the law and how that information is processed and made available to whom. Each of these facets of privacy raises different concerns and places different burdens on the state to justify intrusions. We cannot simultaneously recognise privacy's importance and also say that it ought not to be named and treated as such.

Lumping everything into 'personal liberty' flips the relationship between individuals and the state on its head. In effect, it demands that persons injured by a privacy violation establish every single time that they have a right, rather than focusing on demanding explanations from the state in court.

Naming and declaring a right has powerful consequences. In democratic orders like ours, our rights are only as strong as our capacity to assert them. Recognising the right is the first step in opening up the possibility of it trickling down into the people's consciousness. As governments and technologies become increasingly intrusive, the people of this country must be empowered to safeguard their interests. Irrespective of the outcome, these nine judges will make constitutional history. What is far more important is that they have the opportunity to empower each and every person in India with a right that lies at the very core of personal liberty.

Ujjwala Uppaluri is a graduate of NUJS Kolkata and Harvard Law School

Don't shoot the messenger

Google shouldn't have fired the engineer who questioned its diversity efforts – it should have co-opted him



SHOBA NARAYAN

Pity James Damore. The Google engineer wrote what he thought was a sacred screed that would change the world or at least Google's politically correct culture that valued women – unfairly, he thought – over talented male coders. Instead he got fired and sparked a maelstrom of responses ranging from a fund set up by an alt-right website to help his legal bills to a job offer from WikiLeaks.

I read Mr. Damore's 10-page memo. Some of the things he said were clearly holier-than-thou: men's higher drive for status causes them to take jobs in...coal mining. Really? Some were abstruse: what is a social constructionist? But here is the thing: I agreed with many of Mr. Damore's "concrete suggestions".

Outside the echo chamber

Before you shoot me, let me say this: I am a feminist who tries really hard not have a chip on her shoulder. I am the mother of two daughters. My elder daughter is studying electrical and computer engineering. I care deeply about Silicon Valley's gender biases because my child's life and work will depend on it. That said, I am not sure that Google did the right thing by firing Mr. Damore, not because the firm's heart – and HR policy – is not in the right place but because Google hasn't solved the problem by making one of the perpetrators go away. In a sense, they have strengthened Mr. Damore's position and caused others like him to go underground or assume anonymity.

There is a reason why feminists like me felt sucker-punched when Hillary Clinton lost the U.S. presidential election. We were so caught within our 'ideological echo chamber' of voices that only spoke about empowering women, valuing diversity, and shattering the glass ceiling that we failed to acknowledge that there were others who thought differently.

We suppressed those voices so successfully that there was only one option open to them: to burst open like a tidal wave upon which Donald Trump rode to victory. Google engineers could well be like the U.S. President's underground voters. Strategically, a

more effective option is to co-opt and convert these engineers.

Diversity in general, and gender bias in particular, has become such a sacred cow that anyone who questions it risks being fired. So what happens? It is not as if the sexists, the naysayers and dissenters disappear. They just stay quiet, agree with each other in secret chat rooms such as the one that happened recently at Harvard University, stew in their ideological juices, mark time and then vote a misogynist into power.

Engaging with biases

Suppressing dissent is the wrong strategy in the long-term fight for gender equality. We need to try to listen to them – not necessarily with the womanly empathy that Mr. Damore mocks, but at least with a semblance of openness so that they feel like they have been heard. Engaging with their biases might prevent them from blowing up and gaining strength.

Women engineers are tired of this conciliatory approach, because traditionally such "soft" options were the only ones available to women. Coding isn't that hard and women shouldn't have to constantly prove that they are good at it. As one tweet said, "Dude. The reason we want workplaces free of discrimination is so we can focus on our actual d*** jobs."

Stereotypes and biases are real and powerful. The Implicit Association Test, developed by Harvard and available online, gives a list of words and asks participants to assign it to a female or male. More than 70% of the half a million people from all over the world associate the word 'male' with the sciences and 'female' with liberal arts. Researchers say that each one of us – women included – hold subconscious biases that colour the way we interact with women, and also men; with girls, and also boys.

We need to take a different approach to solving these long-standing biases. Feminists may view men as the problem, but they have to be part of the solution as well. Firing an employee who says what many men perhaps think is like shooting the messenger. Google should have debated him instead. Engineers pride themselves on being rational. They can be convinced with data. And current data shows that the most high-performing teams have women in the majority. That should be the first talking point with men in general, and with this memo-writer in particular.

Shoba Narayan is a journalist and author

SINGLE FILE

The private route

We need to find ways to make market-based health care more affordable

PRASHANTH PERUMAL J.



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NITI Aayog's recent proposal for the partial privatisation of district-level government hospitals has been criticised for commercialising health care. Under the proposal, private hospitals will be allowed to bid for 30-year leases that give them control over portions of government hospitals dedicated to treating non-

communicable diseases. Critics argue that private hospitals focussed on profits will do no good to the poor who can't pay for their services, so the government must step in to provide free health care.

Affordability is indeed the major issue preventing poor Indians from getting proper health care. Free health care provided by the government, however, is not the real solution to the problem. Governments often have very little incentive to provide quality health care to many citizens. This is because, in politics, it is the interests of powerful groups that get the most leverage. The poor, for various reasons related to electoral politics, often get left out of the race to influence their governments. For instance, politicians have very little incentive to care about the needs of an individual voter since the impact of a single vote on the election result is essentially minuscule. In the marketplace, on the other hand, private hospitals have huge monetary incentives to proactively cater to the demands of their customers. Each consumer's currency note holds equal weight to a private hospital that seeks profit. This makes market-based health care a fundamentally superior way to deliver health services to the poor.

An issue of 'how to'

The focus then should be on how to make market-based health care more affordable. The standard assumption in this regard is that for-profit health care works against the interests of the poor by making health care more expensive. So various regulations aimed mostly at reducing the profits of health-care investors and lowering the costs to consumers are imposed on investors. Unfortunately, these regulations, by denying investors the opportunity to make profits by providing health care, actually end up making health care more unaffordable. An investor facing a swathe of regulations capping his returns, for instance, has very little incentive to set up hospitals, produce life-saving drugs, or invest in medical education. This, in fact, works against the interests of the poor by reducing the supply of health care and increasing its price. The only real way to make health care affordable then is to increase its supply sufficiently, which in turn will lead to lower prices. This can only be achieved when health care is deregulated and investors are allowed to seek profits in an honest manner. In fact, this is how any good or service gets cheaper over time. As more investments are made into a sector in search of profits, the increased supply leads to lower prices for consumers and lower returns for investors.

Sadly, the thinking that health care is too essential to be left to the market has prevented the health-care market from working like any other. It is no wonder then that goods such as cell phones and cars, which are considered luxuries and thus left to the market, have become affordable to a larger population over time. At the same time, health care has largely remained unaffordable to the vast majority of people.



CONCEPTUAL

Fisher's principle

BIOLOGY

An explanation of why the sex ratio in species that produce offspring through sexual reproduction tends to be close to 1:1. If the number of male offspring, for instance, is lower than the female ones, the male offspring have better chances of mating since they are outnumbered by female offspring. This leads to the proliferation of genes that produce male offspring, which in turn improves the sex ratio until it reaches parity. The process is reversed in favour of female offspring once they are outnumbered by the male offspring. Fisher's principle is named after British biologist Ronald Fisher who popularised the idea.

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Hamid Ansari: an intellectual liberated
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FAQ

Trading threats

Are China and the U.S. heading into a trade war?

SRIRAM LAKSHMAN

Is the U.S. taking trade action against China? Not quite, but in a preliminary step, U.S. President Donald Trump signed an executive memorandum on Monday asking U.S. Trade Representative (USTR) Robert Lighthizer to determine whether an investigation into China's trade practices and policies was warranted. There are provisions of the U.S. Trade Act, 1974, notably Section 301, which enable the U.S. to take action to enforce trade treaties, or use counter measures, such as retaliatory tariffs, on practices the U.S. deems as unfair. Section 301 was used heavily, for instance by the Reagan administration, before the WTO started operating.

What are the trade ties between the countries like? During his campaign, Mr. Trump had adopted a tough stance against China, accusing the country of "stealing" American jobs, saying he would impose tariffs on Chinese imports into the U.S. and labelling China a currency manipulator. China is the U.S.'s largest goods trading partner.

How will the situation develop? China has said if that it "will not sit by and watch" if the U.S. acts against it in a manner that violates existing international trade agreements. If Mr. Trump's order results in retaliatory measures, then it is possible that a trade war could ensue between the two countries. However, it is not a

given that such retaliation will occur. First, the U.S. could work through the WTO's dispute resolution process rather than its domestic trade laws. Second, in the past, disputes have been resolved once an investigation has been undertaken by the U.S. but before they have concluded.

But perhaps most importantly, in this case, the issue extends beyond trade. While some U.S. officials have denied a connection, Mr. Trump has said that China cooperating with the U.S. on the North Korean missile build-up will soften his view on Chinese trade practices; given that Monday's memo merely asks for a determination on whether or not to investigate rather than to investigate right away, it is likely this is for now, only a signal to China to cooperate more on trade and other areas, such as North Korea.

China joined other members of the UN Security Council last week to impose sanctions against the North Korean regime.

FROM The Hindu. ARCHIVES

FIFTY YEARS AGO AUGUST 17, 1967

24 injured in clashes in Mumbai

Police had to fire twice in the air, and resort to heavy cane charges repeatedly in the Sion-Koliwada area of North Bombay, where fierce clashes broke out between two linguistic groups yesterday [August 15]. Twenty-four persons, including eight policemen, were injured in the day-long stabbing and stone-throwing incidents. About 100 persons have been arrested. The situation in the area was normal to-day [August 16], but heavy police contingents were patrolling the entire area. Police pickets have also been posted at all possible trouble spots in Greater Bombay. The firing came at mid-night when lathi-charges failed to disperse a mob at Sion Circle, which was moving to Koliwada, scene of the first clashes. The crowd looted shops and smashed parked cars. Police then fired two rounds in the air, and arrested about 50 persons. The clashes between pro and anti-Shiv Sena men were sparked off by a stabbing incident at Koliwada yesterday morning [August 15]. Immediately after the incident, people belonging to the rival factions attacked each other with knives, sticks, and stones.

A HUNDRED YEARS AGO AUGUST 17, 1917

In Russia. Imperial family removed to Siberia.

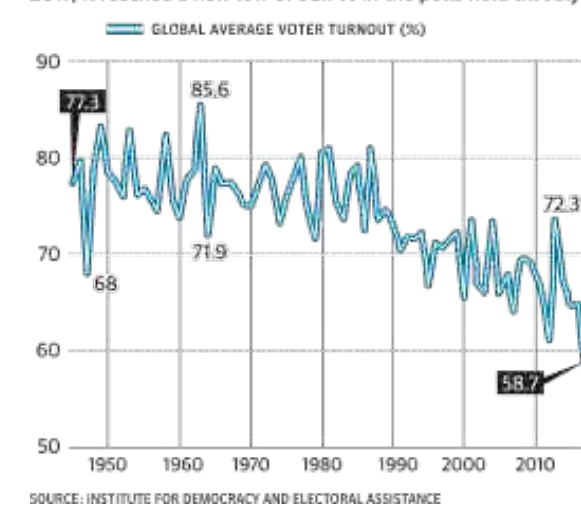
The "Bourse Gazette" states that the Imperial Family have been sent to Siberia by a special train accompanied by two Members of Government and Military Guards. It appears that the Committees of Workmen's and Soldiers' Delegates insisted on the removal of the ex-Tsar, Tsaritzita and Tsarewitch from Tsarskoyeselo to a more remote part of Russia. The daughters were given the choice of remaining in Petrograd, but they elected to accompany their parents.

The Tsar and family have been secretly removed from Tsarskoyeselo to a destination to be announced later. Complete secrecy shrouded the removal of the Imperial family which was resolved on in the middle of July upon political and military grounds by the Provisional Government without consultation with the Council of Workers' and Soldiers' Delegates. Government took every precaution to ensure their safe removal.

DATA POINT

No more a draw

Average voter turnout in parliamentary and presidential elections across the world has been gradually decreasing over the years. In 2017, it reached a new low of 58.7% in the polls held till July



SOURCE: INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE