



THE EDITORIAL PAGE

WORDLY WISE
HAVE NO FEAR OF PERFECTION — YOU'LL NEVER REACH IT.
— SALVADOR DALI

The Indian EXPRESS

FOUNDED BY
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

Anchoring the Quad

Onus is on US to convince allies it will defend its interests in the Indo-Pacific and elsewhere



RAJIV BHATIA

AF-PAK AMBUSH

Resistance against inclusion of Taliban in SAARC is justified. The Islamist group has much to do to win world's trust

NO TEARS NEED be shed for the cancellation of the SAARC foreign ministers meeting on the sidelines of the UN General Assembly in New York, given that so much in the region is lost already. Afghanistan was inducted into SAARC in 2007, a decision that recognised its struggle to emerge from years of war and isolation, and its historical, political, religious, economic and cultural links to the rest of the region. The takeover of Afghanistan by the Taliban is a massive setback to South Asia. It is yet to be officially recognised by any country, or by the United Nations, though some Western nations are engaged with it to provide humanitarian aid. In the SAARC grouping, even Pakistan, which makes no secret of its support for the Taliban government, has yet to declare official recognition of the new set up in Kabul. So it is surprising that it wanted the Taliban symbolically represented at the planned regional meeting, with an empty chair (Amir Khan Muttaqi, the Taliban's "acting foreign minister", designated and sanctioned as a terrorist under United Nations Security Council resolution 1267 like many other Islamic Emirate of Afghanistan cabinet members, could not have attended). The move appears to have been an attempt to pressgang SAARC to grant de facto legitimacy to the IEA. It is not clear how many SAARC capitals pushed back against this, but it is certain Delhi would have been among them, and rightly so. As SAARC works by consensus, the meeting has had to be called off.

However, the larger issue of recognition of the IEA is looming. The IEA has written to the UN Secretary General to accept its own chosen Permanent Representative to the UN. But recognition is the only leverage the world now has with the Taliban, and it is in no position to grant this easily, especially as the IEA has conveyed quite clearly that it does not intend to address, at least to begin with, global concerns about a Haqqani heavy government without women and ethnic minorities. The UN should take its time considering the Taliban request.

It may be time to face up to the fact that there is no real chance of reviving an already moribund SAARC. It has been years since there was a summit, principally because it is Pakistan's turn to host it, and Delhi has refused to participate due to the tensions between the two countries over terrorist incidents and other issues. Other SAARC arrangements, including regional trade, have never been able to get off the ground due to the forever hostility between the two big neighbours. To get around this, there was already talk of a separate grouping that would be "SAARC minus 1". Now, with the Taliban in Kabul, and Pakistan playing its local guardian, regional cooperation in South Asia is bound to remain a chimera.

DRAW THE LINE

The Delhi Police must make sure that those guilty of attacking Hyderabad MP's house are held accountable

THE ATTACK ON the residence of Hyderabad MP Asaduddin Owaisi in the heart of the national capital marks a dangerous new low. That activists from a Hindu right-wing organisation are emboldened enough to gather at one of Delhi's most secure neighbourhoods, vandalise a parliamentarian's house, and chant communal abuses is a sign that the footsoldiers of polarisation have a disturbing confidence in their impunity. The Delhi Police, which has arrested five members of the Hindu Sena, must disabuse them of such notions — and ensure that the guilty are held accountable. Without any surprise, the Hindu Sena activists have defended their violent actions by accusing Owaisi of making "anti-Hindu" speeches. Owaisi had reacted to UP chief minister Yogi Adityanath's *abba jaan* slur in a recent speech about government welfare schemes. The attack on the MP's house is just another example of how the right to take offence is being legitimised by self-appointed custodians of religion and enforced by muscle power at the expense of constitutional freedoms of speech and expression.

This is not the first time in recent months that anti-minority rabble-rousing spectacles have been staged in the national capital — and its surrounds. Last month, at a Jantar Mantar gathering — again in the high-security Lutyen's Delhi — members of several Hindu right-wing organisations called for violence against the Muslim community. Not only was the alarming aggression on public display recorded on video by the activists, but also spread further through the velocity of social media. While arrests were made in that case, too, the growing clout of groups that preach violence in the name of religion must not be taken lightly. Indeed, across the country, a crude simmering mobilisation appears to have licensed violence against ordinary Muslims, whether it is a bangle-seller in Indore or a rickshaw-puller in Kanpur. It has led to umpteen instances of moral policing of women by proponents of the paranoia of "love jihad". It will also further ghettoise cities and villages into spaces for "us" and "them", and sow conflict and disharmony.

The history of this subcontinent has grim lessons on the consequences of such lawlessness. By hurling stones and axes at an MP's house in Lutyen's Delhi, the vandals of the Hindu Sena attempt to send a message to their radicalised base. But, for the Delhi Police, which reports to the Union home minister, the stakes are definitely higher. It must crack down on such displays of brazen aggression against the Hyderabad MP. Doing otherwise would run the risk of allowing a communal contagion to spread out of control.

NOT TOO HOT

Pandas reproduce less when things get too good. Life, it turns out, is about the challenges

SOMETIMES, THE PORRIDGE needs to be too hot (or too cold), for there to even be a third bear. It turns out — according to a recent study in the journal *Conservation Biology* — that for giant pandas, there is such a phenomenon as too much of a good thing. From data collected at the Wolong nature reserve in China coupled with computer modelling, researchers have concluded that some imperfections in their habitat bring benefits when it comes to mating. Gene flow among giant pandas increases as the proportion of the ideal bamboo-rich habitat within a landscape increases but then sees a decline when this figure breaches the 80 per cent mark.

The panda, for long a symbol of endangered species (it's on the logo of the WWF), has seen a resurgence in recent years and has moved up the list to "vulnerable". This is no small feat, considering just how difficult it is to get pandas to mate, particularly in captivity. For example, Ying Ying and Le Le, a panda couple that resides in Ocean Park in Hong Kong zoo, managed to get together only after a decade in 2020, after various efforts from their human handlers. The insights into the ideal habitat for pandas to reproduce will certainly inform future conservation efforts. But for humans, too, there are lessons.

Among the possible reasons for the decline in fertility as habitats get more "ideal" is the fact that too much comfort reduces the drive to survive. And, of course, too much hardship does not allow beings to thrive. It is that fine balance that allows for ambition, for growth, and perhaps even creativity. Like Goldilocks, the lesson the rest of us can learn from the Ursidae is how to get things just right.

TWO MEETINGS OF the leaders of a plurilateral grouping within seven months is an exceptional development in world affairs, especially when it involves the US and its three Quad partners — Australia, Japan and India. Why the leaders are meeting again on September 24 and what they hope to achieve are matters of mounting public interest. This first in-person summit is especially significant — set against the backdrop of the Indo-Pacific region grappling with the repercussions of Afghanistan, the growing aggressiveness of China and the formation of AUKUS, a brand-new trilateral security partnership.

The leaders' summit of the Quadrilateral Framework will be hosted by US President Joseph Biden in Washington. It may be of greater substance than the inaugural virtual summit of March 12, because the context of the two summits is significantly different. In March, the Biden administration had just begun its innings; it was struggling to define its China and Indo-Pacific policies, and expectations from the Quad were low.

A substantive joint statement, reinforced by a smart op-ed by the four leaders in *The Washington Post*, drew global attention. Now, three weeks after the chaotic and mismanaged withdrawal of US troops from Afghanistan, that country's future and regional security issues are bound to dominate the discussions. The onus is on the US to convince its partners that the Afghan experience has strengthened, not weakened, its resolve to defend its — and their — interests in the Indo-Pacific.

The AUKUS — the Australia-UK-US partnership — too will need some serious explaining, particularly to Japan and India, which worry about the emergence of an inner circle (US and Australia) within the Quad, which is now connected to the UK, a non-Quad partner. There are even reports that British Prime Minister Boris Johnson may be visiting Washington around the time of the Quad summit.

Indian experts are divided over the im-

pact of AUKUS on the Quad. Some argue that it reduces the Quad's salience, while others maintain that the Quad is strengthened by the new trilateral. However, a sober evaluation suggests that AUKUS will have both positive and negative implications for the Quad; these will become evident after the forthcoming summit.

Another consequential development is the September 16 release of the European Union's Indo-Pacific strategy. A shorter version presented in April has now been given a comprehensive form. It paints the EU and the Indo-Pacific as deeply connected in diverse realms ranging from trade and investment to security and defence. The EU's determination to scale up and diversify cooperation with democratic and like-minded nations could be a boost to the Quad, provided the Europeans are ready to stand up to China's assertive behaviour, violations of international law and norms and increasing use of coercion.

These issues will dominate the headlines in Washington for sure. But the Quad also has to do the necessary and backbreaking work of institutionalising itself, and the fulfilling of past commitments. For instance, the joint vaccine production programme seems to be on track and their distribution first to needy Indo-Pacific countries will begin in early 2022. The working group on emerging and critical technologies too is reporting progress. A principal endeavour is to leverage the Open Radio Access Network (O-RAN) to derive benefits of interoperability of the 5G technologies offered by different vendors in the west.

On climate change, the focus of the third working group, some key issues remain unresolved — specifically, India is unable to show "more ambitions" regarding its climate goals, despite two visits to New Delhi this year by John Kerry, the US president's special envoy on climate. But efforts are underway to finalise technology-sharing and other cooperation to meet the challenges of climate change.

India should be cautiously optimistic about the role and prospects of the Quad. Prime Minister Narendra Modi's visit to Washington will be his first major voyage abroad in the Covid era, after his visit to Dhaka in June this year. His advisers expect India's strategic perspective will be fully factored in, considering that it is the only Quad power with land borders with China, and a proximity to the serious threat of terrorism, extremism and radicalisation emanating from Afghanistan.



REED HASTINGS

THE POWER OF STORYTELLING

Creativity in India, from India and by India can now go out to the world

THE LAST 19 months of the pandemic have been some of the most difficult of our lives. We all spent more time isolated in our homes than ever before. But we found a universal connection in the remarkable stories we watched. The world rooted for their favourite characters and was transported to a reimagined Regency England, a college campus in Jaipur, the Louvre in Paris, a 1960s chess tournament in Moscow, a karate dojo in Los Angeles and a bank in Spain with people wearing Dali masks.

Stories have always been a source of comfort, joy and community for people around the world. Today the screen reminds us that great stories have the enduring power to unite, inspire and entertain. Storytelling goes to the heart of what it means to be human. When we watch stories, we forge new connections and build a deeper understanding of the world, making us all feel more connected. We have the responsibility of providing choice and control to our members, especially parents, so they can decide what their children watch.

India is home to the finest traditions of storytelling. Home to one of the world's most vibrant entertainment industries, India is remarkably well placed to lead in the era of internet entertainment. Brilliant creators and talent, spread across the country and united in their love for storytelling, are creating shows and films that can be watched by Indians on hundreds of millions of screens, be it a TV or smartphone.

Earlier this year, we joined hands with UNESCO to celebrate India's rich cultural

heritage through the family favourite animation, *Mighty Little Bheem*. India has the vision and talent to export its best stories; and with our subtitles and dubs in over 30 languages, more people can now discover even more Indian stories and culture — wherever they live.

It's a huge privilege to be a part of the creative community in India. We've licensed hundreds of Indian films and shows for our members and invested in over 100 Netflix originals, almost all of which have been commissioned by Indian executives who live locally, know the culture and speak the language. It's testament to India's breadth of storytelling that these originals have been filmed in over 25 cities and towns across the country, from Lucknow to Lonavla, Mumbai to Madurai, Gulmarg to Goa, Kolkata to Kochi.

As a part of the growing creative community in India, we understand that telling stories that are made in India and can be watched by the world is a collective experience. These successful stories are born of partnerships with brilliant Indian creators, directors, writers, actors and crew. Our commitment to India is strong and growing. We want to deepen our partnership with Indian creators as they reinvent genres, stretch boundaries, and inspire new ideas. In the last year, we have supported multiple production workshops, and editing courses with the New York Film Academy. We will continue to build and nurture the next generation of creative talent — whether young animators in partnership with GOBELINS L'école de L'image, one of the world's finest animation

schools, or entirely new talent through BAFTA Breakthrough India, an initiative to find 10 new voices across the country.

Inclusion in storytelling is important to us and we are proud that more than half of our films and series in India feature women in central roles. Since last year, we've worked with more than one thousand women creators, talent, and crew on and off the screen in India.

The popularity of Indian stories means that the entertainment industry is an important economic driver for India too. It's why we work so hard to find stories from across India, supporting our creative partners in bringing their visions to life.

Last year when the pandemic hit, we stood with the creative community and committed \$150 million to support the hardest hit workers on our own productions globally — carpenters, electricians, hair and make-up artists. We also helped the broader film and television industry through the creation of over 20 hardship funds in partnership with organisations from around the world, including the Producers Guild of India. It was inspiring to see the creative community of Tamil cinema come together for the nine-film anthology *Navarasa*, sending a message of resilience and solidarity during these tough times that echoed far and wide.

Working together is how we will usher in a new golden age of creativity in India, from India and by India, but that can be enjoyed all around the world.

The writer is founder and Co-CEO of Netflix



SEPTEMBER 23, 1981, FORTY YEARS AGO

US ON IMF LOANS

THE US TREASURY Secretary Donald Regan, who favours stricter IMF conditionalities about loans, says that his country still has questions about \$5 million SDR loan to India. In general Regan wants the IMF to be stricter about giving loans. The problems about India, he said, include continuing domestic and international deficits, failure to control the money supply and a general "inability to get their house in order." The Reagan administration's tough attitude towards the World Bank and other lending institutions — also stressed by Regan on Monday — has been known for a long time. It is being further de-

veloped in a detailed study, parts of which have already been leaked presumably.

PUNJAB TENSION

APPEALING FOR COMMUNAL amity in Punjab, the Prime Minister Indira Gandhi on Tuesday expressed her anguish at attempts to exploit religion for political ends. Describing the Akali Dal charge that a clash of two personalities in the state Congress (I) was responsible for the present tension as absolutely wrong, the Prime Minister told a news conference that the need of the hour was to create a congenial atmosphere. The clash of personalities was an apparent refer-

ence to reported differences between the Union Home Minister, Zail Singh, and the State Chief Minister, Darbara Singh, something the Prime Minister denied vehemently.

GROMYKO'S CHARGES

SOVIET FOREIGN MINISTER, Andrei Gromyko, has accused "certain quarters in Western countries" of interfering in Poland's internal affairs and trying to loosen its socialist foundations. But he told the UN General Assembly in a speech that these attempts will be futile. He also lashed out at what he termed hostile, criminal intrigues by the United States against Cuba.

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WHAT THE OTHERS SAY

“Undoubtedly, the shrinking of civic space is a major concern in Bangladesh right now. Freedom of expression and opinion is under severe threat as people’s voices are being suppressed using repressive laws such as the DSA.”

— THE DAILY STAR

The perfect coalition for America

The Quad fits the Biden administration’s inclination towards flexible multilateralism, is consistent with the US president’s desire to see democracies deliver and provides a solution to the China problem

Reading Golwalkar and Savarkar

A syllabus has an educational objective. Censoring it under any pretext is unacceptable



TANVI MADAN

ON FRIDAY, THE leaders of Australia, India, Japan, and the United States will meet for the first-ever in-person Quadrilateral (“Quad”) summit. A year ago, such a gathering would have been difficult to envision. Until January 2021, Delhi and Tokyo would not even use the word “Quad” in their statements. More significantly, with elections looming in the US, the fate of the Quad was unclear. The Trump administration had helped revive it in 2017, but the Joe Biden campaign had shown little interest in the Quad. Rather than take an Anything-But-Trump attitude, however, President Biden has not just embraced this coalition, but doubled down on it.

So, what explains the Biden administration persisting with the Quad, and even elevating it from the ministerial to the leader level? Utility trumped politics. The coalition fits with the president’s desire to see democracies try to deliver, and the administration’s broader foreign policy approach emphasising alliances and partnerships — and it helps provide a solution to its China problem.

Biden’s embrace of the Quad came early in the administration. Within a month of taking office, the administration hosted a ministerial, and then, a month later, a virtual Quad leaders’ summit. This was consistent with the administration’s desire to shore up alliances and partnerships, in part to build a “position of strength” from which to approach competitors such as China. As the first multilateral leaders’ meeting that Biden hosted, the Quad summit also reflected — and stemmed from — the administration’s intention to focus on the Indo-Pacific region. In addition, it helped signal that the administration would follow not a China-first approach, but an Indo-Pacific or Asia-first approach from which the China policy would flow. Moreover, like the Trump administration, Biden officials envisioned a significant role for non-ally India in their strategy for the region — and the Quad provided a way to work with India beyond bilateral platforms.

The Quad also fits with the administration’s adoption of flexible multilateralism. This flows from a recognition that bilateral alliances and partnerships, as well as regional and international organisations are necessary but insufficient mechanisms to deal with today’s challenges. This is where coalitions come in, bringing together allies and partners aligned on certain issues or interests.

In the Indo-Pacific, a crucial interest for the Biden administration is maintaining a rules-based order, one that is being challenged by an assertive China. America’s hub-and-spoke alliance system is critical; ASEAN is important. But they are not enough, and an Asian NATO is impossible. Enter the Quad, which brings together countries that meet the three requirements of ideal coalition membership: They are relevant, resourceful, and ready to work together to tackle the challenges in the Indo-Pacific.

And make no mistake, for the Biden ad-



C R Sasikumar

ministration (and the other members), this challenge is significantly about China. The Quad leaders don’t mention the C word explicitly in their statements. Yet that country’s assertiveness in recent years is what has made the Quad both necessary and possible. Necessary because the challenges China has generated in the Indo-Pacific are acute and cannot be tackled alone. And possible because Beijing’s assertiveness — particularly vis-à-vis the Quad members themselves — has created the market for collaboration between these like-minded states who share concerns about Beijing’s behaviour. This behaviour has also helped strengthen the four countries’ bilateral and trilateral ties on which the Quad is built. And intensifying competition with China has contributed to the Biden administration overcoming any reluctance it might have had to embracing the Quad.

Nonetheless, the Biden administration and the other three governments have framed the conversation around the Quad away from the Trump administration’s more explicit China framing. They have highlighted the Quad’s origins in the four countries’ collective response to the 2004 Indian Ocean tsunami, which led to the short-lived Quad 1.0 in 2007. And the first major collaborative initiative of Quad 2.0 involves providing 1 billion Covid vaccine doses in the Indo-Pacific by 2022.

The first helps highlight the Quad’s regional and organic origins. The second conveys a message that is more welcome in

In the Indo-Pacific, a crucial interest for the Biden administration is maintaining a rules-based order, one that is being challenged by an assertive China. America’s hub and spoke alliance system is critical; ASEAN is important. But they are not enough, and an Asian NATO is impossible. Enter the Quad, which brings together countries that meet the three requirements of ideal coalition membership: They are relevant, resourceful, and ready to work together to tackle the challenges in the Indo-Pacific.

Asia — that the grouping is not against something (that is China) but for something (offering solutions to regional problems and preserving a rules-based order). And both help counter Chinese talking points that either dismiss the Quad as useless or accuse it of being a US-imposed, exclusive, anti-China security alliance that will destabilise the region.

That’s not to say the Quad in the Biden era lacks a security dimension. The four navies and their special forces are indeed in the middle of conducting a military exercise. And the agenda at the summit will likely include a discussion on the state of the China challenge, maritime security cooperation, and critical and emerging technology collaboration. But it will also include combating Covid and climate change, enhancing regional connectivity, and fuelling innovation. It’s not that the countries won’t discuss building a balancing coalition in the region privately, but, publicly, they’re more likely to talk about building resilience in the region.

Given the month he’s had with the fallout from the Afghanistan withdrawal and the AUKUS rollout, President Biden will also want to emphasise America’s resilience — and that reports of its decline are greatly exaggerated. And his Quad partners have traveled from afar to convey their belief — or at least their hope — that, that is indeed the case.

The writer is director of the India Project at the Brookings Institution in Washington DC



APOORVANAND

KANNUR UNIVERSITY has reportedly decided to drop the writings of VD Savarkar and M S Golwalkar from its master of arts course on Governance and Politics. The university had included portions from Golwalkar’s books, including *Bunch of Thoughts*, and Savarkar’s *Hindutva: Who is a Hindu?* in the syllabus of PG Governance and Politics. This course is taught only in Brennan College, under Kannur University, so the syllabus was prepared by the faculty of the Brennan College, which is how it should be.

After opposition by the student wing of the Congress and the IUML, the CPM’s student wing SFI, which was earlier silent on the issue, found the readings unacceptable. The student outfits of the opposition parties agitated, alleging that the university was saffronising the syllabus by including these two ideologues of Hindutva.

The state government led by the CPM sought an explanation from the university. Vice-Chancellor Gopinath Ravindran rejected the charges, saying: “The saffronisation allegation is completely baseless. If you raise such allegations against Kannur University, you can raise similar charges against Jawaharlal Nehru University in New Delhi also. V D Savarkar is included in the syllabus of JNU also.”

This is not a very sound argument. JNU cannot be a benchmark for all academic decisions. They should stand on their own merit. The VC was right to an extent when he said that the syllabus should have representation from all ideologies to allow students to study them critically with a comparative mind.

But a syllabus cannot fight politics. So, the VC had to form an external expert committee, which has apparently suggested that it be removed from the third semester.

This controversy reminded me of an unrelated incident. Approximately 15 years ago, when the UPA was in power and DU was looking for a new VC, I bumped into a leader of a communist party. She informed me that she had managed to stop a problematic academic from being considered for the post. How can a scholar who had made Savarkar part of the syllabus be allowed to head DU, she asked. I was dumbstruck. That having Savarkar in the PG course of political science would pollute the minds of the students was an absurd idea.

Hindutva is a political reality of our times and we need to understand how it works intellectually. Savarkar and Golwalkar are the most significant proponents of this ideology. Without reading them, how can you have an idea of this project which has overrun India and is attractive to many minds?

A syllabus is not a set of propaganda material. When we include readings of different kinds, we expect them to be read and

examined critically from all angles. Obviously, you do not compromise with some fundamental values. Genocide or racial supremacy cannot be treated as valid viewpoints. But we do need to understand how genocidal ideas turn into common sense. For that, we would need to study those who successfully drove their masses towards such an ideology. How do you understand fascism if you do not read Mussolini or *Mein Kampf*?

But we fight our syllabus battles in a very unacademic manner. It remains all about representation, be it historical figures or writers. We never look at the making of a syllabus from the pedagogical angle. In his essay, ‘Education after Auschwitz’, Theodore Adorno said that the primary task before education today is to not let another Auschwitz happen. How can you achieve this if you do not understand how people willingly became complicit in the crime and how others found it acceptable? Also, why did many people not think it their business to be bothered about it?

It would be instructive to look at the debate in Germany on the teaching of *Mein Kampf* in schools. After the expiry of the book’s copyright, its publication became possible. The German teachers’ union and Social-Democratic Party (SPD) asked for extracts from the book to be included in the school curriculum as a means of teaching students about the roots of racism and modern anti-Semitism in Germany.

It was argued that it was important to historically unmask this anti-Semitic, dehumanising polemical pamphlet. It could be done by explaining the propaganda mechanism with the help of appropriately qualified teachers.

The reference to *Mein Kampf* evokes strong emotions and the concerns of the Jews cannot be ignored. But by not critically analysing “this antithesis of humanity, freedom and openness to the world”, you leave it open to be read only as propaganda.

The VC of the Kannur University should have engaged the critics in a discussion on these lines, as to how we deal with an anti-human text to build society’s resistance to the temptation of such a monstrous ideology. It is not a question of doing a balancing act by having the texts of all ideologies together without any educational objective. In a country like India, where Islamophobia is ruining national life, the task of education is to make young minds aware of the theoretical underpinnings of this disease. It is all the more important as followers of Savarkar and Golwalkar do not want their writings to be discussed critically. The RSS wants to whitewash Golwalkar to hide his real intent. The task before the scholarship is to present him in his entirety to make the students see what his ideology is.

While discussing syllabi and readings, we need to treat our teachers and students as intelligent, responsible beings. The teacher does not merely transfer something cooked and the student is not an inert recipient. This is what the VC of Kannur University should have conveyed to the government. And the government should not have interfered in the academic decision-making process of the university.

The writer teaches at Delhi University



AMAN WADUD

Citizens without a country

Judiciary must re-examine how it has viewed citizenship question in Assam

EARLIER THIS month, a division bench of the Gauhati High Court stated in an order: “... citizenship, being an important right of a person, ordinarily, should be decided based on merit by considering the material evidences that may be adduced by the person concerned and not by way of default as happened in the present case.” The court was hearing the case of Asor Uddin, who was declared to be a “foreigner” by a Foreigners Tribunal through an ex parte order — in absentia. Ordinarily, this should not be big news — citizenship is indeed an important right, in fact, the most important right because it is the right to have other rights. But that’s not how the pillars of Indian democracy have treated citizenship. In Assam, any person, including decorated army officers, can be accused of being a “non-citizen”. Hence, this observation feels like a breath of fresh air.

The Ministry of Home Affairs revealed in Parliament that from 1985 to February 28, 2019, 63,959 people have been declared “foreigners” through ex parte orders by the Foreigners Tribunal in Assam — 62 per cent of the total people declared as “foreigners” in the state.

In a criminal case, however serious the charges might be, the trial doesn’t proceed without hearing the accused. But a person can be stripped of his citizenship in absentia — courtesy, the draconian pre-constitutional Foreigners Act of 1946. If a person sent notice by the tribunal fails to appear before

it to prove their citizenship, he is declared a “foreigner” through an ex parte order. The failure to appear could be driven by several factors — most commonly not receiving the notice, failure to afford legal representation and late issuance of a copy of documents by the executive.

The Foreigners Act’s roots lie in the Foreigners Ordinance, which was promulgated in 1939 to meet the emergency created by the Second World War. The Foreigners Act, 1940, replaced the ordinance — this was wartime legislation. Section 7 of the 1940 Act vested the burden of proof upon the foreigner. The Foreigners Act, 1946, repealed the 1940 Act. The burden of proof remained the same. Thus, a legislation which took birth during the Second World War is now being applied to vulnerable citizens — mostly poor farmers, daily wagers, destitute women, and widows. Moinal Mollah and Jabbar Ali were also declared “foreigners” through ex parte orders. Mollah spent almost three years in detention before getting released, he is now an Indian citizen. Jabbar died in detention as a “foreigner”.

The Foreigners Act was never meant to deal with persons who are considered citizens at one point in time. Section 2(a) of the 1946 Act defines “foreigner” as a person who is not a citizen of India. But almost every person tried by the foreigners’ tribunals in Assam was an Indian citizen, before being accused of being an “illegal migrant” and

“doubtful voter or D-voter” by the Assam Border Police and the Election Commission respectively. Both these exercises violate the fundamental right to a fair investigation.

The “burden of proof” has been validated by the Supreme Court in the *Sarbananda Sonowal* case. Sonowal challenged the Illegal Migration (Determination by Tribunals) Act, 1983, (henceforth IMDT), before the SC. IMDT emphasised procedural fairness, it had an appellate platform to ensure a fair trial, unlike the Foreigners Act, and the burden of proof was on the state. But the apex court found these procedures “extremely difficult, cumbersome and time-consuming” and held IMDT unconstitutional.

There is no end to where subsequent events proved *Sonowal* wrong. K K Venugopal argued for the state of Assam in favour of IMDT stating that as mandated in Article 21, no person shall be deprived of his life or personal liberty except according to procedure established by law and that there has to be a fair procedure for expulsion of foreigners. The Bench rejected this argument by stating that, “This principle can have no application here for the obvious reason that in the matter of identification of a foreigner and his deportation, he is not being deprived of his life or personal liberty.” This is despite the fact that the Foreigners Act has provisions for detention and restriction of movements. Assam started detaining “declared foreigners” since 2010 to deport to the “country of

origin” but the failure to deport created a situation of indefinite detention.

The SC on multiple occasions in the *Sonowal* judgment has stated that there are “millions of illegal Bangladeshi nationals in Assam”. The court came to this conclusion largely based on a 1998 report by former Assam Governor S K Sinha. The report was not based on any scientific and empirical data, but was apparently prepared after inspection of border areas and districts, discussion with the Indian Ambassador in Bangladesh, and talks with political leaders — yes, political leaders. The judgment extensively quotes from the report, including the prediction that the demand for a merger of the Muslim-dominated districts of Assam with Bangladesh is just a matter of time — after 23 years of the Sinha report, that time is yet to come.

A search in the legal database Manupatra shows that the *Sonowal* judgment has been quoted 212 times by high courts across the country and seven times by the Supreme Court: *Sonowal* has become the jurisprudence of citizenship. If citizenship is an important right, as rightly stated by the Gauhati High Court, the *Sonowal* judgment should cease to be the touchstone to adjudicate citizenship cases.

The writer is advocate, Gauhati High Court, co-founder, Justice and Liberty Initiative and Fulbright Fellow at the University of Texas School of Law

LETTERS TO THE EDITOR

SHARE THE BLAME

THIS REFERS TO the editorial, ‘Slipping on ground’ (IE, September 22). The internal report of the CRPF that highlighted the issue of leadership at the operational level must be appraised at the home ministry, as this concerns the internal security of the country. But the entire culpability of this fall in the quality of operations in LWE-affected areas mustn’t fall on the shoulders of the directly recruited CAPF cadet officers — a part of the responsibility has to be shared by the elite IPS officers who lead these forces at the higher rungs on the ladder. The entire purpose of having IPS officers in CAPF is to bring in better coordination between different security and intelligence agencies, and civilian departments. Performance deficit at the higher levels too affects the field operation on ground.

Sudip Kumar Dey, Barasat

PAPER ALLIANCE

THIS REFERS TO the article, ‘Limits of Bhaichara politics’ (IE, September 22). BSP supremo Mayawati’s move to repeat the success of the erstwhile Dalit-Brahmin social association formed for the UP assembly elections in 2007 for 2022 may not succeed because of the changed scenario in two respects. First, a social alliance is not a makeshift proposition. It needs uninterrupted nourishing, but Mayawati has conveniently forgotten this in her search for new allies. Secondly, now the Brahmins do not like to cling to Mayawati’s apron strings

when its natural patron BJP is catering to them through various laws and schemes.

Tarsem Singh, Mahipur

WATER QUESTION

THIS REFERS TO the report, ‘Eyes on the prize: Four schemes in one, from tanks to taps’ (IE, September 22). Bihar’s flagship initiative started in 2015 to provide tap water to poor, Har Ghar Nal Ka Jal, is a cluster of four state schemes. The goal of easy access to clean drinking water with the larger aim of improving public health seems betrayed by NFHS-5 (2019-2020) report showing highest rural (12.6 per cent) and urban (13.9 per cent) prevalence of diarrheal disease in children under five years of age. The irregularities in implementing the schemes brought out by *The Indian Express* investigation seem to have a bearing on the quality of water supplied.

LR Murmu, Delhi

POLITICAL POLICE

THIS REFERS TO the article, ‘A citizen’s police’ (IE, September 22). The why and how of police reforms have been studied by several commissions and committees, even before the Supreme Court’s directions of 2006. Yet, even as the state and political class continue to advise the police to serve fairly and fearlessly, they have tightened their iron grip with the result that the police force is now ready to crawl to political pressure enthusiastically, a few exceptions apart.

Y G Chouksey, Pune