



Shifting goal posts

It's official. Demonetisation has totally failed to curb black money — its professed objective

On November 8, 2016, when Prime Minister Narendra Modi announced to the nation that ₹500 and ₹1,000 currency notes would cease to be legal tender from midnight, he was unequivocal in asserting that the measure was aimed at breaking “the grip of corruption and black money”. Explaining how the shock move would work, he said: “The... notes hoarded by anti-national and anti-social elements will become just worthless pieces of paper.” The premise then was that a sizeable part of the ₹15.44 lakh crore of the two high-value banknotes would remain in the hands of the holders and would not be tendered back into the banking system due to fear of punitive government action. There were hints that the windfall gains made from the scrapped currency notes that couldn't be deposited in banks, estimated at anything between ₹3 lakh crore to ₹5 lakh crore, would be deployed for larger purposes — social welfare schemes and infrastructure projects, for example. This would be effected with the Reserve Bank of India, which bears the liability to honour the value of the country's currency, paying as dividend to the government the majority, if not all, of its extinguished liabilities. But with the RBI's annual report, released on August 30, showing that as much as 98.96% of the demonetised currency had returned to the central bank as of June 30, the gains in the form of cancelled liability from the note ban have been piffling.

For the Finance Minister to now claim that the “confiscation of money” had not been an objective, and for his Ministry to say that the government “had expected all the SBNs [specified bank notes] to come back to the banking system to become effectively usable currency,” is disingenuous. If that were indeed the case, the rationale behind the various stop-go announcements that followed in the wake of the November 8 decision are hard to fathom. For instance, the RBI circular setting a ₹5,000 limit on deposits of withdrawn notes unless done under the government's amnesty scheme, tendered for the first time or explained otherwise was clearly a measure intended to dissuade bank customers from returning the demonetised currency. True, demonetisation has had some beneficial spin-offs such as arguably fostering greater compliance with the tax laws and reducing the economy's reliance on cash through increased adoption of digital payments. But such gains could have been achieved by other and less self-defeating ways. As things stand, it is unclear how many of those who have laundered their black money will be punished. Despite the large amounts that were deposited in banks post-demonetisation, it is doubtful whether the Income Tax authorities have the necessary resources to track down and penalise the corrupt. All in all, the costs of demonetisation, which has resulted in robbing the country of its economic momentum, are far greater than the benefits it has bestowed.

Ray of hope

With the bandh suspended in the Darjeeling hills, Kolkata must reciprocate suitably

Almost three months since the Gorkha Janmukti Morcha and other hill-based parties announced an indefinite strike that paralysed Darjeeling and the adjoining hill areas, they have agreed to suspend the bandh temporarily. The impasse was broken following a meeting with West Bengal Chief Minister Mamata Banerjee, which proved to be more than an ice-breaker. While the hill parties reiterated the demand for a separate state, Ms. Banerjee kept the dialogue open, even as she refused the demand, by calling for further talks in Siliguri on September 12. It is heartening, therefore, that on Thursday the GJM has withdrawn the bandh until the talks take place. This breakthrough has come not a day too soon. A degree of solidarity and cooperation among the residents has mitigated the crisis in the hills, but there is no doubt that normal life has been severely affected. There are other political considerations that must bother the GJM. Far from hurting its political standing, the crisis in the hills has in fact helped the Trinamool Congress consolidate political support in the rest of West Bengal. It has successfully managed to tap into a vein of Bengali chauvinism following the unrest, something that helped it bag the lion's share of seats in the recently concluded municipal polls in the State. With the Bharatiya Janata Party-led government at the Centre balking at the demand for a separate Gorkhaland state, despite having sympathised with it in the past, the hill parties must now realise that a maximalist position will not earn them any dividends notwithstanding the popular appeal in the Darjeeling hills.

The demand for a separate state has been a long-standing one, a reflection of some legitimate grievances of the ethnic Gorkha population in the hills. The statehood option, however, is not going to be easily granted despite the recent success of a similar demand in Telangana. Geopolitical concerns and the fact that the district contributes a major chunk to West Bengal's revenues will be factors in considering any federal reorganisation. Previous agitations for statehood had led to the creation of a semi-autonomous Hill Council, and later the Gorkhaland Territorial Administration in 2011. The lack of substantive decentralisation of promised powers and a lackadaisical administration rendered both these institutions — the Hill Council and the succeeding GTA — weak. The thaw between the hill parties and the State government should be used for substantive talks to ensure genuine empowerment of the GTA. They should address the concerns of both the parties and the people. The State government must continue to engage with the hill parties and demonstrate that it is genuine about greater devolution.

Understanding the Chinese mind

Any belief that China has been deterred by India's firm riposte at Doklam could be misplaced



M.K. NARAYANAN

Just when the stand-off between India and China over the Doklam plateau threatened to go the way of the 1986-1987 Sumdorong Chu incident (Arunachal Pradesh), the two sides agreed to step back and disengage, thus avoiding a confrontation. The Indian side has pulled back its personnel and equipment to the Indian side of the boundary, while China has agreed to make 'necessary adjustments and deployment' on its part. It is unclear, however, whether China will patrol the region, which it claims to have been doing earlier. Road construction will not continue for the present.

Behind the scenes, quiet diplomacy by the two sides, no doubt, led to the defusing of what could have been a serious crisis. China's interest in Doklam is not of recent origin and has a long history. Those on either side of the divide currently claiming victory must, hence, pause to think what the future holds. Jumping to conclusions at this point could amount to 'missing the wood for the trees'.

India's actions in Doklam are easy to discern, viz. going to the help of a treaty partner in its time of need, a decision which incidentally has security ramifications for India. China's reasons are more complex and labyrinthine but, nevertheless, cannot be easily wished away.

To savour victory without understanding the factors at work would be a serious mistake. Going into the entire gamut of Sino-Indian relations to try to decipher what prompted China to moderate its stand after weeks of high decibel propaganda may not provide all the answers we seek.

To begin with, China and India have a kind of competitive coexist-

ence. While professing friendship, both sides nurse a mutual suspicion of each other — at times prompting several degrees of alienation. Both countries remain wary of each other's intentions and actions. Yet, and despite the long-time rivalry between the two countries, we may need to look elsewhere for an explanation.

Understanding the way the Chinese mind works is, hence, important. The Chinese mind tends to be relational, i.e. dictated by context and relationship, and its methodology tends to be obtuse. When the Chinese state that they have halted road building in the disputed Doklam area, while adding that they may reconsider the decision after taking into account 'different factors', what China means is that it is willing to wait to implement its decision, but at a time of its choosing when an opportunity exists for a settlement suited to its plans. Little finality can, therefore, be attached to any of China's actions.

Conflict avoidance

Any belief, hence, that China has been deterred by India's firm riposte at Doklam could be misplaced. Since the China-Vietnam conflict in 1980, China has avoided getting into any outright conflict. It has preferred attrition — a protracted campaign to secure a relative advantage — to forceful intervention.

By stepping back from a confrontation with India over a minor issue at this time, what it had in mind were two significant events, viz. the BRICS summit in China in September and the forthcoming 19th Congress of the Chinese Communist Party. Also, it possibly believes that this would help China dilute global perceptions about its aggressive designs.

This may not be as far-fetched as it may seem. China is playing for higher stakes in a globalised world. For instance, on the South China Sea, it has preferred to employ confidence-building measures to deal with the U.S. while awaiting a more



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opportune moment to assert its claims.

China is even seeking more opportunities for cooperation, rather than confrontation, with the U.S. on trade matters. In the case of the U.S., China believes that relations between the two are adequately multilayered, providing scope for mitigating areas of mutual benefit.

The BRICS summit and the 19th Party Congress both have high priority for China today. Nothing will be permitted to disrupt either event. Extraneous factors would not be allowed to affect this situation. For President Xi Jinping, presiding over the BRICS Summit at this juncture will help consolidate his informal leadership of the group. As the undisputed leader of BRICS, China believes it can take a signal step towards global leadership.

China is currently seeking to reshape the regional and international order, and is keen to fine-tune its 'Great Power diplomacy'. It, hence, needs to be seen as preferring peace over conflict. The Belt and Road Initiative (BRI) is a potent instrument in this direction, but needs a peaceful environment to succeed. Limited wars or conflicts, even with the possibility of successful outcomes, would damage China's peaceful image globally. Active power projection could at best provide a pyrrhic victory when the goal China has set is much higher.

The 19th Party Congress is even more important from President

Xi's point of view. It is intended to sustain his legacy and leave his stamp on the Party in the mould of Chairman Mao. To achieve comprehensive success, he needs peace to achieve his target. Till then everything else will need to wait.

This is again a delicate moment for China on the economic planes. It needs to redress the economic imbalance between its coastal regions and the hinterland States. One stated objective of the BRI is linking these regions with China's land neighbours. China's growth rate is actually declining, debt levels are dangerously high, and labour is getting more expensive. At this moment, hence, it is more than ever dependent on international trade and global production chains to sustain higher levels of GDP growth. It can ill-afford to be seen as a disruptor rather than a pillar of the existing economic global order. For the present, development, therefore, is the cardinal objective.

The Achilles' heel of the Chinese economy is the lack of resources, specially oil. Oil from the Gulf region is critical for China's growth. Peace in Asia is thus vital to ensure uninterrupted supplies of oil. Uncertainties and disruptions across the Asian region would hamper China's economic progress.

Apart from this, China also faces several cross-border security challenges, in addition to unrest in Tibet and Xinjiang. Embarking on military engagement outside the

country's borders could aggravate China's problems. At a time when China is intent on sustained economic growth at one level, and aspiring to be a Great Power at another level, this could prove to be a dampener.

For all the above reasons, China currently leans towards the pragmatic when it comes to relations with countries other than those in its immediate periphery in East Asia. It is not keen to follow a policy adopted by its new-found strategic ally viz. Russia which has paid a high cost for its 'interventionist' policies. China tends to take a longer term view of its future and, despite the rising crescendo of nationalism in China today, is anxious not to upset the international political or economic order. For this reason alone, it would shun a conflict with India in the Doklam area.

Not a status quoist power

China is not a status quoist power, and aspires to be a Great Power. It is well-positioned to achieve this if it maintains its present course. Any interruption, by indulging in a conflict with nations small or big, would not only damage but derail the levels of progress that are essential to achieve this objective. President Xi's China dream seems predicated on this belief. It implies support for a rule-based international system, linked to 'Tianxia', in the belief that this would help China overtake the U.S. as the dominant world power. When China talks of a 'new type of Great Power relations' it already envisages itself as Great Power in the making. It is unlikely to do anything to deviate from this goal.

While this attitude cannot be taken for granted for all time, the current Chinese leadership seems comfortable in following this prescription. It appears to believe in the aphorism that 'the longer you can look back, the farther you can look forward'.

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The brave new world of lynch mobs

This is what happens when majoritarianism and vigilantism are not roundly condemned



GAUTAM BHATIA

For the past few weeks, I have been watching the news coming out of Donald Trump's America with an endless fascination, and a growing unease. The fascination stems in part from the racist overtones in a country that is trying hard to wish away its history of hatred and bigotry; the unease from the striking parallels it holds to our own situation in India.

Lynching was a word often heard in the America of the 19th century, when members of the Ku Klux Klan rounded up black people and hanged them from trees — a gruesome outcome of slavery. Americans recently recalled the last lynching that happened almost a hundred years ago, with prayer, sadness and the fervent hope that it would never be repeated. In contrast, in India, less than 100 days ago, a 15-year-old Muslim was knifed to death in a crowded passenger train. But the incident brought no public outcry,

no prayer, no such emotion. Lynching is now an Indian word, not just taken from the diction of American slavery, but actively used to attack Muslims, Christians and Dalits. Unlike the American lynchings, these don't occur under the cover of darkness; neither are they carried out by hooded people unwilling to reveal their identity. They are perpetrated by ordinary, well-meaning citizens, who carry out the acts in full public view at busy road intersections or crowded markets. One person was lynched by his neighbours; another was stabbed in a train; more than 30 people were killed in Panchkula by mobs given a free reign by the state — such acts have begun to be considered normal.

Charlottesville and after

In the week after the neo-Nazi rally, almost every politician in the U.S. unequivocally denounced hate; members of Mr. Trump's business council resigned; many Generals and Navy Admirals penned their messages on social media; and newspapers and television criticised the President for his racist stance in blaming 'both sides' for the violence. These public words and actions were directed not just at defusing a volatile situation, but



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righting a moral wrong. However, when India saw its own Charlottesville-type situations — be it following the killing of Mohammad Akhlaq by a mob in Dadri, or rioting by the followers of Gurmeet Ram Rahim Singh — it was business as usual. Neither the Prime Minister, nor any elected official unequivocally condemned the hate crimes.

In both countries, the preferential treatment meted out to the majority may not fall within the standard references of Constitution and law, but scores on other ideological grounds. Mr. Trump refused to acknowledge that only the neo-Nazis were to blame at Charlottesville,

thereby ensuring a friendly nod from the Alt-Right. Mr. Modi's absence of clear reprimand following the killings by the purported *gau rakshaks* ensured an equivalent approval from the RSS.

Similarities also exist in the manner in which the state deals with race in America and religion in India — but there are clear differences in perceptions. While African Americans may endure an undercurrent of racial tensions, the overt message in public life makes no allowance for discrimination. However, people belonging to the minority communities in India are made to tolerate indignities and live in constant fear.

Perhaps, more troubling is that both the American President and the Indian Prime Minister value a private form of authoritarianism over democratic largesse. Mr. Trump has openly expressed his admiration for people like Vladimir Putin, and Rodrigo Duterte. Mr. Modi's historical reach doesn't go beyond the border, remaining enmeshed in a despotic strain of Hindu nationalism. His political agenda is infused with a form of patriotism not endorsed by everyone. Consequently, both of them use the symbolism behind the statue and the monument to fur-

ther their ideological aims. Mr. Modi's nationalist heroes are all Hindus, so, in his mind, they must be heroes to all Indians. Such reasoning finds echoes in Mr. Trump's assertion that Confederate heroes of the civil war must be venerated. While one proposes the erection of statues to Shivaji and Patel, the other balks at the removal of monuments to those southern heroes who promoted slavery. The incipient majoritarianism in both acts is visible and clear.

However, there is one stark difference. The American minority is shielded from the lynch mob by both the Constitution and a morality that relies on political correctness. The voices that reverberated out of Charlottesville were shrill in their denunciation of hate. Here, by contrast, there is never any public outcry over a killing prompted by religion or caste. The Indian stand relies on the Constitution in name only, and condemnations never come, or — as with the Panchkula violence — come too late. For public justification, there is always the religious sentiment, something that gives a free reign to the lynch mob.

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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.

Note-ban disaster

The Reserve Bank of India, in its annual report, has revealed that after demonetisation, only 1.04% of the demonetised cash was not deposited or exchanged (“99% of demonetised notes returned, says RBI report,” Aug. 31). The Prime Minister had said that the move would help weed out black money, control inflation and curb terrorism. However, there has not been much of a change in the ground situation in insurgency-hit areas like Kashmir and Chhattisgarh. The GDP growth slowed down to 6.1% for the fourth quarter of 2016-17 and 7.1% for the whole year. In short, the move was nothing but a disaster, one that cost the lives of 100 innocent persons and jobs of at least a million people.

S.K. KHOSLA, Chandigarh

The RBI's progress report of the much-hyped demonetisation drive is a slap on the face of the ruling dispensation that created such euphoria about it that even the educated were made to believe that the donkey is indeed a goat. The report clearly states that a major portion of the demonetised notes are back. Then who were the targets of this ill-conceived move which has cost much more than the benefits it was intended to bring to the economy? Where is the black money and the money that supposedly feeds the terrorists? Only the policymakers can give an answer, if at all there is one.

VARGHESE GEORGE, Secunderabad

The RBI's revelation that nearly 99% of the demonetised notes have returned to the banking system does not spring any

surprise if one were to consider its previous disclosures pertaining to the move. The Bharatiya Janata Party (BJP)-led government had started shifting goalposts after realising that the money would return to the system. While the exercise was touted as an effective measure to tackle the menace of black money, corruption, counterfeit currency, and terror funding, it actually inflicted an insurmountable burden on the poor, the farmers and the small and medium enterprises besides causing an economic slowdown.

M. JEYARAM, Sholavandan

Deluge lessons

Whenever there is a flood-like situation in any part of India, the catchphrase “no lessons learnt” looms large (“Après le déluge,” editorial, Aug. 31). Be it following the

Uttarakhand floods in 2013, the Chennai floods in 2015 or the Mumbai floods this year, neither the administration nor the citizens seem to have learnt many lessons. It is well-known that urban floods are caused by a real estate-driven development model, land encroachments, a lack of proper drainage system, poor city planning and lack of political accountability. Japan, despite being one of the most disaster-prone nations in the world, has become a world leader in preparedness because it learns from its previous experiences and acts immediately. India will take a long time to catch up.

PANKAJ SHARMA, Chandigarh

Building walls

As the horrific storm in Houston has clearly shown, the U.S. has a great deal more to fear from the

ravages of climate change than illegal immigration (“Harvey makes landfall in Louisiana,” Aug. 31). We don't need to squander precious dollars on border walls. What is urgently needed are flood walls. The U.S. needs to swallow its national pride and seek expertise from the Netherlands which has protected its people with excellent flood walls. It must reduce the amount it spends on its bloated military that wages endless wars and redirect its scarce dollars to massive investment in upgrading its crumbling infrastructure.

TEJINDER UBEROI, Los Altos, California

Price tag on health

As a result of the Supreme Court hiking the medical college admission fees in Kerala by ₹6 lakh — for a total annual fee of ₹11 lakh — a student has to spend

nearly half a crore for the completion of his medical schooling (“Supreme Court pegs MBBS fee at ₹11 lakh,” Aug. 29). When is he going to recover the cost of education and think in terms of the social imperatives of medicine, particularly in a poor country like ours? It is a matter of common knowledge that many of private medical colleges in our country ignore the guidelines of the Fee Fixation Committee and charge whatever they like, selling the seats to students who can afford them. The social fallout affects medical care as a whole and, naturally, the health of the nation. Bank loans may be an answer but certainly are not the ultimate solution.

N.G.R. PRASAD, Chennai

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LEFT, RIGHT, CENTRE

Is it time to review Section 377?

The British got rid of it. India remains with countries it would not like to be associated with otherwise



ANAND GROVER is a senior advocate in the Supreme Court and the petitioner's lawyer in the Naz Foundation case



Section 377, titled "unnatural offences", was enacted by the British after we lost our First War of Independence in 1857. They imposed their religious-cultural values upon us. Prior to that, sexual activities, including amongst homosexuals, were not penalised in India.

Section 377 penalises non-creative sexual acts and any act of sexual perversity, as has been interpreted by different courts. Though it textually applies to all persons, homosexual and heterosexual, it

has been targeted at gay men.

The Delhi High Court in *Naz Foundation v. Government of Nct of Delhi* (2009) rightly held that criminalising sexual activities with consent in private not only impairs the dignity of those persons targeted by the law, but it is also discriminatory and impacts the health of those people. Gay men are seen as criminals by the law because of Section 377, and thus by other members of society. This judgment lifted the criminal restrictions on gay men. However, it was short-lived as the Supreme Court in *Suresh Kumar*

Koushal v. Naz Foundation (2013) set aside the Delhi High Court judgment. The *Koushal* judgment did not notice that the rape law itself had changed whereby instead of mere restriction on penile-vaginal non-consensual sex, it now includes a range of sexual activities, including digital and object penetration.

Discriminatory in nature

Section 377 is now restricted only to gay men and perhaps transgender people. The contradictions in the law are glaring. Consent is considered to be irrelevant. In the case of children, law presumes no con-



sent. Therefore all sexual acts between an adult and a child are penalised.

The latest judgment on privacy by the Supreme Court has observed that *Koushal* has not appreciated the fundamental right to privacy in its application to Section 377. The *Koushal* verdict is dead; only its burial remains.

After the *Koushal* verdict, there have been a large number of cases where gay men are being blackmailed by their acquaintances and the police in connivance with each other. These cases have sharply risen in the last three years. Though

there is recourse in law, no gay man can take recourse to it because Section 377 itself makes gay men's sexual practices illegal and would put them in danger of being arrested. I have come across cases where people have undergone terrible humiliation and psychological stress, apart from being blackmailed either by their acquaintances or the police. No human being ought to be subject to such acts on account of a natural sexual affection for another human being.

Not in great company

The worst aspect of Section 377 is at the individual level. It makes gay men feel like lesser human beings because they are seen as criminals

by law. That impairs not only their dignity, but forces them to go into the closet.

The British, who enacted the law, got rid of it in the 1960s in England. Many countries have got rid of such laws, either by amendment of legislation or vice decisions of the court. India now remains with countries who India would not like to be associated with otherwise.

While most people gained independence from the British, the LGBT community, and gay men in particular, in India have remained chained to Section 377. It is high time that the chains are broken and we get rid of Section 377 so that gay men and the LGBT community can live their lives with dignity.

Any right survives only if it is not exercised in a manner that it tramples upon the similar rights of another person



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Section 377 has been the subject of intense criticism in academic and other circles for being a colonial legacy, an outdated provision of law which is misused by the police and often against innocent individuals, and one that militates against the individual liberty and freedom of choice, etc. Naz Foundation challenged the constitutional validity of this section before the Delhi High Court and received a favourable verdict when the court held that the essence of Section 377 goes against the fundamental rights of citizens.

The court declared that the Section, insofar as it criminalises consensual sexual acts of adults in private, is violative of Articles 21, 14 and 15 of the Constitution. It further ruled that the provisions of Section 377 would continue to govern non-consensual penile non-vaginal sex and penile non-vaginal sex involving minors.

However, the judgment was successfully challenged in the apex court, which reversed it on several grounds, mainly that Section 377 does not violate the Constitution, there was little evidence that the provision was being misused, misuse of law does not make it invalid,

and most importantly, it was only for the legislature to repeal or amend the law.

Regaining fervour

The debate has regained fervour after the privacy judgment. Specifically referring to the rights of the LGBT community, the court said these are not "so-called" rights but are real rights founded on sound constitutional doctrine. They inhere in the right to life. They dwell in privacy and dignity. They constitute the essence of liberty and freedom. It further added that sexual orientation is an essential component of identity, and equal protection demands protection of the identity of every



individual without discrimination. It goes on to state that privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home, and sexual orientation.

All religions consider homosexuality a sin, a conduct against the order of nature, and hold that an individual falling in this category be considered a criminal. However, by the end of the 19th century, a strong opinion emerged that it was a pathological condition and that the person should not be blamed for such conduct. Later, a dominant view emerged that homosexuality was inborn and therefore not im-

moral, and it was not a disease. However, there is still no unanimity on the issue and individuals continue to hold diverse opinions.

While the progressive and timely judgement of the apex court needs to be celebrated, one should not be oblivious of the dangerous path we may tread on if the right to privacy is not tempered with reasonable restrictions. Any right, and more so a fundamental right, survives only if it is not exercised in a manner that it tramples upon the similar rights of another person.

Protecting the 'vulnerable'

The question that arises is, whether by repealing Section 377 we will achieve the objective of privacy and giving equal rights to individuals of

any sexual orientation?

The rights of individuals belonging to the LGBT community need to be recognised, and these persons must be treated with dignity. Nevertheless, the law must ensure that the rights of others, especially those who may be vulnerable and may be easily tricked into unacceptable behaviour or physical intimacy by another individual with a different sexual orientation, must also be protected. To ensure that helpless children and women are not victims of such behaviour, we may have a modified provision in the law to punish such conduct against innocent children and non-consenting females who may not have the courage to resist such demands from their husbands.

We are a country of many religions. Who am I to impose my view on others? That's the beauty of our Constitution



KAMAL FARUQI is former chairman of the Delhi Minorities Commission and executive member of the All India Muslim Personal Law Board



As far as the private affair of an individual is concerned, within the four corners of the house, nobody has the right to interfere or peep into it. Everybody has the right to lead the life they want. But such choices should not spill over onto the streets by way of an endorsement of this style of life so as to attract other people.

Religion and rights

Why is this such an issue? Because we are a religious society. Be it a

Hindu, Muslim, Christian, or Sikh, a couple, by which I mean husband and wife, does not have sex outside wedlock. Islam is very particular about the way couples should conduct their lives. Sex is allowed only in married life. Sex within the same gender, or sex out of wedlock, is prohibited in Islam. It is a crime.

But we are living in a democratic society governed by our Constitution. And the Constitution gives certain fundamental rights to citizens and one of the rights is the choice to lead the life one wants. Nobody has the right to disturb and intrude

into someone's private life. We are not discussing the philosophical complexities of Section 377, but we are talking in the context of rights enshrined in the Constitution. In that context nobody should be harassed. At the same time, they should be aware that such activities are private, to be conducted within their homes.

Would you say homosexuality should be decriminalised? I speak in the context of the Constitution and in the context of religion and morality. As far as the Constitution is concerned, nobody has the right to say how an individual should



conduct his life, what to eat and what not to eat, what to wear, or comment about people's sexual activities. The Supreme Court was right in making this observation in the right to privacy judgment, delivered by a nine-judge Bench, and in another judgment in another case of instant triple talaq delivered in the same week as the privacy judgment wherein personal laws have been reaffirmed as being protected under the Constitution. The court has also observed that this right cannot be abrogated by a community in the name of majoritarian view.

So far as religious morality is

concerned, homosexuality is prohibited by Islam. But the Constitution provides fundamental rights — we are not an Islamic country but a democratic country. But this does not mean a licence to do anything. I am a non-vegetarian, but I should not be oblivious to the concerns of vegetarians. Anything banned in the country, I should not do it.

The order on privacy has to be seen in the context of freedom of religion and the private lives of individual citizens. To protest the criminality of Section 377 is the right of every citizen.

Respect the Constitution

You are asking Kamal Faruqi who is a practising Muslim, who is say-

ing that we should submit ourselves to the Constitution. But it is against my religion. The Koran very clearly states, "Lakum dinukum waliyadeen", which means "your religion for you and my religion for me".

We have to respect our Constitution. We are a country of many religions. Who am I to impose my view on others? That's the beauty of our Constitution. I would definitely like my children not to indulge in homosexuality. Section 377 has to be read in totality and I think the nine-judge Bench was clear that this must go.

The views expressed are personal. As told to Anuradha Raman

SINGLE FILE

After demonetisation

There's enough evidence to claim success, but also grounds to be dismissive

KARAN THAPAR



Has demonetisation achieved its original objectives? On November 8, 2016, these were tackling corruption, counterfeit currency, and terror funding. Thereafter the Prime Minister added reducing dependence on cash.

Now that we know that 99% of demonetised money has come back, the government's estimates of how much black money would be extinguished have been proven horribly wrong. The Attorney General told the Supreme Court that he expected ₹4.5 lakh crore to be "neutralised". In the end, just ₹16,000 crore didn't come back.

This means previously unbanked money has now been credited to bank accounts. As they yield returns, it will be taxed and that's a clear gain. If large proportions are proven to be black, revenues will increase substantially.

The critical question is, how much of the money can the authorities establish is black? In his Budget speech, Finance Minister Arun Jaitley revealed that ₹4.9 lakh crore had been deposited in 1,48,000 bank accounts of a minimum value of ₹80 lakh, each amounting to an average deposit of ₹3.31 crore. At the time, *Business Standard* Chairman T. N. Ninan, wrote: "It's all but certain... this is black money unearthed by *notebandi*." On Wednesday, the Finance Ministry said 18 lakh accounts are under "scrutiny" and "Advance Data Analytics Tools" have identified a further 5.56 lakh. This is a huge number for the Central Board of Direct Taxes to scrutinise given that it only investigates 3 lakh accounts annually.

On the assumption that most black money is detected, the economist Surjit Bhalla has calculated the additional revenue in the first year as ₹2.5 lakh crore with a further ₹1.5 lakh annually in perpetuity. If that happens, it's a huge gain, but 'if' is the operative word. For now, all we can say is some black money will be identified and taxed but what proportion that is of the total and what the gain will be is unknown.

However, the objective of reducing counterfeit currency seems unachieved. In 2015, the National Investigation Agency established that at any point only ₹400 crore of counterfeit currency is in circulation. That's 0.028% of total currency. Now, CNBC has calculated only 0.0007% of the returned ₹1,000 notes as being fake and only 0.002% of the ₹500 notes. In value terms the total is just ₹41 crore. So either a lot of fake currency hasn't been detected or didn't exist.

In terms of tackling terror funding, the Finance Ministry has said: "As a result of demonetisation of specified bank notes, terrorist and Naxalite financing stopped almost entirely." If true, this is a huge success, but no proof has been provided.

Finally, have we reduced dependence on cash? Both in number and value, digital transactions increased sharply after November but also dipped sizeably thereafter. There were 671.49 million transactions in November, rising to 957.50 million in December before shrinking to 862.38 million in July. In value terms, it was ₹94 lakh crore in November, ₹149 lakh crore in March, and ₹107 lakh crore in July. So, the use of cash initially diminished but has been steadily increasing thereafter.

This is a mixed picture. There's enough for the government to claim success, but also grounds for the Opposition to be dismissive. Clearly, the demonetisation controversy continues.

Karan Thapar is a broadcast journalist



CONCEPTUAL

Parasite-stress theory

BIOLOGY

This states that values and other qualities of a species are shaped by the parasites, diseases and other stress factors that its ancestors were exposed to in the past. It was famously demonstrated by British psychologist Corey Fincher along with American biologist Randy Thornhill. The parasite-stress theory is often used to explain the various differences that exist today between world cultures. Societies with collectivist human values, for instance, are said to have evolved from ancestors who lived in regions that were prone to infectious disease and parasite attacks. This led them to adopt values that were hostile to foreigners for their own survival.

MORE ON THE WEB

Meet the Kung Fu nun

<http://bit.ly/KungFuNun>

ACT ONE

A water empire

A new law will ensure that disputes don't drag on for years

KRISHNADAS RAJAGOPAL

The Cauvery water dispute is eluding closure, with Tamil Nadu, Karnataka, and Kerala locked in battle in the Supreme Court over their share of water.

In its statement of objects and reasons for proposing a new inter-State river water disputes law, the Centre lists out the drawbacks in the prevalent Inter-State River Water Disputes Act of 1956. The Act provides for tribunals to be constituted for every inter-State river water dispute. The statement, however, notes the reluctance shown by States to accept the decisions of these tribunals.

"Though the Cauvery and Ravi Beas Water Disputes Tribunals have been in existence for over 26 and 30 years, respectively, they have not been able to make any successful award till date," the statement says. There is no time cap for adjudication by these tribunals nor is there any age limit for the chairperson or members of the

tribunals. These, among other deficiencies, see disputes drag on for years.

With water becoming scarce, the Centre has proposed the Inter-State River Water Disputes (Amendment) Bill, 2017 for early and amicable resolution of disputes. The Bill proposes that the Centre notify an Inter-State River Water Disputes Tribunal with multiple benches. All existing tribunals dealing with inter-State water disputes would stand dissolved on the date of establishment of this tribunal. Chairmen and other members of the existing tribunals who are aged 70, on the date of commencement of the 2017 Amendment Act, shall cease to hold office on the expiry of three months from the date of the law coming into existence. Disputes already settled by an existing tribunal, prior to the date of commencement of the 2017 Amendment Act, shall not be re-opened.

According to the Amendment Bill, when a

State government approaches the Centre with a dispute, the latter shall set up a Disputes Resolution Committee consisting of expert members from relevant fields to resolve the dispute amicably. If the dispute remains unresolved, the Centre, by notification, will refer the matter to the tribunal. The tribunal shall have a chairperson, vice-chairperson, and not more than six members to be nominated by the Chief Justice of India from judges of the Supreme Court or high courts. The term of office of the chairperson is five years or till he attains the age of 70, whichever is earlier. The tenures of the vice-chairperson and other members of the tribunal shall be co-terminus with the adjudication of the water disputes.

The Centre suggests that the total time period for adjudication of a water dispute would be a maximum of four and a half years. The decision of the Bench of the tribunal shall be final and binding.

FROM THE HINDU ARCHIVES

FIFTY YEARS AGO SEPTEMBER 1, 1967

Uneasy calm in Srinagar

With no untoward incident taking place for the fourth day running, an uneasy calm prevailed in Srinagar to-day [August 31]. It is, however, too early to say that the situation is returning to normal. Where exactly things stand would be known only after the curfew is lifted from the focal point of the trouble, which lies in the heart of the city. The disturbances, which were sparked off by the alleged abduction of a girl belonging to the minority community, has so far claimed three lives and injuries to about 300 persons. According to official sources, about 100 members of the Pandit community have so far courted arrest in support of their demand. The figure of those arrested was officially given as 350. Meanwhile, the city continues to sleep under the blanket of a curfew.

A HUNDRED YEARS AGO SEPTEMBER 1, 1917

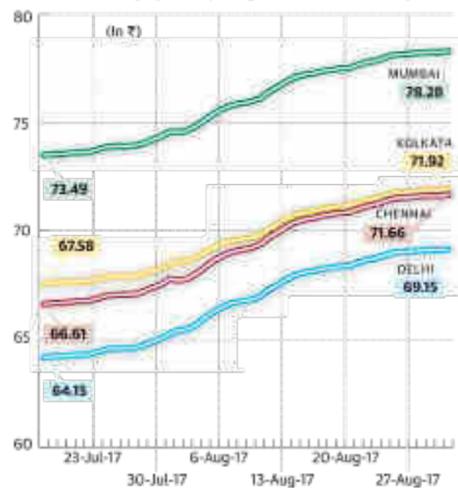
Deputation on ghee adulteration.

A deputation consisting of 100 members representing the British Indian Association, Bengal Landholders Association, Bengal Mahajan Sabha, Marwari Association, Rajput Association and Bengal National Chamber of Commerce, waited upon His Excellency Lord Ronaldshay [in Calcutta on August 31] in connection with the public feeling in Bengal against the adulteration of ghee. The Hon'ble Maharajahdiraja of Burdwan as the spokesman of the deputation requested His Excellency to move the Government of India to pass an Ordinance pending legislation penalising both adulteration of ghee and selling or stocking of adulterated ghee.

DATA POINT

Rising prices

Retail petrol prices in four major metros have registered a steady increase since daily dynamic pricing was introduced in July



SOURCE: PETROLEUM PLANNING AND ANALYSIS CELL