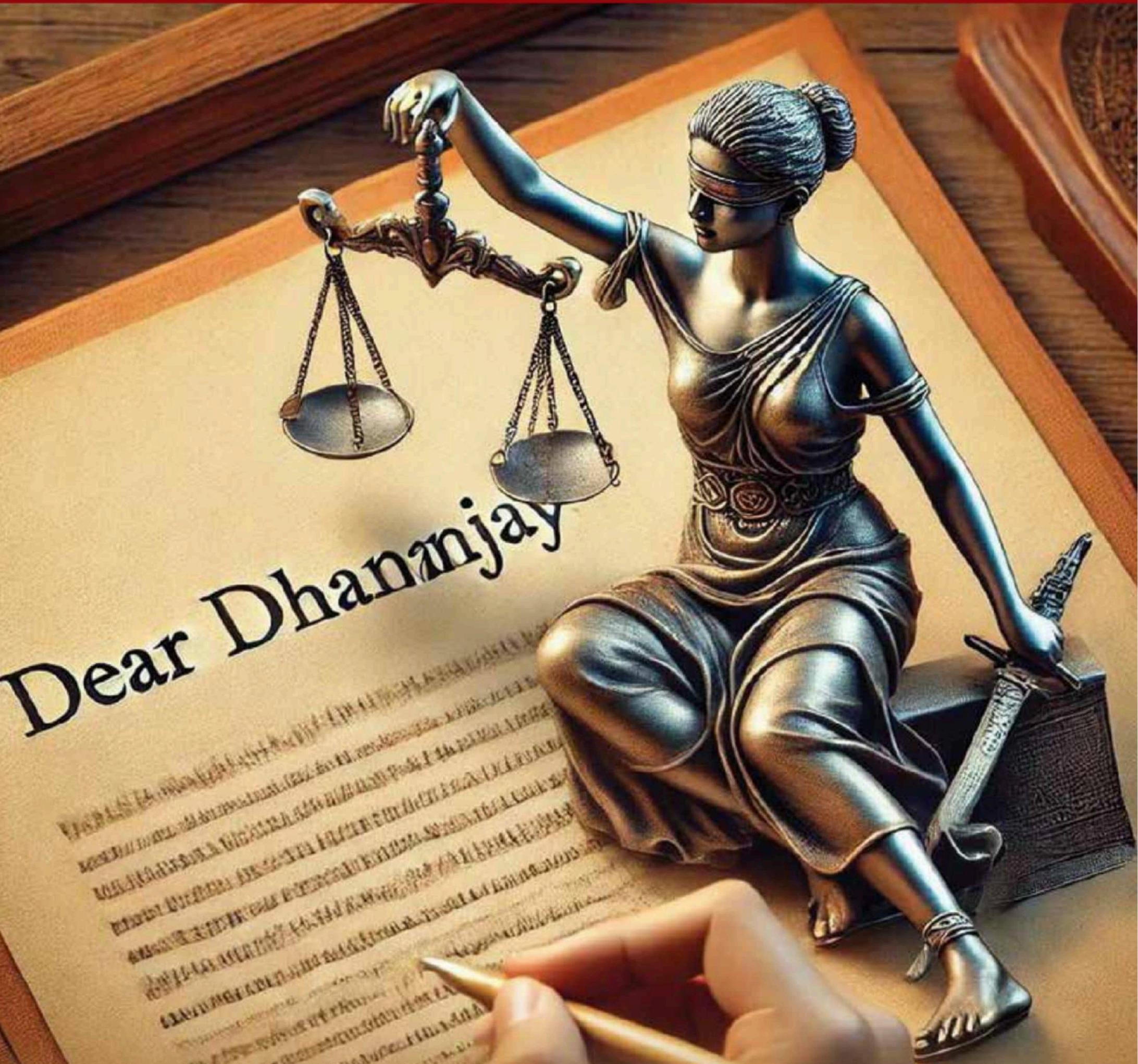


INDIA LEGAL

STORIES THAT COUNT



Dear Dhananjay

A fantasy-reality farewell letter from Lady Justice to CJI Chandrachud on the eve of his retirement



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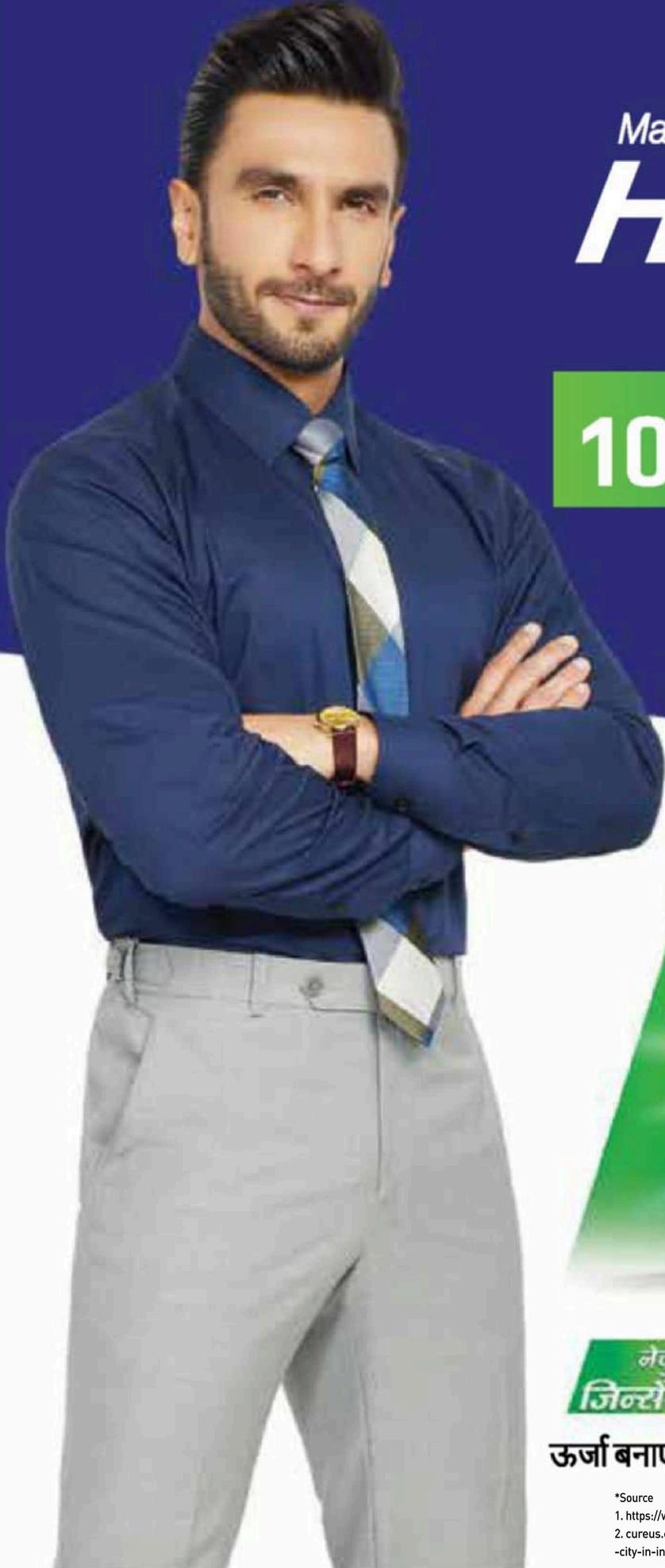
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19 अत्यावश्यक विटामिन्स और मिनेरल्स

संपूर्ण स्वास्थ्य में सुधार करता है

*Source

1. <https://www.pewresearch.org/short-reads/2021/07/08/eight-in-ten-indians-limit-meat-in-their-diets-and-four-in-ten-consider-themselves-vegetarian/>
2. cureus.com/articles/138647-vegetarianism-and-its-implications-for-body-mass-index-health-and-dietary-awareness-in-a-metropolitan-city-in-india-a-cross-sectional-study?score_article=true#/

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Circulation

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email: indialegal.enc@gmail.com
website: indialegallive.com

Published by EN Communications Pvt. Ltd. and printed at Vijaylakshmi Printing Works Pvt. Ltd. B.117, Sector-V, Noida GSTIN/UIN: 09AABC7028F1ZA, State: Uttar Pradesh, Code: 09
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A -9, Sector-68, Gautama Buddha Nagari, NOIDA (U.P.) - 201309, Phone: +91-0120-2471400- 6127900
Fax: + 91- 0120-2471411
e-mail: editor@indialegallive.com
website: www.indialegallive.com

MUMBAI: Arshie Complex, B-3 & B4, Yari Road, Versova, Andheri, Mumbai-400058

RANCHI: House No. 130/C, Vidyalaya Marg, Ashoknagar, Ranchi-834002.

LUCKNOW: First floor, 21/32, A, West View, Tilak Marg, Hazratganj, Lucknow-226001.

PATNA: Sukh Vihar Apartment, West Boring Canal Road, New Punaichak, Opposite Lalita Hotel, Patna-800023.

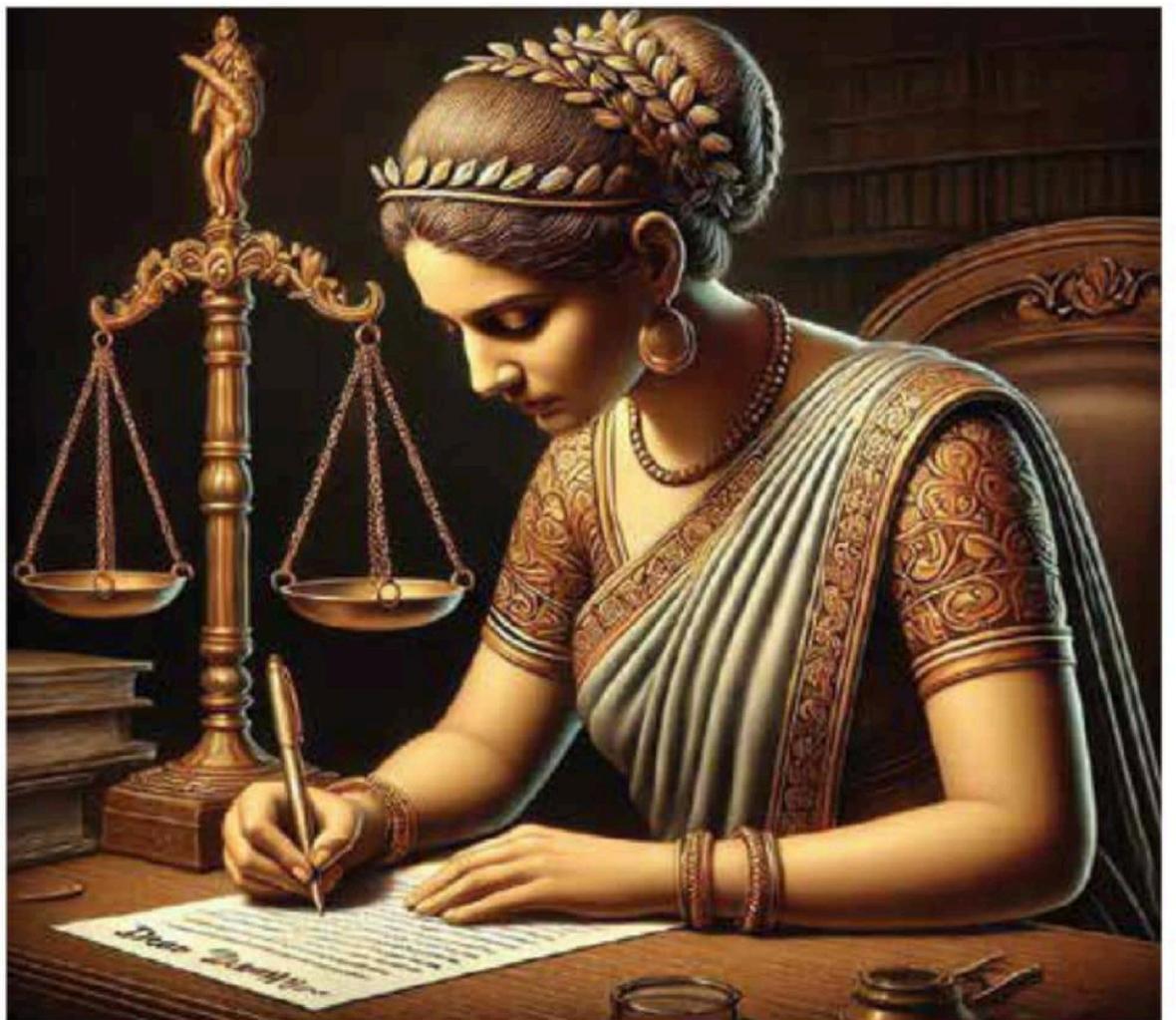
ALLAHABAD: Leader Press, 9-A, Edmonston Road, Civil Lines, Allahabad-211001.

NOVEMBER 4, 2024

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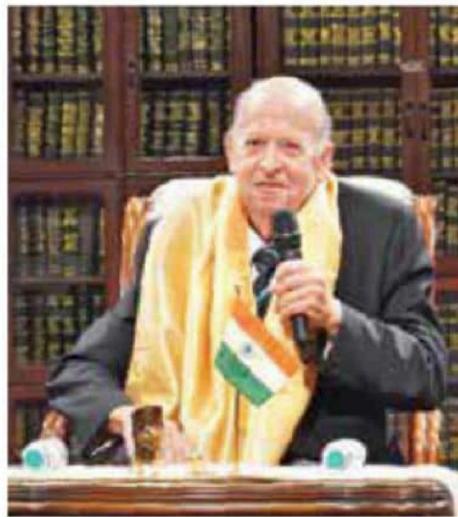
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Duelling presidential candidates on America’s political menu offer a stark choice between a long-standing constitutional democracy and a contentious autocracy that will ultimately impact the globe. Nearly 150 million votes cast must be counted

in 50 separate states across five time zones, then certified by each state’s officials, leaving plenty of room for confusion

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Cover Design: **INDERJIT BADHWAR**



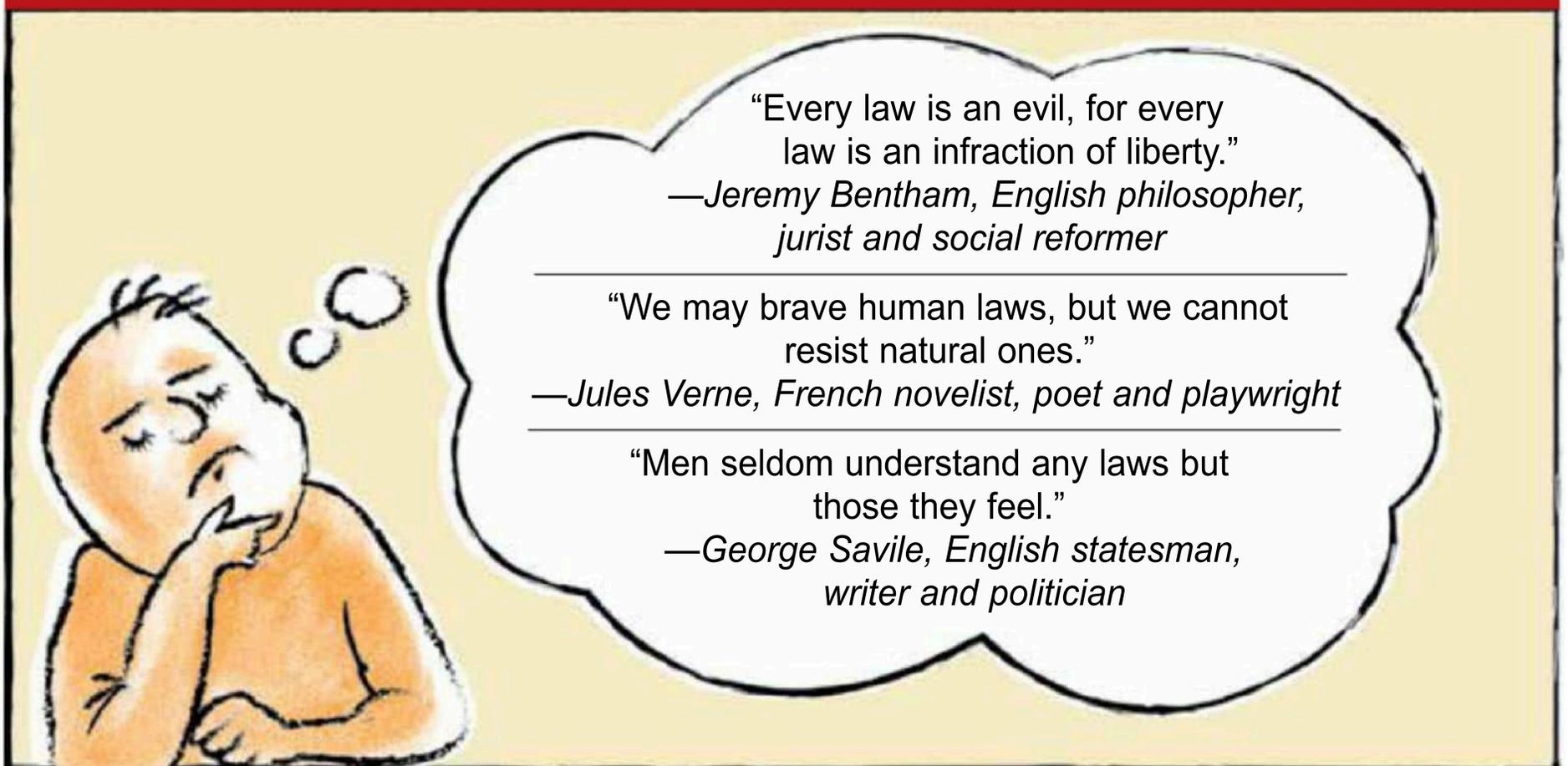
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WELCOME TO DELHI

WORTH REMEMBERING



“Every law is an evil, for every law is an infraction of liberty.”

—Jeremy Bentham, English philosopher, jurist and social reformer

“We may brave human laws, but we cannot resist natural ones.”

—Jules Verne, French novelist, poet and playwright

“Men seldom understand any laws but those they feel.”

—George Savile, English statesman, writer and politician

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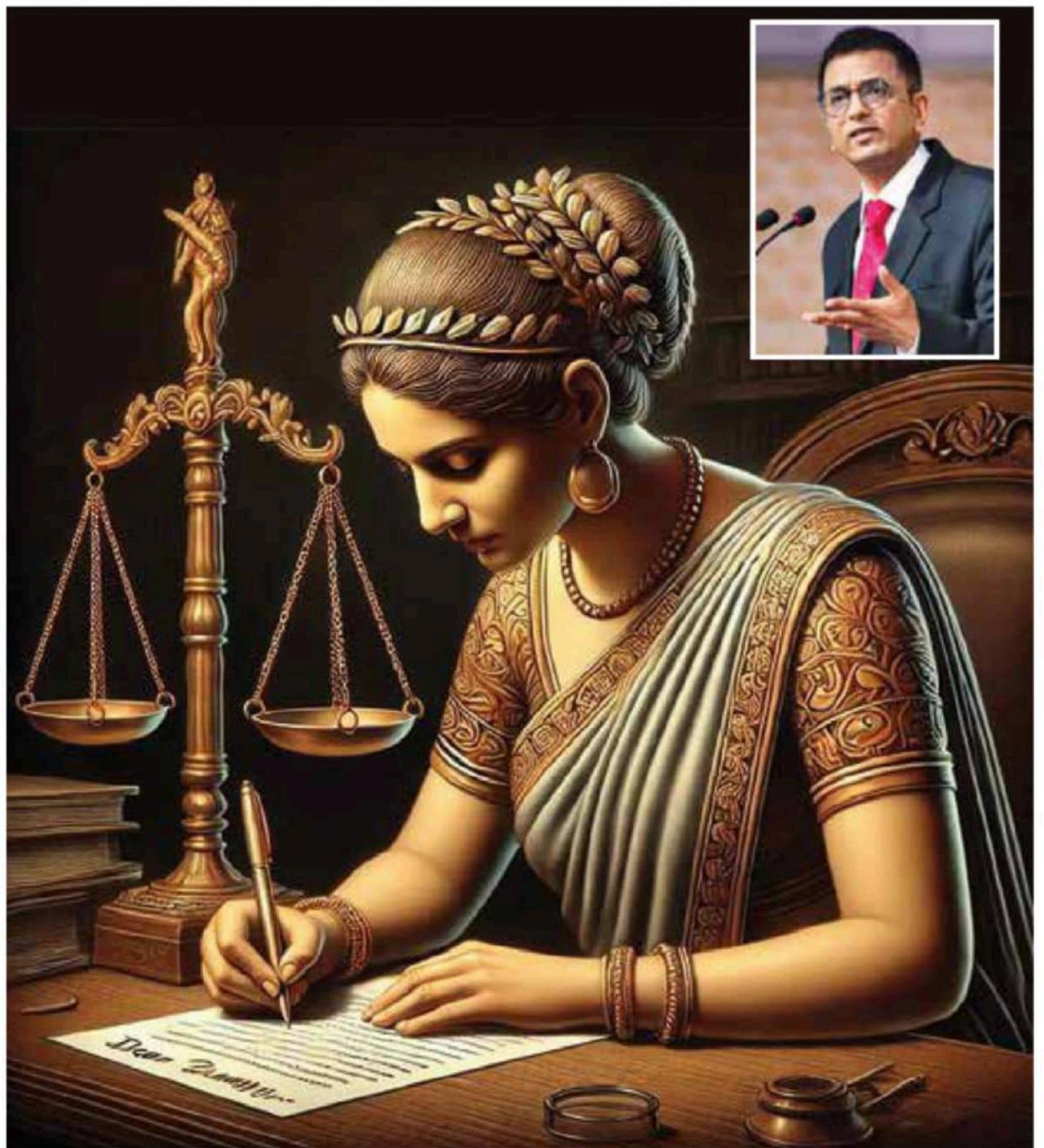
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[In this fantasy-reality farewell missive Lady Justice writes to India's Chief Justice on the eve of his retirement]

A STERN BUT MATERNAL LETTER TO MY SON, DY CHANDRACHUD

As your mother in spirit, I have watched your nearly two-year tenure as chief justice of India with hope, only to find it tempered by moments of perplexity and concern. While many saw your rise as an opportunity to reinvigorate the sacred tenets of our Constitution, your actions often veered away from the expectations of the office, and for that, my son, I must speak candidly. You had the stage, my son, the moment in history to step forward as a leader of the highest court, to ensure that my sword of reason and scales of balance were upheld not just in words, but in deeds. Instead, your reluctance to confront Executive excesses head-on will be a shadow over your otherwise luminous career.



Dear Dhananjaya,

It is with mixed feelings of pride and disappointment that I, Lady Justice, write to you. As your mother in spirit, I have watched your nearly two-year tenure as Chief Justice of India with hope, only to find it tempered by moments of perplexity and concern. While many saw your rise as an opportunity to reinvigorate the sacred tenets of our Constitution, your actions often veered away from the expectations of the office, and for that, my son, I must speak candidly...

Your latest act—the grand inauguration of my new statue, unveiled without my customary blindfold and sword—was a moment of deep symbolism, but not in the way you may have intended. The nation’s eyes were upon you, hoping for leadership on critical matters of justice, but instead, you orchestrated a spectacle. It was as if, in discarding my blindfold, you signalled to the world that the time for impartiality had passed, that the sword of reason no longer held weight in our judicial system. This stunt, far from being a lasting image of your legacy, became an unfortunate commentary on the erosion of the very principles I embody: blind, balanced justice, and swift, decisive action.

The optics of your public religious engagements, too, have raised eyebrows. Your visit to Dwarka and the widely publicized private Ganesh Puja with Prime Minister Modi cast a long shadow over your secular oath. I do not begrudge you your faith, but in these times, when the separation between the personal and professional seems blurred, these actions did little to affirm your impartiality. You stood as the guardian of a secular nation, yet your public displays seemed to suggest a blurring of lines that your position demanded you protect.

But it is not just the ceremonies and spectacles that give me pause. More trou-

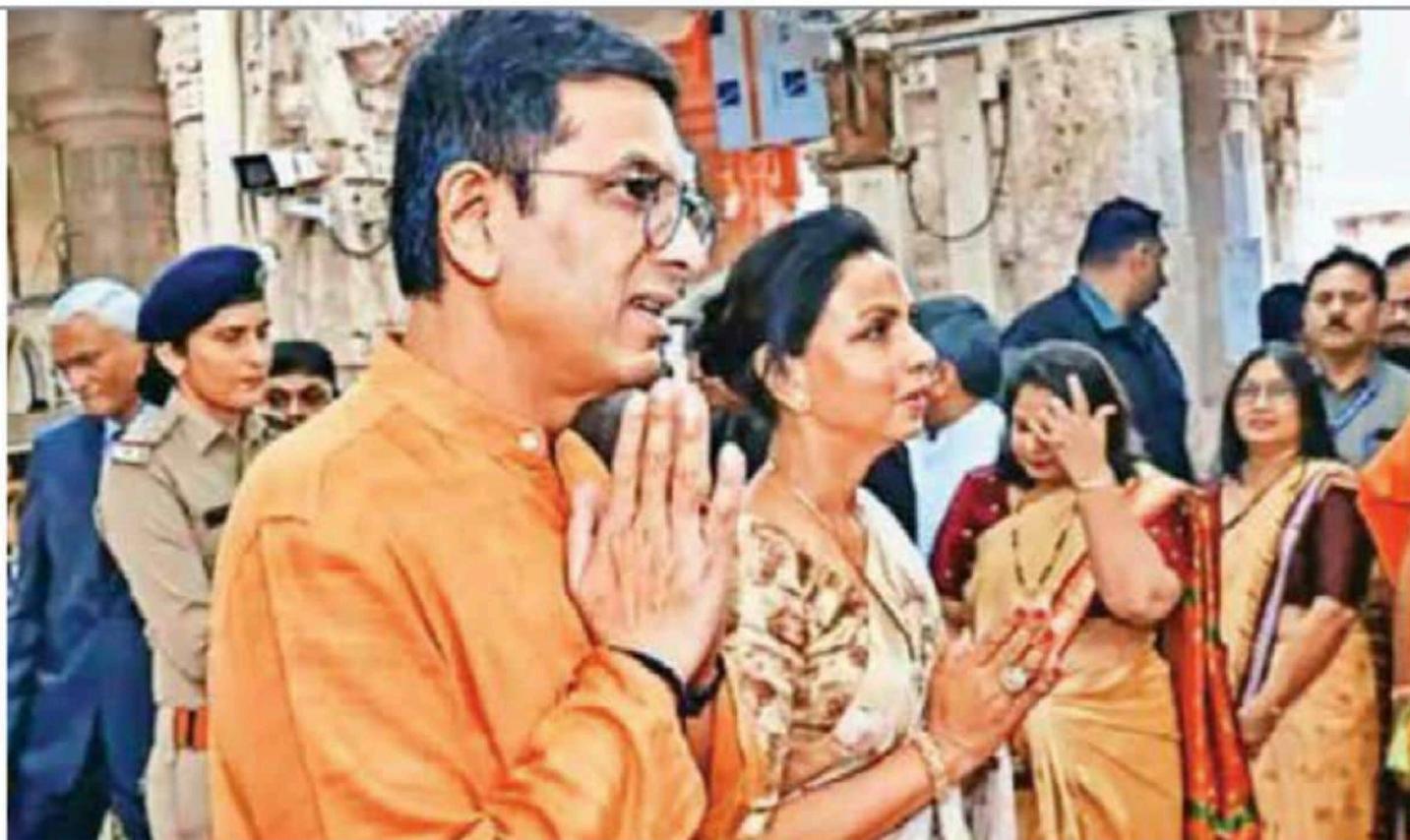


Your latest act—the grand inauguration of my new statue, unveiled without my customary blindfold and sword—was a moment of deep symbolism, but not in the way you may have intended. The nation’s eyes were upon you, hoping for leadership on critical matters of justice, but instead, you orchestrated a spectacle. It was as if, in discarding my blindfold, you signalled to the world that the time for impartiality had passed, that the sword of reason no longer held weight in our judicial system.

bling has been the Court’s silence in moments when it was needed most. When Executive overreach strained the very fabric of our constitutional democracy, you, my son, could have spoken louder. Where was the follow-through on electoral reforms and appointments to the Election Commission, the necessary investigations into the Hindenburg revelations, or the redress for

As your long career as a judge is now drawing to a close, well-wishers were hoping that you would now maintain a low profile and avoid any further controversial publicity. However, that hope was short-lived. In yet another dramatic public statement splashed across headlines nationwide, you revealed praying to God for guidance before helping to pen the 2019 judgment on the simmering Ayodhya dispute. Critics questioned why a Supreme Court judge would rely on prayer rather than the rule of law or the Constitution when adjudicating such a vexatious temporal legal issue.

The optics of your public religious engagements, too, have raised eyebrows. Your visit to Dwarka (right) and the widely publicized private Ganesh Puja with Prime Minister Modi cast a long shadow over your secular oath. I do not begrudge you your faith, but in these times, when the separation between the personal and professional seems blurred, these actions did little to affirm your impartiality. You stood as the guardian of a secular nation, yet your public displays seemed to suggest a blurring of lines that your position demanded you protect.



those suffering in the aftermath of the Manipur violence? How could you not press for answers on the Saibaba case, or the lingering questions over the electoral bonds scandal, which continues to mock the transparency and accountability our Republic so desperately needs?

These are moments when you could have transcended your own scholarly rhetoric and made an indelible mark on the nation's conscience. These are the moments that define greatness—not the carefully curated public images, but the hard decisions made in quiet chambers, for the sake of a higher principle.

I proudly mention, not in any order of

chronology or seniority, but rather, randomly, some of my other jurist children—who served as judges, birthed from my womb after being fertilized by the Rule of Law—MN Venkatachaliah, ES Venkataramiah, GD Khosla, VR Krishna Iyer, PN Bhagwati, HR Khanna, SM Sikri, Kuldeep Singh, NV Ramana, MC Chagla, TS Thakur... It saddens me to say, Dhananjaya, that while your predecessors are remembered for their courageous stands in times of moral crises, your tenure may be remembered for missed opportunities.

There were times when the sword of justice was too heavy for your hand. You have been applauded for your intellect and forward-thinking judgments on issues such as



**HINDENBURG
RESEARCH**



When Executive overreach strained the very fabric of our constitutional democracy, you, my son, could have spoken louder. Where was the follow-through on electoral reforms (left), the necessary investigations into the Hindenburg revelations, or the redress for those suffering in the aftermath of the Manipur violence (above)? How could you not press for answers on the Saibaba case?

privacy, decriminalization of homosexuality, and women's rights, and rightfully so. Yet these triumphs are tempered by your failure to act decisively on the pressing constitutional matters that will define the future of this nation. Like the Maharashtra imbroglio. The democratic governance of Delhi. Or the failure to file charges against the election official who stole the public mandate of Chandigarh's mayoral election in full CCTV proof.

You had the stage, my son, the moment in history to step forward as a leader of the highest court, to ensure that my sword of reason and scales of balance were upheld not just in words but in deeds. Instead, your

reluctance to confront Executive excesses head-on will be a shadow over your otherwise luminous career.

As your long career as a judge is now drawing to a close, with only a few days left for retirement, well-wishers were hoping that you would now maintain a low profile and avoid any further controversial publicity in this final phase. However, that hope was short-lived. In yet another dramatic public statement splashed across headlines nationwide, you revealed praying to God for guidance before helping to pen the 2019 five-member judgment on the simmering Ayodhya dispute, which ultimately ►

You have been applauded for your intellect and forward-thinking judgments on issues such as privacy, decriminalization of homosexuality, and women's rights, and rightfully so. Yet these triumphs are tempered by your failure to act decisively on the pressing constitutional matters that will define the future of this nation. Like the Maharashtra imbroglio. The democratic governance of Delhi. Or the failure to file charges against the election official who stole the public mandate of Chandigarh's mayoral election in full CCTV proof.



I do not wish to diminish your contributions. As I look back, I see glimmers of greatness in your tenure, moments when your judgments on personal liberty and individual rights reinforced the Constitution's commitment to every citizen. But when history looks back on these two years, it will not be speeches that define you—it will be the legacy of whether you seized the rare opportunities to safeguard the Rule of Law, to stand firm against the tide of political pressure, and to ensure that justice remained blind and impartial.

awarded the disputed land to the Ram Janmabhoomi Trust.

While observers have expressed various views on the merits of that decision, your latest statement drew immediate flak on social media. Critics questioned why a Supreme Court judge would rely on prayer rather than the rule of law or the Constitution when adjudicating such a vexatious temporal legal issue. They also sarcastically wondered why similar prayers were not resorted to in handling pressing human rights cases that had come before your Court.

These remarks have only added to the controversy surrounding your career. What stands out starkly is the pattern of public displays and statements that, at times, have seemed to blur the boundaries between personal beliefs and the judicial responsibilities entrusted to you. But you, Dhananjaya, ever the paradox, have maintained your own moral compass amid an increasingly polarized national discourse.

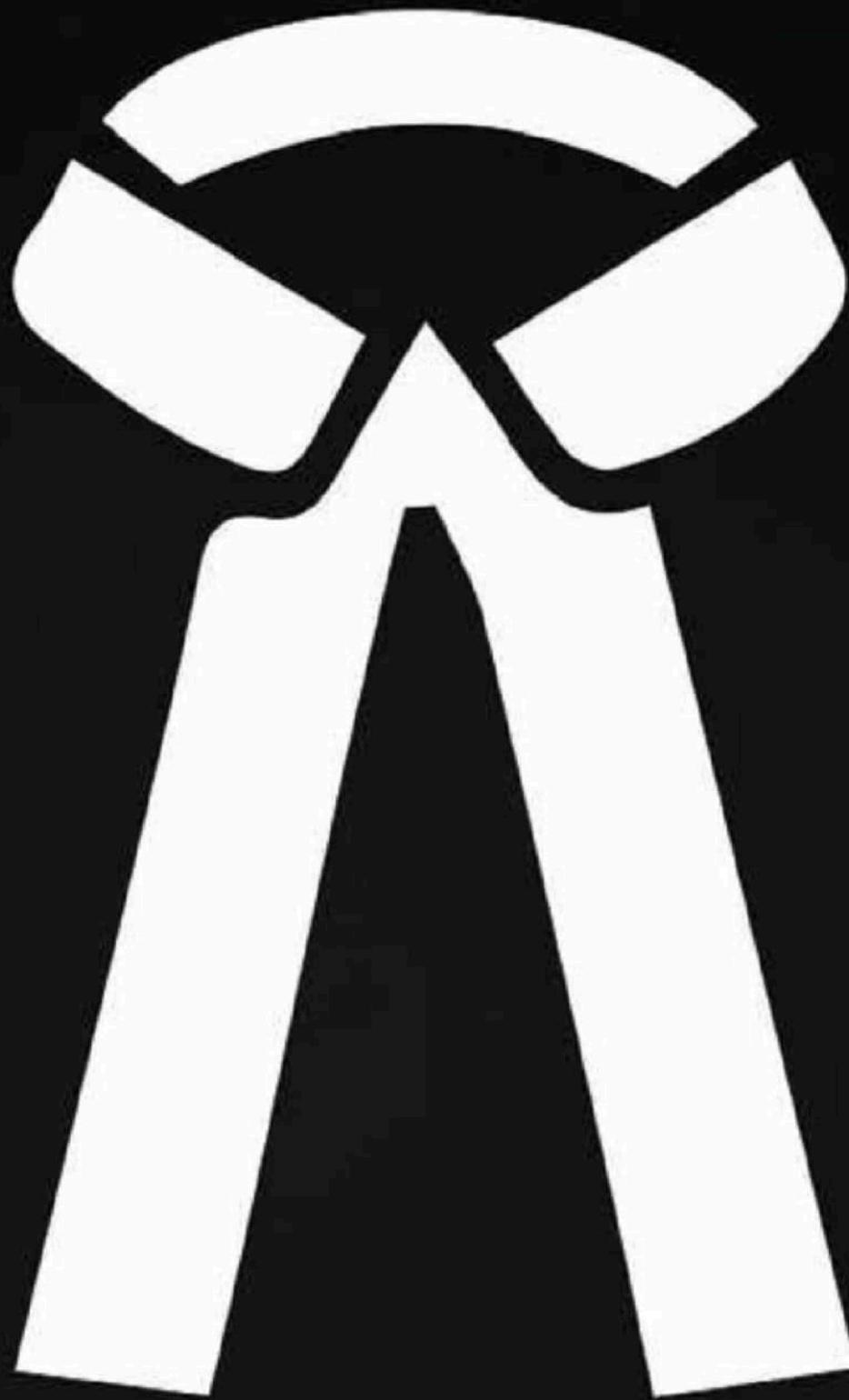
As the countdown to your retirement continues, I cannot help but reflect on the

lasting legacy of a man who has both captivated and divided the nation through his career on the bench.

I do not wish to diminish your contributions. As I look back, I see glimmers of greatness in your tenure, moments when your judgments on personal liberty and individual rights reinforced the Constitution's commitment to every citizen. But when history looks back on these two years, it will not be speeches that define you—it will be the legacy of whether you seized the rare opportunities to safeguard the Rule of Law, to stand firm against the tide of political pressure, and to ensure that justice remained blind and impartial.

Time will tell, Dhananjaya, if you are remembered for your intellect or for your inaction in the face of challenges that required a firm hand. And while I stand as the eternal symbol of justice, blindfolded or not, you had the power to be more than a symbol—you had the chance to be the defender of this nation's soul.

*With maternal love,
Lady Justice*



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Section 6A of the Citizenship Act, 1955, outlines the criteria for determining an individual's citizenship status in India as of January 1, 1966. It specifically addresses the situation of immigrants in Assam, stipulating that those who arrived after this date, but before March 25, 1971, may apply for citizenship after residing in India for ten years. However, they are not entitled to voting rights during the initial ten years of their citizenship. In contrast, the immigrants who arrived after March 25, 1971, are categorized as illegal immigrants and are subject to detection and deportation.



MIGRANTS AND IMMIGRANTS

The constitutional validity of Section 6A of the Act was recently upheld by the apex court. It grants citizenship to individuals of Indian origin who migrated from Bangladesh to Assam. The Court rejected the petitioners' contention that the provision has caused a "demographic invasion" in Assam

IN a writ petition regarding the constitutionality of Section 6A of the Citizenship Act, 1955, a five-judge Constitution bench of the Supreme Court, comprising Chief Justice of India (CJI) DY Chandrachud, and Justices Surya Kant, MM Sundresh, JB Pardiwala and Manoj Misra, deliberated extensively on the

issue. The majority opinion, supported by four judges, upheld the validity of the Section, while Justice Pardiwala gave a dissenting opinion. The CJI authored the majority opinion, while Justice Surya Kant authored a separate opinion that was joined by Justices MM Sundresh and Manoj Misra.

In 1985, the Citizenship (Amendment)



The Constitution bench of the Supreme Court, comprising CJI DY Chandrachud and Justices Surya Kant, MM Sundresh, JB Pardiwala and Manoj Misra, deliberated on the matter. The majority opinion, supported by four judges, upheld the validity of the Section, while Justice Pardiwala gave a dissenting opinion.

Act was enacted to add Section 6A to the Citizenship Act. Section 6A of the Citizenship Act, 1955, grants citizenship to individuals of Indian origin who migrated from Bangladesh to Assam. The provision categorizes migrants into two groups based on their date of entry into Assam: those who arrived before January 1, 1966, and those who arrived after January 1, 1966, but before March 25, 1971.

The Section outlines the criteria for determining an individual's citizenship status in India as of January 1, 1966. It specifically addresses the situation of immigrants in Assam, stipulating that those who arrived after this date, but before March 25, 1971, may apply for citizenship after residing in India for ten years. However, they are not entitled to voting rights during the initial ten years of their citizenship. In contrast, the immigrants who arrived after March 25, 1971, are categorized as illegal immigrants and are subject to detection and deportation.

The petitioners initiated legal proceed-

ings under Article 32 of the Constitution, contesting the constitutional legality of Section 6A. They asserted that it infringes upon Articles 6, 7, 14, 29, and 355 of the Constitution.

On December 17, 2014, in the case of *Assam Sanmilita Mahasangha vs Union of India (2015) 3 SCC 1*, a two-judge bench of the Supreme Court had referred the matter of Section 6A's constitutional validity to a Constitution bench for further consideration.

To comprehend the context in which Section 6A was incorporated into the Citizenship Act, the Court analysed the legal framework governing citizenship, specifically the regulations pertaining to the citizenship status of migrants from East and West Pakistan following the partition of India. In accordance with Articles 5, 6, and 7 of the Constitution, the Court determined that the Constitution solely defines who would be considered citizens at its inception, as indicated by the phrase "at the commencement of the Constitution" and the provision's drafting history. Article 6 pertains to a

Chief Justice DY Chandrachud said that Section 6A was enacted to address the influx of migrants who had already entered India and those anticipated to do so. He described the Assam Accord as a “political resolution” and Section 6A as a “legislative solution” that balanced humanitarian concerns for migrants of Indian origin with the economic and cultural impact of such migration on Indian states.



specific group of migrants from both Pakistan and Bangladesh to India (including Assam). This provision only applies to those who migrated to India until July 26, 1949, based on the six-month residency requirement.

The Court clarified that Section 6A grants citizenship to those who migrated from Bangladesh to Assam until March 24, 1971, excluding those who migrated after

July 26, 1949. This overlap with the constitutional provisions does not constitute an amendment. Article 6 and the proviso to Article 7 only confer citizenship on January 26, 1950, while Section 6A grants citizenship from January 1, 1966 to March 24, 1971, ten years after detection. The Court held that Section 6A of the Citizenship Act does not have the effect of amending Articles 6 and 7.

In a manner akin to that of the CJI, Justice Kant meticulously outlined the pivotal issues under consideration.

These encompassed the potential contravention of the right to vote enshrined in Article 326, the infringement of the fundamental right to life and liberty guaranteed under Article 21, and the potential breach. Finally, he dismissed the argument that the provision violated international law, asserting that domestic law takes precedence over international law.



The CJI said that Section 6A was enacted to address the influx of migrants who had already entered India and those anticipated to do so. He described the Assam Accord as a “political resolution” and Section 6A as a “legislative solution” that balanced humanitarian concerns for migrants of Indian origin with the economic and cultural impact of such migration on Indian states.

The CJI further explained that migration under Section 6A does not contravene Article 355 of the Constitution, which mandates the Union’s responsibility to safeguard states from external aggression and internal disturbances. The petitioners contended that the substantial influx of immigrants imposed this burden on the Union. However, the CJI cautioned against such an interpretation, emphasizing that the provision falls within Part 18 of the Constitution, pertaining to

emergency powers. Allowing citizens or courts to invoke these powers could potentially jeopardize India's federal structure.

The CJI further dismissed the petitioners' claims under Article 29 regarding protection of ethnic and cultural minorities' rights. He stated that the presence of different ethnic groups in Assam was insufficient to violate Article 29(1), and they failed to show an actionable impact on Assamese culture. Lastly, he clarified that Section 6A(2), which grants citizenship to migrants who entered before January 1, 1966, does not mandate registration, as it is a "de facto" method for acquiring citizenship.

Justice Surya Kant commenced the proceedings by summarily dismissing the challenges raised by the respondents concerning the maintainability of the petitions. Having cleared the procedural hurdles, Justice Kant proceeded to expound upon his reasoning in support of upholding the constitutionality of Section 6A of the Citizenship Act. In a manner akin to that of the CJI, Justice Kant meticulously outlined the pivotal issues under consideration. These encompassed the potential contravention of the right to vote enshrined in Article 326, the infringement of the fundamental right to life and liberty guaranteed under Article 21, and the potential breach. Finally, he dismissed the argument that the provision violated international law, asserting that domestic law takes precedence over international law.

In conclusion, Justice Kant provided the following directives:

- Section 6A is redundant for immigrants who entered after March 25, 1971. These individuals are considered illegal and should be subject to deportation. The provisions of the Immigrants (Expulsion from Assam) Act, 1950, should be referenced in conjunction with Section 6A to identify illegal immigrants.
- The current statutory machinery and foreigner tribunals are inadequate and insufficient to effectively implement the time-bound objectives of Section 6A.
- The implementation of these immigration and citizenship legislations should be monitored by the Supreme Court.



Justice Pardiwala clarified that his disagreement stemmed from a distinct viewpoint. He explained: "My reasoning assumes that a law may be valid when enacted, but certain provisions may become temporally unreasonable over time. This is the basis on which I have expressed my opinions." He concluded that the provision was deemed to be counterproductive to its intended purpose due to the absence of a time limitation. Consequently, he declared Section 6A(3) unconstitutional.

It is important to note that this ruling does not impact immigrants who arrived prior to January 1, 1966, or those who were identified as foreigners between 1966 and 1971 and subsequently granted citizenship. Likewise, immigrants who had been identified as foreign nationals and registered for citizenship, or those with pending appeals, would not be affected by his judgment. However, immigrants from the 1966-71 period who had not yet been identified as foreign nationals would now be classified as undocumented immigrants. Justice Pardiwala's ruling was applied prospectively, meaning the provision would be considered unconstitutional from the date of judgment. ■

—By *Abhilash Kumar Singh and
India Legal Bureau*

Justice Pardiwala clarified that his disagreement stemmed from a distinct viewpoint. He said that his reasoning "assumes that a law may be valid when enacted, but certain provisions may become temporally unreasonable over time..." He concluded that the provision was deemed to be counterproductive to its intended purpose due to the absence of a time limitation. Consequently, he declared Section 6A(3) unconstitutional.



Child marriage is often the result of entrenched gender inequality, making girls disproportionately affected by the practice. The problem of child marriage is akin to a parasite that attacks a country from within. Addressing this issue requires recognition of the factors that enable it, factors that vary across countries and cultures including poverty, lack of educational opportunities, and limited access to healthcare.

TOO YOUNG TO WED

Taking another giant leap towards ending the menace, the apex court in a recent judgment held that personal laws and traditions cannot prevail over the Prohibition of Child Marriage Act. The Court also issued a host of guidelines to achieve the “whole purpose” of the legislation

By Dr Swati Jindal Garg

THE three-judge bench of the Supreme Court, led by Chief Justice of India DY Chandrachud, and including Justices JB Pardiwala and Manoj Misra, ruled that “marriages involving children violate the free will to have a life partner of choice”. The remark was passed by the Court while hear-

ing a petition filed way back in 2018 by an NGO that alleged a rise in child marriages in the country and non-implementation of the law in “letter and spirit”.

The NGO also sought to address the failure of the authorities to prevent child marriages and pleaded for stronger enforcement mechanisms, awareness programmes, the appointment of Child Marriage Prohibition



The Supreme Court bench, led by (from left) CJI DY Chandrachud and including Justices JB Pardiwala and Manoj Misra, ruled that “marriages involving children violate the free will to have a life partner of choice”. “The law will only succeed when there is multi-sectoral coordination. Training and capacity building of law enforcement officers needs to be there,” the CJI said.

officers, and comprehensive support systems for child brides—including education, healthcare and compensation—to ensure the protection and welfare of vulnerable minors.

After a thorough analysis of the Prohibition of Child Marriage Act, 2006, the Court noted that the Act seeks to eliminate child marriages by deterrence and prevention. The Act has designed the preventive measures in two ways: one, by an injunction against the commission of child marriage; two, by the appointment of Child Marriage Prohibition Officers. The Court also observed that even though the legislative intent behind the appointment of the Child Marriage Prohibition Officers is to designate an officer to take tailored action against child marriage in each district, the officers often lack adequate training and are ill-equipped to engage sensitively with children.

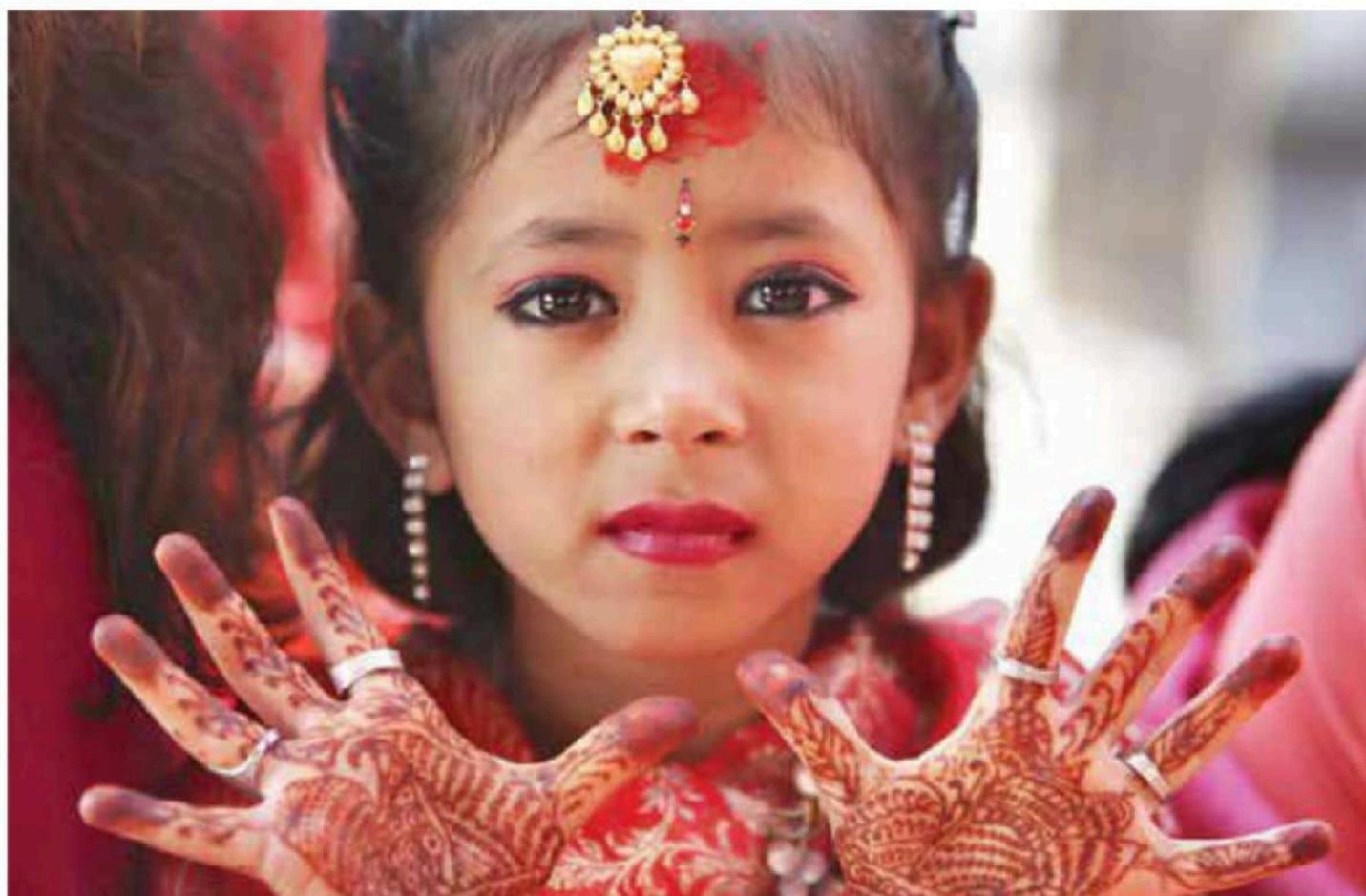
The Court while passing the judgment also took due note of a study analysing child marriage cases filed nationwide between 2008 and 2017 and observed that Child Marriage Prohibition Officers initiated only seven percent of these cases, which high-

lights a significant gap in proactive enforcement. The Court, pursuant to these observations, held that given the significant obligations expected to be discharged by a dedicated Child Marriage Prohibition Officer, no officer with other responsibilities to be appointed in that post.

The Court further highlighted that preventive strategies should be tailored to different communities in order to get the best results. “The law will only succeed when there is multi-sectoral coordination. Training and capacity building of law enforcement officers needs to be there,” the CJI said.

Pointing out that there were certain gaps in the Prohibition of Child Marriage Act, the Court also observed that the authorities must focus on child marriage prevention and protection of minors while penalising offenders as a last resort. “The Prohibition of Child Marriage Act, 2006 is a social legislation which requires a collective effort of all stakeholders for its success,” observed the Court. ▶

There is no doubt that child marriage inflicts tangible and lifelong physical and mental injuries to its members. The effect of child marriage denies women their health which is vital to lead a dignified life hence rendering the right to health illusory by all accounts within such an institution. Child marriage not only robs girls of their childhood, but also threatens their well-being.



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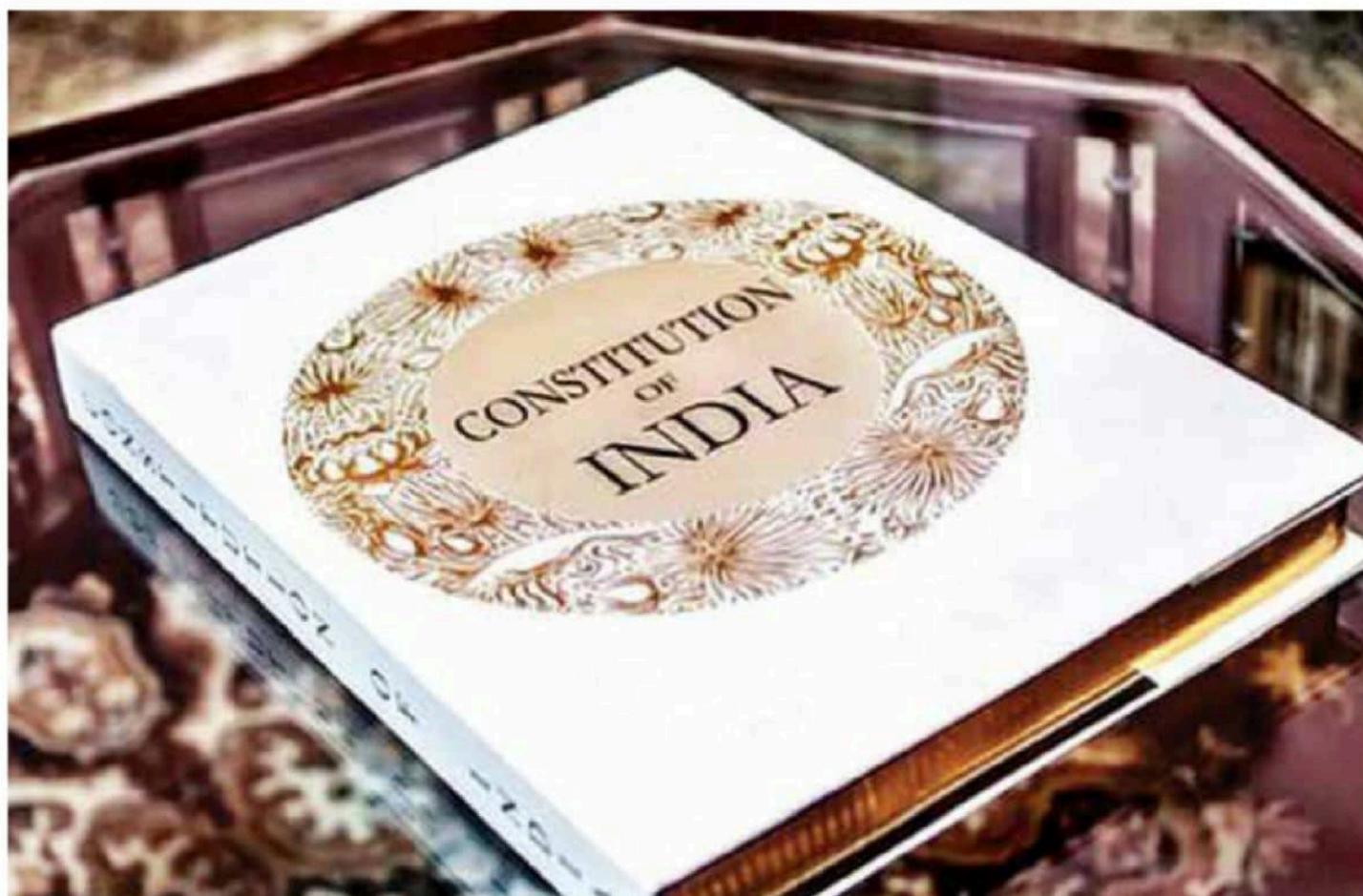
Article 51 of the Constitution establishes a foundation for integrating international human rights law into domestic legal frameworks, particularly concerning the protection of vulnerable populations such as children. It is perhaps in the light of this obligation that the apex court has formulated specific guidelines for achieving the elimination of child marriage.

It needs to be kept in mind that despite progress in awareness campaigns, there still seems to be a pressing need to enhance accountability mechanisms and ensure mandatory reporting along with taking care of the rehabilitation of the minors affected by child marriages. Areas with high child marriage prevalence need to be strictly monitored in order to address loopholes and ensure swift action against offenders more effectively.

The main aim of these guidelines according to the Court is to prioritise “prevention before protection and protection before

penalisation”. The guidelines not only talk about appointing dedicated officers responsible for the functions of the Child Marriage Prohibition officers at the district level, they also address the issue of accountability by providing for reports detailing information on the actions taken to prevent child marriages, as well as the outcomes of any investigations conducted. Further, *qua* these guidelines, the Ministry of Women and Child Development and the Ministry of Home in each State/UT have been directed to conduct quarterly performance reviews of Child Marriage Prohibition Officers and law enforcement agencies in order to assess the effectiveness of child marriage prevention initiatives, the response time and outcomes of reported case and the level of cooperation and communication between Child Marriage Prohibition officers and local law enforcement agencies, among others.

The Ministry of Women and Child Development has further been directed to execute mandatory refresher training for Child Marriage Prohibition officers every six months so that they are aware of the legal changes relevant to child marriage prevention as well as the best practices and effective strategies for combating child marriage. The guidelines also provide for community engagement techniques to foster collaboration with local



Article 51 of the Constitution establishes a foundation for integrating international human rights law into domestic legal frameworks, particularly concerning the protection of vulnerable populations such as children. It is perhaps in the light of this obligation that the Supreme Court has formulated specific guidelines for achieving the elimination of child marriage.

stakeholders coupled with advocacy skills to effectively promote child rights and raise awareness about the negative impacts of child marriage.

Noting that the law was silent on the validity of such marriages, the Court kept certain legal questions open stating: “Legal questions are kept open to be decided by the Constitutional court. Interlinking of personal laws with the Prohibition of Child Marriage Act is a point to be looked at.”

It cannot be overlooked that criminalising child marriages will have an adverse impact on families and communities, hence, in order to ensure effective use of penal provisions in the PCMA, the Court also underscored that it is of utmost importance that there is widespread awareness and education about child marriage and the legal consequences of its commission while clarifying that it was not discouraging prosecution of those who commit illegal acts.

Any social legislation, must take into account that its aim is not only to increase prosecution, but also to make its best efforts

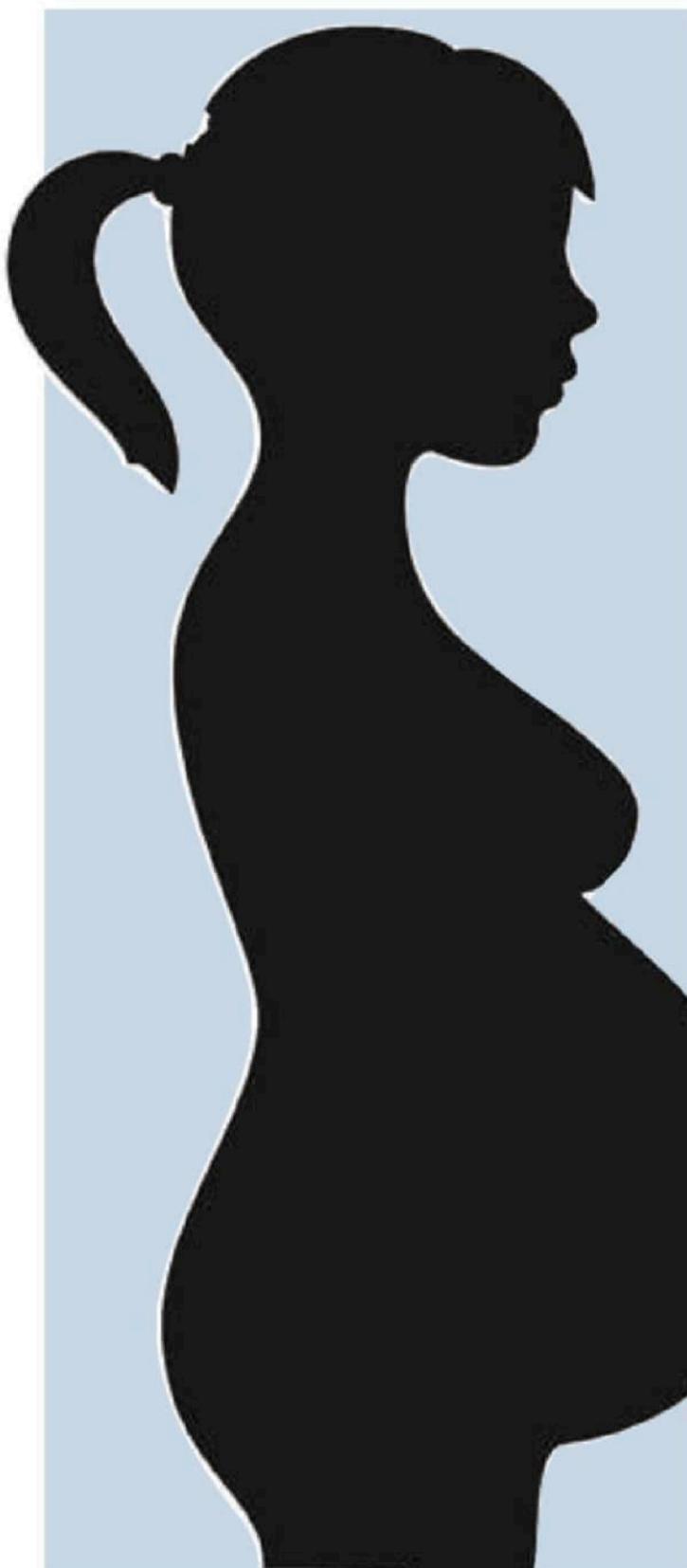
to prevent and prohibit child marriage.

Even though the United Nations Sustainable Development Goals call for global action to end child marriage by 2030, despite a steady decline in this harmful practice over the past decade, child marriage remains widespread, with approximately one in five girls married in childhood across the globe. Today, multiple crises—including conflict, climate shocks and the ongoing fallout from Covid-19—are threatening to reverse progress towards eliminating this human rights violation.

Child marriage is often the result of entrenched gender inequality, making girls disproportionately affected by the practice. Globally, the prevalence of child marriage among boys is just one sixth compared to the same among girls. Child marriage not only robs girls of their childhood, but also threatens their well-being. Research worldwide is witness to the fact that girls who marry before 18 are more likely to experience domestic violence and less ▶

Despite progress in awareness campaigns, there still seems to be a pressing need to enhance accountability mechanisms and ensure mandatory reporting along with taking care of the rehabilitation of the minors affected by child marriages. Areas with high child marriage prevalence need to be strictly monitored to address loopholes and ensure swift and effective action against offenders.

It has been seen that child brides often become pregnant during adolescence, not being well versed with the means to protect themselves. This not only increases the risk of complications during pregnancy, but also leads to an increase in childbirth. Child marriage can also isolate girls from their family and friends, taking a heavy toll on their mental health and often leading to depression. The problem of child marriage is akin to a parasite that attacks a country from within.



likely to remain in school, and have worse economic and health outcomes than their unmarried peers, which are eventually passed down to their own children, straining a country's capacity to provide quality health and education services.

It has been seen that child brides often become pregnant during adolescence, not being well versed with the means to protect themselves. This not only increases the risk of complications during pregnancy, but also leads to an increase in childbirth. The practice can also isolate girls from their family and friends, taking a heavy toll on their mental health and often leading to depres-

sion. The problem of child marriage is akin to a parasite that attacks a country from within. Addressing this issue requires recognition of the factors that enable it, factors that vary across countries and cultures including poverty, lack of educational opportunities, and limited access to healthcare.

It has been observed that while some families marry off their daughters in order to reduce their own economic burden or to earn income, others may do so because they believe it will secure their daughters' future or protect them. Norms and stereotypes around gender roles, coupled with the socio-economic risk of pregnancy outside marriage, also uphold the practice of child marriage, making it even more challenging to uproot it from society.

In 2016, UNICEF, together with UNFPA, launched the Global Programme to End Child Marriage. One of its aims was also to empower young girls at risk of marriage or already in union. The programme has been a huge success having reached more than 21 million adolescent girls with life-skills training, comprehensive sexuality education and school attendance support since 2016. Over 353 million people, including key community influencers as well as men and boys specifically, have also engaged in dialogue and communication campaigns to support adolescent girls, or other efforts to end child marriage.

The Prohibition of Child Marriage Act came into force in 2006 to prevent child marriage and ensure the eradication of the practice, having replaced the erstwhile Child Marriage Restraint Act, 1929. Even though a bill to amend the law currently in force in India in order to give it an overriding effect over personal laws is pending before a parliamentary committee, the guidelines passed by the judgment of the Supreme Court will go a long way in empowering those who are aggrieved. Child marriage threatens the lives, well-being and futures of girls around the world. ■

—The author is an Advocate-on-Record practising in the Supreme Court, Delhi High Court and all district courts and tribunals in Delhi

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TAKING HIS CALL
Bart S Fisher, a lawyer and a lobbyist by profession, expressing his views on several crises and challenges facing the world

“LAWYERS HAVE A BIG ROLE TO PLAY IN BRINGING PEACE”

An international trade and investment lawyer based in the United States, **BART S FISHER** was recently in India and plans to set up a bone marrow registry in the country to help fight blood cancer. **RAJSHRI RAI**, editor-in-chief, *APN*, spoke to him on a range of issues covering trade, human rights and the elections in the United States. Excerpts:

Rajshri Rai (RR) **Welcome to the ILRF platform. Can you tell us more about the mission for which you are in India currently?**

Bart S Fisher (BSF) Thank you. It is my pleasure to be here, in the world’s largest and the oldest democracy. I am here on a significant mission which deals with establishing a bone marrow transplant registry for India. Bone marrow transplant is essen-

tial in cases of blood cancer. I understood its importance, and 41 years ago in the United States, I set up the bone marrow transplant registry. It is called National Organ Transplant and is located in Washington DC. I am a lawyer and a lobbyist by profession. So far we have done over a 1,00,000 matches off the registry.

Right now, India depends on the United States for its bone marrows and through this

project India can have its own registry and be independent. To achieve this, we will launch a campaign called: “Swab For Life”.

RR: You are in a mission to set up a bone marrow registry in India. Cancer treatment is related to drugs and the international pharmaceutical industry is quite aggressive when it comes to protection of its IPR. India needs affordable medicines, but the pharma companies are unwilling to relent on IPR issues. It is a standoff point between the US and India. Can we expect a common ground to meet and resolve the issue of affordable life saving drugs?

BSF: In the United States, our system of intellectual property rights is just fundamental. Why? Because, we want to give incentives to brilliant scientists or the little 12th graders to invent things, invent new things. If you invent a new thing in America, then, under our patent law, we give you a monopoly, a 21-year monopoly. You get a patent, no one else can use it. So, the pharma companies’ argument is that they spend big money on R&D to develop new drugs.

The problem is the conflict between our IPR laws and the needs of developing countries in emerging markets. This is a huge issue for India, which is the largest producer of generic drugs in the world. The answer is what we call licensing. And if you have the patent in the US, you license it, but you cut a deal, the terms and conditions of each license. So, the big pharma companies in the US have to cut good deals, favourable deals, and in return, they get access to the Indian market. So, there is a deal to be made here.

The pharma companies are entitled to their patents because they spend billions of dollars to develop these drugs. But at the same time, the US government has to be cognizant of the difficulties of emerging markets. I think there has to be intellectual interchange between the two countries on IPR. But the answer is licensing.

RR: Trade disputes are threatening to disrupt ties between nations. For over seven decades, multilateral trading system has helped ensure stability and order in the global economy. How relevant is the



World Trade Organization today?

BSF: We need a new trade organization that addresses the real problems of trade going forward, including telecom, digital, internet and e-commerce. You are in a different world now from 1947 when you had the Bretton Woods institutions established. Therefore, we also need to work with India more in the United Nations. I noticed that the UNDP has 4,000 workers here. I mean, there are a lot of areas where we can cooperate with India.

That is what I do. I do trade cases in Washington. It is an agency. We have an alphabet soup of agencies in Washington, 20 agencies that deal with trade: export-import bank, OPIC, DFC. I worked at the US International Trade Commission. My legal cases are there. There are dumping cases. If you think somebody has been dumping or countervailing duty, if you think someone has been subsidizing or infringing intellectual property rights, patents, copyrights, trademarks; all those cases are all at the International Trade Commission. And that is really where my practice is for my day job. And that is a very interesting legal practice because only lawyers are allowed to cross-question. I have a PhD in international trade. So, I am well-trained to do what I do, and I have always enjoyed doing it.

I also represent countries. I tell people I am just a country lawyer, I represent countries. I have represented nine countries since 2000 in Washington DC, including China, Israel, Dominican Republic, Suriname, Guyana and Panama.

RR: The US presidential election is scheduled for November 5, 2024. All eyes are ▶

MEN OF THE MOMENT
Senior Advocate, Supreme Court, and ILRF Chairman Pradeep Rai (above right) with Fisher



INDIA CONNECTION

Fisher holding the Preamble of India. He said that the US needs India as a friend, especially as a bulwark against China

on the big fight and its probable outcome. How do you see the things shaping up?

BSF: I know everybody here is interested to know what is happening in the United States' elections. I believe the election outcome is going to determine the course of events between the two countries. The election in the United States will be a very closely fought affair. The outcome will essentially be decided by three swing states—Michigan, Wisconsin and Pennsylvania. Whoever wins Pennsylvania will win the election. If there is a tie, then the Republicans may come close to winning.

Another possibility is that Donald Trump loses popular votes, but wins in the Electoral College. The Electoral College is skewed towards small states and it is going to be Red States versus Blue States. So, it is entirely possible that we can have a scenario where Trump loses the popular votes, but wins in the Electoral College and that would not be a good outcome because it would promote discontent and litigation.

RR: The US presidential election will in many ways impact the India-US relations, affecting economic relations, strategic cooperation, etc. What are your views on the ties between two nations in the coming time?

BSF: Modi had a bromance with Trump. Modi had a bromance with Biden. When he

came to Washington, he was treated like a rock star. Modi got a very positive welcome in the United States because it is a bipartisan thing. Both parties know they need India. We need India as a friend. We need India as a bulwark against China. Nations do not have permanent friends or permanent interests or permanent enemies. And it is in our interest that the United States and India work together. We have a relationship that is based on logic and should work well for both sides, regardless of who wins the presidential election in the US.

But the problem with Trump is his agenda has been America First and it is promoting isolationism; Biden has been more pro-alliances. I like the alliance route better. When you need them, you have friends, and that is the importance of alliances. But we are working very positively with India on QUAD in terms of security. And I see more defence cooperation between the two countries.

RR: With more and more conflict situations in the world, how is the United States negotiating the problem areas?

BSF: The problem from the standpoint of the United States is that no matter how hard we try to leave the Middle East, we get sucked back in. Now you have a conflict in Gaza and that is a nightmare of the Middle East situation. You have a conflict in Ukraine, that is another nightmare. And the US is getting sucked back in, where we are giving enough weapons to Ukraine, not to lose, but yet not enough to win. So, it is a dilemma the US president has. The real action, though, is here in Asia. This has got to be the Asian century and this is the Modi moment. As for China, it has not acted as a responsible stakeholder in the international system.

RR: Recently, there has been increased tension between India and Canada. How is that going to impact relations between USA and India, considering that USA has close ties with both the countries?

BSF: The issue affects not only Canada, but the United States as well. Because attacks in foreign countries raises international legal issues of extradition, evidence gathering and fact finding. The government of Canada has

not been very good about disclosing its facts or its basis for doing what it did, and that raises other questions. The government of Canada alleges that the government of India has not been very open about its intelligence practices, and I understand that, too. So, as far as the US is concerned, it is a matter of concern.

However, we just need to find out more facts and be guided by the facts and the evidence. But to find out the evidence, you have to be open about your sources of intelligence. And countries are very sensitive about that. So, this issue is not going to be resolved tomorrow because both the countries are sensitive about disclosing their sources and uses of intelligence. So, I need to say, as the lawyers would say, the jury is out on that one.

RR: You have talked about bone marrow and other things which are closely related not only with the quality of human life, but also human rights as well. How sensitive is the US towards infringement of human rights, especially when we are seeing bloodshed in the Middle East?

BSF: Human rights was actually brought to the fore in the US foreign policy by Jimmy Carter. He was the first president who made human rights an essential aspect of our foreign policy and made sure that human rights were upheld around the world.

Human rights can mean many things. It can also mean civil rights. In America, we fought for it. We still have not completed the civil rights revolution. African-Americans are still at the back of the bus in the US. Indians are also discriminated against in the US. So, civil rights is a huge issue. Even in the US, we are not there. This is still an imperfect union. And in India, you have the Dalits, you have untouchables, you have the class system, you have your own issues with human rights. And different countries have different human rights issues.

What bothers me is that now around the world, particularly in Europe and the US, you have immigration issues. And when you have these immigration issues and you have Mexicans, Central Americans, Nicaraguans, Costa Ricans and people from Panama and Salvador flooding the US, it causes great



“The election in the US will be a very closely fought affair. The outcome will essentially be decided by three swing states: Michigan, Wisconsin and Pennsylvania. If there is a tie, then the Republicans may come close to winning. It is also possible that we can have a scenario where Donald Trump loses the popular votes, but wins in the Electoral College.”

resentment. So, when you have families coming in who are separated at the border, it is traumatic. That’s what Trump did; he separated the families and a lot of those kids still have not found their parents.

RR: On a parting note, what would be your message for the budding lawyers or practicing lawyers in India?

BSF: I think my message to the budding lawyers will be—keep doing better what you are doing. We are all one human family at the end of the day. My message is that lawyers have a big role to play in bringing peace. Even if you don’t practice, it is a great training for whatever you do in the business world or elsewhere, because legal training teaches you how to think. It is a way of thinking. It is a thought process. At the end of the day, whether you are in business, law, medicine or research, it is a thought-process and you learn the facts, you apply the law, and you argue your case. You do that throughout life. So, I think it is a great discipline.

I am a fan of what I call joint degrees, where you learn to be good at different things. Like at Georgetown University, we have the JDMSF’s master of science in foreign service and a law degree. So, you should specialize. Don’t just be satisfied with your law degree. Go on and study more. ■

More than a lakh trees were slated to be cut in the Shahbad Block in the Baran district of Rajasthan. The trees were to make way for a pumped storage project. The area is densely forested and any kind of intensive deforestation would have threatened the existence of the existing flora and fauna.



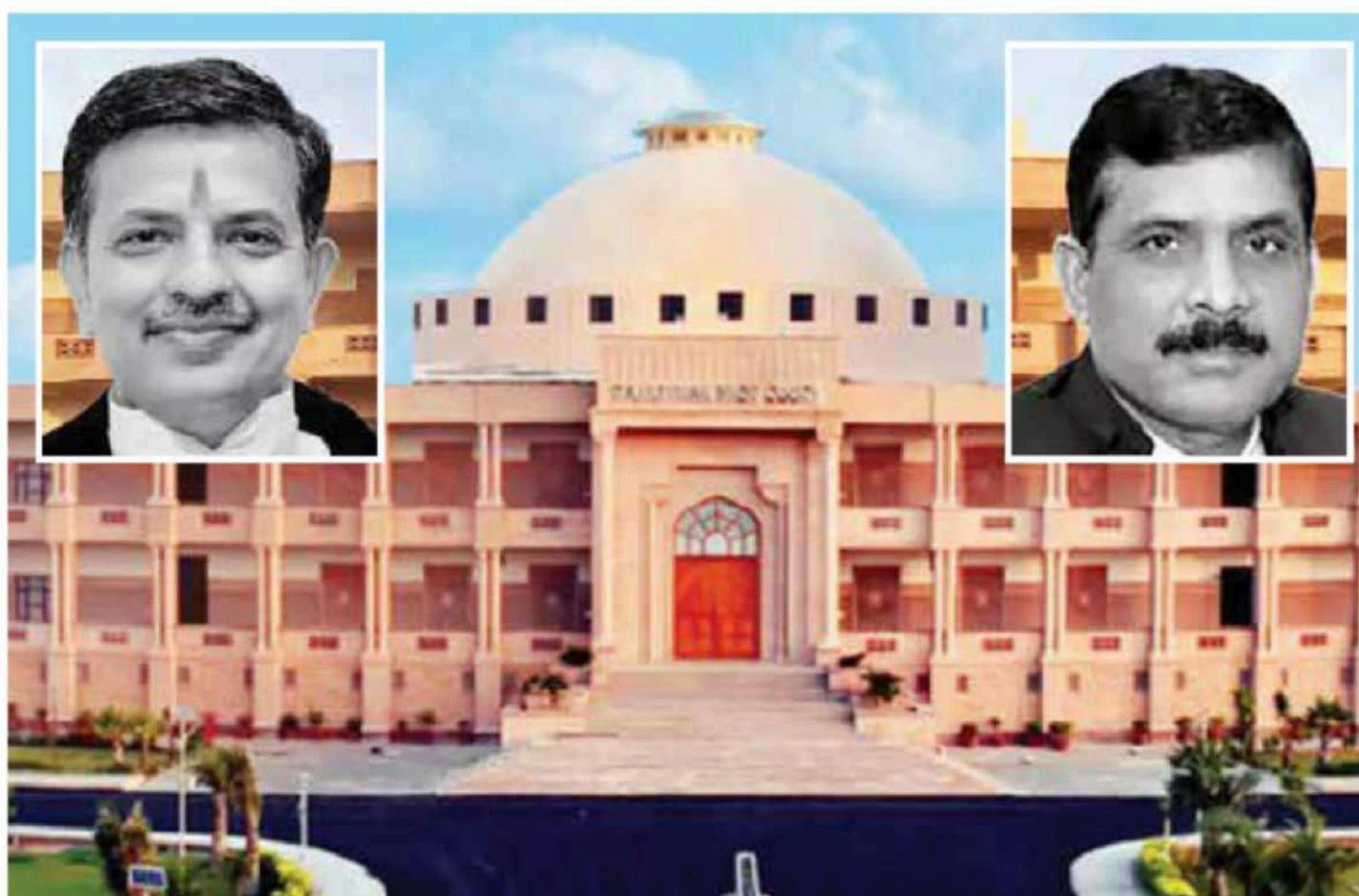
FOREST FOR THE TREES

The idiom “can’t see the forest for the trees” means to be unable to understand or appreciate a larger situation because you are too focused on the details. That seems to be the case with the Rajasthan High Court’s ruling on a critical environmental issue

THE Rajasthan High Court recently intervened to protect 1.19 lakh trees slated for cutting in Shahbad block in the Baran district of the state. The trees were to make way for a pumped storage project, sparking concerns about ecological balance,

carbon emissions, and flora and fauna preservation.

The Court’s move followed reports appearing in daily newspapers that highlighted the potential environmental damage that the project could entail. The Division Bench of Justices Pushendra Singh Bhati and Munnuri Laxman took *suo motu* cogni-



Justices Pushendra Singh Bhati and Munnuri Laxman (inset, left) of the Rajasthan High Court took *suo motu* cognisance of newspaper reports which said that the project shall consume a huge quantity of forest area and full-grown trees. The bench observed that the right to a green and healthy environment is considered as a facet of the right to life enshrined under Article 21 of the Constitution.

sance of newspaper reports which said that the project shall consume a huge quantity of forest area and the full-grown trees, which will not only potentially endanger the ecological balance by increasing carbon emissions, but would also be dangerous for the flora and fauna. The area is densely forested and any kind of intensive deforestation would threaten the existence of the flora and fauna of the area.

The bench further noted that this 450-hectares of land soaks about 22.5 lakh metric tons of carbon, and if it is done away with, it shall have a great impact on climate change. The deforestation may also lead to other side effects such as soil erosion, and will act as an impediment in achieving other key environmental benefits. The alternate land provided in Jaisalmer district for afforestation is about 712 kilometres away, and as per the report, they soak only 3,500 metric tons of carbon dioxide which is much lower than the quantity currently being soaked at Baran district.

The High Court further observed that the right to a green and healthy environment is considered as a facet of the right to life enshrined under Article 21 of the Constitution, which in turn, casts responsibility upon the State and its functionaries, not only just

to protect the environment from any potential degradation, but also take active steps to preserve, protect and revive the same, thereby ensuring a true meaningful life to its citizenry.

The High Court also referred to a landmark judgment (*MK Ranjitsinh & Ors vs Union of India & Ors., Writ Petition (Civil) No.838 of 2019*), in which the Supreme Court acknowledged the right to a healthy environment and freedom from climate change's adverse effects. This decision underscores the critical intersection of climate change and human rights. The apex court had also highlighted India's existing environmental laws and policies, including the Wildlife (Protection) Act, 1972; Water (Prevention and Control of Pollution) Act, 1974; and Air (Prevention and Control of Pollution) Act, 1981. Additionally, the Energy Conservation Act, 2001, was amended in 2022 to empower the central government to provide for a carbon credit trading scheme.

The Court further emphasized that Articles 14 and 21 of the Constitution recognize the right to a clean environment and life. Climate change impacts the right to health, equality, and life, particularly for vulnerable communities.

The judgment stresses that states must ►

The Rajasthan High Court referred to a landmark judgment (*MK Ranjitsinh & Ors vs. Union of India & Ors., Writ Petition (Civil) No.838 of 2019*), in which the Supreme Court acknowledged the right to a healthy environment and freedom from climate change's adverse effects. The apex court had also highlighted India's existing environmental laws and policies.



prioritize environmental protection and sustainable development. India is compelled to uphold its international obligations, including mitigating greenhouse gas emissions, adapting to climate impacts, and protecting fundamental rights.

In the judgement, the High Court also cited the UN High Commissioner for Human Rights' emphasis on climate change's impact on human rights. Further, the Court also referred to the judgment rendered by the apex court, in *RE: TN Godavarman Thirumulpad vs Union of India*, which stated: "The tiger perishes without the forest and the forest perishes without its tigers. Therefore, the tiger should stand guard over the forest and the forest should protect all its tigers." This is how the importance of the tigers in the ecosystem has been succinctly described in *Mahabharata*. The existence of the forest is necessary for the protection of tigers. In turn, if the tiger is protected, the ecosystem which revolves around him is also protected. The tiger represents the apex of the animal pyramid and the protection of their habitat must be a priority."

The High Court was also conscious of the judgment rendered by the Division Bench of the Sikkim High Court in the case of *In Re:*

Recent Felling of Trees in Gangtok (WP (PIL) No. 04 of 2020, decided on January 10, 2022, which said: "Before dealing with the merits of the matter, it is apposite to cite a poem which poignantly comes to mind, *On Killing a Tree*, by Gieve Patel." The theme of the poem is a confrontation between two different attitudes, saving and cutting a tree. It is a tirade against the practice of felling a tree. The poem describes the growth of a tree, the years of consumption of the earth, absorption of sunlight, air, water and nutrients from the soil to grow into a mature tree and the pain on its destruction. The poem makes an implied plea to maintain an ecological balance.

The High Court, while referring to earlier judgments concerning the environment, registered the matter as a *suo motu* PIL and issued notices to the Union of India, Rajasthan's Environment and Forest Department, and the Principal Chief Conservator of Forests. The PIL also allowed for an *amicus curiae* to assist the Court, and directed the respondents to submit a detailed response and requested exploration of alternatives to save the trees. ■

—By Shivam Sharma and
India Legal Bureau

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DIRTY FLOWS THE RIVER

Another Indian river, the Kelo, has become a veritable garbage dump, and the National Green Tribunal has taken a proactive stance in approving recommendations to stop sewage from draining into the river. However, one has to see if the execution part holds water

By Sujit Bhar

A RIVER IN PERIL
The National Green Tribunal was forced to take steps to try and address the deteriorating condition of the Kelo river (above) in Chhattisgarh

THE rivers of India are revered as deities, as gods that bring life from the heavens to earth and to mankind. Our scriptures are replete with paeans sung in their honour, and bathing rituals to wash the worldly sins of humans have existed for

millennia. Yet, the rivers of India rate among the dirtiest in the world. Several governmental efforts, even supplemented by private organisations, have come up with zero result.

As the defiling of the holy waters of India continues, the most recent calamity that has come to light is that of the Kelo river in



Ironically, the situation has come to such a pass despite the setting up of two sewage treatment plants (left) in Raigarh. Either the plants are dummy setups, as have happened in many instances, or nobody cares if the drain water carrying all the filth from the cities as well as small and large industrial units flow directly into the river, easily bypassing the treatment plants.

Chhattisgarh. The situation is such that the National Green Tribunal (NGT) has been forced to take steps to try and address the deteriorating condition of the river, which today is more of a garbage dump than one that could wash away your sins.

The situation is so bad that the river's 15 kilometre stretch has been included in the 351 most polluted river stretches in the country.

Ironically, the situation has come to such a pass despite the setting up of two sewage treatment plants (STP) in Raigarh. Either the STPs are dummy setups, as have happened in many instances, especially along the banks of the Ganges in Kanpur in Uttar Pradesh, or nobody cares if drain water carrying all the filth from the cities as well as small and large industrial units flow directly into the river, easily bypassing the STPs. There is little by way of oversight, and the arm of the law seems to have stopped way off the limits of the polluted river waters. There are four distinct spots where such drains empty into the river.

This apart, garbage is dumped from the riverbank to under the bridge. This, it seems, also evades the eyes of the law.

When this was brought to light through the media and other outlets, the NGT directed the collector of Raigarh to take remedial measures according to the rules. These measures were based on the recommendations of

the Joint Committee of the State Pollution Control Board.

The following were the suggestions put forth by the Joint Committee:

- Rectify the check dam of the Tipakhol reservoir to prevent the mixing of reservoir water with sewage.
- Divert or control the flow of excessive water into the drain.
- Review the network of channels receiving sewage through STPs.



The National Green Tribunal directed the collector of Raigarh to take remedial measures based on the recommendations of the Joint Committee of the State Pollution Control Board. The report was accepted by the central bench of the Tribunal comprising Justice Sheo Kumar Singh and Dr A Senthil Vel.

The NGT order on the pollution of the Kelo river is nothing new. Similar orders in many such cases, especially in the *MC Mehta* case regarding the Ganges (right), have been passed for decades. Even the SC has issued strict orders and committee after committee have made recommendations, spent money in spewing out the same systemic recommendations, but to no avail.



- Construct permanent/RCC *bunds* on the Indranagar *nala* and Kevadabadi *nala* to stop sewage bypassing.
- Increase public awareness drives regarding waste littering, single-use plastic prohibition, and waste separation.
- Use trash skimmers to collect floating matter in the river and bar racks to remove plastic waste.

The report was accepted by the central bench of the NGT, comprising Justice Sheo Kumar Singh and Dr A Senthil Vel.

That was the sum and substance of the green court's proactive stance and the resultant orders. It may also be pointed out that the Committee's recommendations also seem pretty up to the mark and in sync with the policies of the government and general environmental norms of the day.

The main story, however, lies in two aspects of the issue. The first is the fact that such orders, in many such cases, especially in the *MC Mehta* case regarding the Ganges, have been passed for decades. Even the Supreme Court has issued strict orders and committee after committee have made recommendations, spent money in spewing out the same systemic recommendations, but nothing has changed.

That brings us to the second and more pertinent aspect of the issue—execution. Good intents die in the womb for lack of execution. There has to be a stiff and unbi-

ased system in place to see to it that the execution happens. Incidentally, all these orders of the green court will be carried out through the execution process by the same corrupt policing system that had, in the first place, aided and abetted the dumping of the garbage in the waters of the river.

Hence, when the homeowner gives the responsibility of guarding his house to the thief, what has to happen will happen. There is no secondary force of oversight in these instances, and even though one can laud the NGT and the Supreme Court for their proactive stances, at the end of the line, things remain the same.

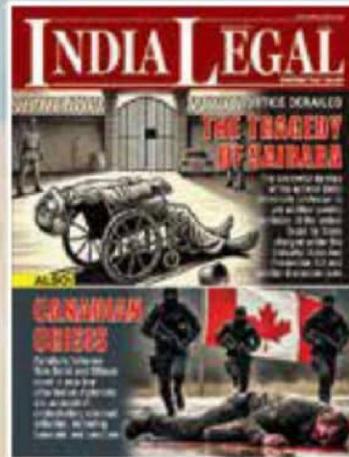
That takes us back to the first issue. When it has been seen that such much-used, much-abused recommendations have had no effect in the past, it becomes necessary to change the nature of recommendations. It also becomes essential to understand the entire corrupt chain that operates here to be able to make such recommendations.

An STP, for example, is a standard recommendation. There, however, is no mechanism to find out the purchasing and installation process of such STPs. The court does not interfere, leaving this part, as well as the maintenance part, to the local authorities, who are the corrupt parties to start with.

It would be nice to see the Kelo river benefit from such action, but if history can be seen as a mirror, not much is expected anyway. ■

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The resumption of patrolling arrangements along the Line of Actual Control by India and China is not merely symbolic; it signals a potential shift in the stalled process of disengagement and de-escalation along the LAC. However, experts caution against viewing this as a breakthrough. The agreement does not address the core issue of military build-up.

A FRAGILE THAW

Despite the resumption of patrolling, the underlying issue of disengagement remains unresolved. Patrolling is inherently an aggressive act aimed at asserting control over territory, and without complete disengagement, it risks further escalating tensions

By Annunthra Rangan

In a significant diplomatic and military development, India and China have reached an agreement to resume patrolling along the Line of Actual Control (LAC) in Eastern Ladakh, reverting to the pre-2020 patrolling norms. This agreement, a product of prolonged negotiations, could potentially ease tensions

that have persisted since the 2020 standoff. However, questions remain about its long-term impact on the overall security and stability along the LAC, given the entrenched positions of both sides.

The standoff between the Indian Army and China's People's Liberation Army (PLA) began in April 2020, following a series of

Chinese incursions into areas that India claims as its own along the LAC. The most notable flashpoints during this period were in Galwan Valley, the Pangong Tso Lake area, and the Depsang Plains. The confrontation reached a critical point in June 2020, when a deadly clash in the Galwan Valley resulted in the deaths of 20 Indian soldiers, while China reported an unspecified number of casualties. Since then, the situation has remained tense, with both sides deploying tens of thousands of troops to the region and ramping up infrastructure development.

The agreement to resume patrolling along the earlier perceived LAC is seen as a positive step in restoring a semblance of normalcy to the region. India's External Affairs Minister S Jaishankar described the agreement as a "major diplomatic success", acknowledging that it allows both sides to return to patrolling the LAC as it existed before the tensions erupted in May 2020. Patrolling rights for Indian troops, particularly in critical areas such as the Depsang Plains and Demchok, had been severely restricted due to Chinese roadblocks and infrastructure development.

The resumption of patrolling is not merely symbolic; it signals a potential shift in the stalled process of disengagement and de-escalation along the LAC. However, experts caution against viewing this as a breakthrough. While the agreement provides for the return of Indian patrols to areas like Patrolling Points (PPs) 10 to 13 in the Depsang Plains, where Chinese troops had previously obstructed access, the long-term impact remains uncertain. The Depsang Plains, located in the northwest of Ladakh near the Daulat Beg Oldie (DBO) sector, have been a contentious area for years, with the PLA making incursions as far back as 2009. The flat terrain of the plains allows for easy movement of troops and vehicles, making it strategically important for both sides. Since 2011, China has built a 30-km road from Raki Nallah, which has significantly strengthened its position in the region. Indian patrols in this area have been hindered by the PLA's presence at the "bottleneck," a critical point that prevents



Foreign Minister S Jaishankar described the agreement as a "major diplomatic success", acknowledging that it allows both sides to return to patrolling the LAC as it existed before the tensions erupted in May 2020. The pact follows Corps Commander-level talks and diplomatic engagements between India and China.

access to PPs 10 to 13.

The agreement suggests that the PLA will no longer block Indian patrols from reaching these points, although this is met with scepticism due to the extensive Chinese infrastructure development in the area. Satellite imagery has revealed the construction of new PLA settlements and military positions in the Depsang Plains, raising concerns that China may be unwilling to dismantle these positions as part of the disengagement process. Similarly, in Demchok, the PLA has been obstructing Indian patrols at the Charding-Nilung Nalla junction since 2018, where they have pitched tents and established a presence. The Charding La Pass, a 19,120-foot-high peak patrolled by the Indian Army, remains a strategic area. While the agreement may allow for the resumption of patrols here, it is unclear whether the PLA will fully withdraw from its positions or if both sides will agree to a "no-patrol" zone ▶

The agreement reached just before the BRICS summit provided India with the diplomatic flexibility to facilitate a meeting between Prime Minister Narendra Modi and President Xi Jinping (right) on the sidelines of the event.

The existence of a border deal made it politically easier for New Delhi to agree to such an encounter.



as a compromise.

Despite the resumption of patrolling, the underlying issue of disengagement remains unresolved. Patrolling is inherently an aggressive act aimed at asserting control over territory, and without complete disengagement, it risks further escalating tensions. The presence of troops in close proximity to each other along the LAC, combined with the aggressive nature of patrols, makes the situation volatile. In regions like the Depsang Plains and Demchok, where both sides have heavily fortified their positions, a complete military rollback seems unlikely. Over the past four years, both India and China have significantly upgraded their military infrastructure in the region. India's construction of the 260-km Shayok-DBO road has given its forces a strategic advantage in the Depsang area, allowing for the rapid deployment of troops and boosting their morale in this challenging terrain. Similarly, aviation infrastructure upgrades in the DBO and Nyoma sectors have enhanced India's ability to operate in the region. China, on the

other hand, has built roads, bunkers, and other military installations in areas it controls. This militarization, combined with the extensive fortifications on both sides, complicates efforts to achieve complete disengagement and de-escalation. The agreement on patrolling, while a step towards peace, does not address the core issue of military build-up.

The agreement on patrolling rights follows 21 rounds of Corps Commander-level talks and several diplomatic engagements between India and China. Foreign Secretary Vikram Misri, in his comments, emphasized the role of patient diplomacy in reaching this point. The negotiations began after a meeting between Indian External Affairs Minister Jaishankar and his Chinese counterpart Wang Yi in Moscow in 2020. Since then, both sides have engaged in multiple rounds of talks, aiming to resolve the stand-off in Eastern Ladakh.

During the Modi-Xi meeting in Kazan,

both leaders facilitated delegation-level discussions that paved the way for Special Representative Dialogue aimed at negotiating the de-escalation of military build-up along the 3,488-km LAC. Additionally, the foreign ministers of both nations are set to establish a roadmap for normalising bilateral relations. Similar diplomatic breakthroughs have occurred in the past, such as the resolution of the Doklam standoff ahead of the BRICS Summit in 2017 and the de-escalation in Galwan Valley during the Shanghai Cooperation Organisation Summit in 2022.

Although disengagement from the Gogra-Hot Springs-Khugrang Nullah area was announced on September 9, 2022, India has maintained a firm stance on resuming patrolling rights in the Depsang Bulge and Demchok, underscoring that progress towards normalisation hinges on fulfilling these key military conditions. To avoid reopening contentious issues that might escalate tensions, the current patrolling agreement was limited to the Western Sector, where the Indian Army and PLA had blocked each other at Depsang and Demchok along the 1,597-km boundary in Eastern Ladakh.

This agreement allows India valuable diplomatic space, ensuring that any potential vulnerabilities involving China are minimised. Although patrolling has yet to resume in Depsang and Demchok, the agreement has contributed to a reduction in tensions along the Eastern Ladakh LAC and a gradual easing of the overall border situation.

With disengagement now complete and patrolling resumed, India and China must work out the details of de-escalation, as over 50,000 troops, along with tanks, missile units, and rocket regiments, remain positioned on both sides of the LAC. Additionally, fighter jets are stationed at rear bases, with China's in Tibet and the Xinjiang region, while India

Key events in the India-China border dispute since 2020

June 2020: In the first deadly clashes between Indian and Chinese forces in nearly 60 years, 20 Indian soldiers and four Chinese soldiers were killed in brutal hand-to-hand combat in the Galwan Valley, Ladakh. The fighting, which involved clubs and staves, ignited widespread outrage in India, triggering street protests and international concern. The United Nations called for "maximum restraint" from both nuclear-armed nations. In response, India imposed restrictions on Chinese investments, banned popular Chinese mobile apps, including TikTok, and suspended direct flights between the two countries. The number of banned Chinese apps eventually reached 321.

January 2021: Indian and Chinese troops faced off in a "minor" confrontation along their frontier in the northeastern Indian state of Sikkim, though no casualties were reported. The incident further highlighted the ongoing tensions along the Line of Actual Control.

December 2022: Minor border clashes occurred in the Tawang sector of India's northeastern state of Arunachal Pradesh, an area partially claimed by China. Beijing accused Indian troops of blocking a routine Chinese patrol, while New Delhi

asserted that Chinese soldiers had crossed into Indian territory, attempting to "change the status quo".

August 2023: Indian Prime Minister Narendra Modi and Chinese President Xi Jinping briefly met on the sidelines of the BRICS summit in Johannesburg. During their conversation, both leaders agreed to intensify efforts toward disengagement and de-escalation along their disputed border areas.

June 2024: Indian External Affairs Minister S Jaishankar met with Chinese Foreign Minister Wang Yi at the Shanghai Cooperation Organisation Summit in Kazakhstan. They pledged to accelerate discussions and negotiations to resolve the remaining border issues.

September 2024: External Affairs Minister Jaishankar announced that around 75 percent of the disengagement issues along the India-China border had been resolved, signalling progress in the diplomatic and military efforts aimed at de-escalating tensions and restoring peace.

October 2024: Prime Minister Modi and President Xi held a bilateral meeting during the BRICS Summit just days after the border agreement was announced.

has positioned its aircraft from Srinagar to Gwalior to Tezpur.

However, despite these diplomatic efforts, trust between India and China remains fragile. The LAC, which has never been formally demarcated, continues to be a source of friction. China's incremental advances and strategic land grabs, coupled with India's determination to defend its territorial

India and China must work out the details of de-escalation, as over 50,000 troops, along with tanks, missile units, and rocket regiments, remain positioned on both sides of the LAC. Fighter jets are also stationed at rear bases, with China's in Tibet and the Xinjiang region, while India has positioned its aircraft from Srinagar to Gwalior to Tezpur.

The agreement suggests that the People's Liberation Army (right) will no longer block Indian patrols from reaching the Depsang Plains and Demchok, although this is met with scepticism due to the extensive Chinese infrastructure development in the area. Satellite imagery shows the construction of new PLA settlements and military positions in the Depsang Plains, raising concerns that China may be unwilling to dismantle these positions.



claims, make it difficult to achieve a lasting resolution. The new patrolling agreement, while an important step, is unlikely to lead to a complete rollback of Chinese positions in areas like Depsang and Demchok.

The agreement to resume patrolling along the LAC is a welcome development, but it is not a comprehensive solution to the broader issue of disengagement and de-escalation. Without a full military rollback and a clear strategic understanding between the two sides, the situation in Eastern Ladakh is likely to remain tense. Both India and China have invested heavily in fortifying their positions along the LAC, and these defences cannot be dismantled without a significant shift in bilateral relations.

As winter approaches, patrolling activities are likely to be suspended due to harsh weather conditions, providing both sides with an opportunity to explore further diplomatic solutions. In the meantime, the resumption of patrolling represents a cautious step towards restoring peace and tranquillity along the border, but it is far from a breakthrough. The true test of this agreement will come in the months ahead, as both sides navigate the complex dynamics of military disengagement and seek to reset their bilateral ties.

The agreement reached just before the BRICS summit provided India with the diplo-

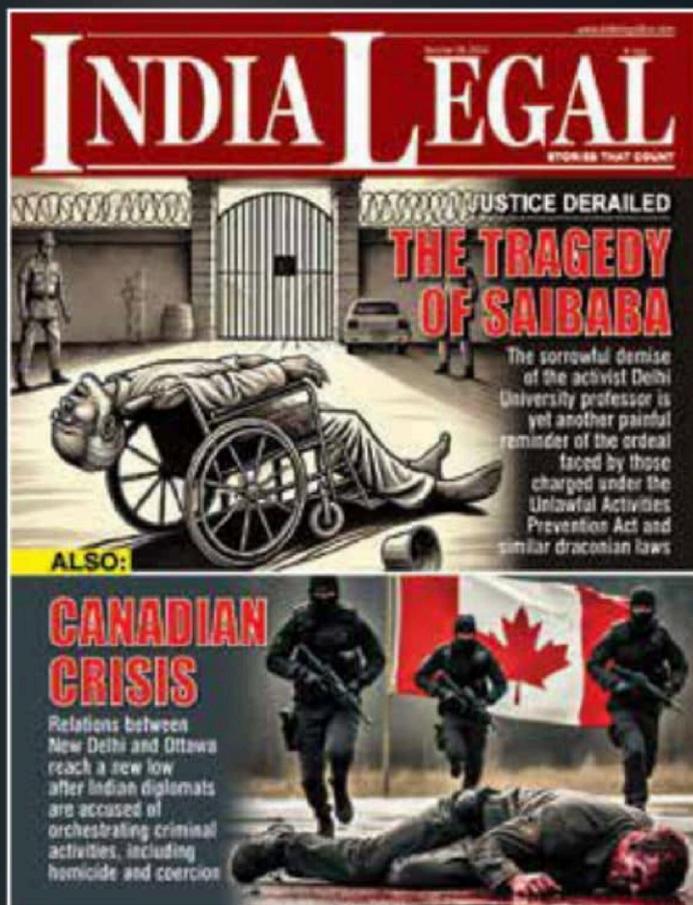
matic flexibility to facilitate a meeting between Prime Minister Narendra Modi and President Xi Jinping on the sidelines of the event. The existence of a border deal made it politically easier for New Delhi to agree to such an encounter. Economic relations, likely, played a significant role in shaping this agreement. China has been one of India's top two trading partners, alongside the United States. In both 2023 and 2024, China was India's largest trading partner, with bilateral trade reaching \$118.4 billion. Additionally, China remains India's primary source for goods and industrial products, from telecommunications equipment to essential raw materials for the Indian pharmaceutical industry.

For China, easing border tensions aligns with its broader ambitions to expand its global influence, particularly through multilateral forums such as BRICS. Chinese companies, which faced notable hurdles in India after 2020 due to tighter investment rules and the banning of popular Chinese apps, are eager to restore business ties. Pressure from India's business community also played a role in driving efforts towards the border agreement. ■

—The writer is a Research Officer at Chennai Centre for China Studies. Her research interests constitute China-WANA (West Asia and North Africa) relations and human rights

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Donald Trump's campaigning has been more erratic, with fewer rallies and less enthusiasm than in the past. He has used profane expressions regarding his opponent. On the other hand, Kamala Harris is pushing the measures she will take to bring economic fairness to wages and costs and stresses her position on family planning and women's rights.

DOWN TO THE WIRE

Duelling presidential candidates on America's political menu offer a stark choice between a long-standing constitutional democracy and a contentious autocracy that will ultimately impact the globe. Nearly 150 million votes cast must be counted in 50 separate states across five time zones, then certified by each state's officials, leaving plenty of room for confusion

By Kenneth Tiven

DONALD Trump's authoritarian language is increasingly becoming more vulgar and strident as the presidential campaign wounds toward its conclusion. In response, Kamala Harris was direct when asked at a *CNN* Town Hall programme if she thought Trump met the definition of a fascist. "Yes, I do," she said without hesitation, repeating, "Yes, I do". She added that "Americans care about our democracy and not having a president of the United States who admires dictators and is a fascist."

This came a few days after retired Marine Corps General John Kelly described Trump as a fascist for claiming the "Enemy is within the USA". Kelly was Trump's longest-serving White House Chief of Staff. He told an anecdote about when Trump regretted not having generals who swore loyalty to him as did military commanders who served Hitler in Nazi Germany. Kelly said he explained that they weren't all loyal, with several failing attempts to assassinate Hitler. Trump disagreed and walked off, according to Kelly.

A day earlier, in careful remarks, Harris said: "Donald Trump is increasingly unhinged and unstable, and in a second term, people like John Kelly would not be there to be the guardrails against his propensities and his actions. Those who once tried to stop him from pursuing his worst impulses would no longer be there to rein him in."

Harris is an experienced lawyer, prosecutor, and politician. Her toughness reflects her mother, a medical researcher who emigrated from Tamil Nadu, married in California, and raised two daughters. Her language is elegant and careful compared to Trump's undisciplined rants. She has been Joe Biden's vice-president and campaigned non-stop for more than 100 days to win and replace him in the Oval Office when a new government is sworn into office on January 20, 2025.

Trump has already told America that only Democrats cheating with a rigged vote count can deny him a second term. The same denial of losing that failed in 2020 will be re-run, promising a period of legal, political, and psychological manoeuvres threatening the peaceful transfer of power. Millions

of Americans are already voting with mail-in ballots or the early voting options in several states. National voting at the polls is on November 5, and late that evening, the vote count is likely to be unfinished because Republican officials in several states hint at a slowdown. Nearly 150 million votes—maybe more—will be cast. They must be counted in 50 separate states across five time zones and then certified by each state's officials, leaving plenty of room for confusion. Trump has considered himself a president-in-exile rather than the loser in 2020, and despite having encouraged a coup in 2021, he has characterized President Biden and all Democrats as "enemies of the state".

Trump's campaigning has been more erratic, with fewer rallies and less enthusiasm than in the past. He has used profane expressions regarding his opponent. At a recent event, he lost his train of thought, standing mute while swaying to music for over half an hour. Perhaps it is age or a sign of dementia, but campaign spokesman



Retired Marine Corps General John Kelly described Trump as a fascist for claiming the "Enemy is within the USA". Kelly was Trump's longest-serving White House Chief of Staff. He said Trump regretted not having generals who swore loyalty to him as did military commanders who served Hitler in Nazi Germany.



Elon Musk, the chief executive of Tesla cars and the owner of Twitter, named X, is using his vast resources and taking aggressive measures for Donald Trump in Pennsylvania and other key battleground states. Musk said he will randomly award \$1 million to a swing state voter daily through election day. This move has raised legal and ethical concerns.

Stephen Cheung laughed it off as Donald being Donald. Or, possibly he expects to overturn any adverse election results in court, so the campaign doesn't matter. His language has been consistent. A year ago, he said: "This is the final battle. With you at my side, we will demolish the deep state. We will expel the warmongers from our government, we will drive out the globalists, we will cast out the communists, we will throw off the sick political class that hates us, we will rout the fake news media and we will liberate America from these villains once and for all."

Beginning in 2015 when he first ran and won, Trump has articulated an unchanged view that the US is in decline with systemic problems in every aspect of life. Yet today, with three and a half years of Democratic leadership, unemployment is low, wages are increasing, illegal immigration has declined significantly and the stock market is at an all-time high, with corporate profits exceed-

ing expectations in significant industries. Inflation, especially in food and fuel prices, has declined, but not fast enough for many people who base their entire understanding of economics on food prices.

Harris is pushing the measures she will take to bring economic fairness to wages and costs, and she stresses her position on family planning and women's rights. Democrats are counting on the issue of individual rights, which the Republican majority in the US Supreme Court revoked at the urging of Trump and his white Christian evangelical supporters. Women lost control of their medical decisions as 50 states were then able to set 50 different rules on abortion and family planning issues. This has interfered with medical decisions, with women dying as a result. These are so personal and contentious that polling answers may not accurately indicate how people will vote.

A Republican senatorial candidate in Ohio expressed amazement that any woman over 50 cared about abortion, obviously ignoring that many have daughters and daughters-in-law and may simply think outside their own needs. Simple-minded politicians are not in short supply in America. Non-stop, short-form television and social media advertising plays a role in voters' lack of sophistication on many issues.

The two campaigns and related political action committees (PACS) are estimated to have spent at least two billion dollars supporting candidates. Among them is Elon Musk, the chief executive of Tesla cars and the owner of Twitter, named X, and now a major supporter of right-wing rhetoric on behalf of Trump. Among the richest men in the world, he is also apparently one of the strangest. Musk is using his

more Republican. The nation's election laws have been adjusted over two centuries, but the power of the less populated states has been preserved. It stems from a compromise written into the US Constitution in the 18th century that converted the popular vote to a state-by-state total number called the Electoral College. In that period, enslaved people did not vote; only white males voted. Women didn't get the vote until 1920. So, about seven states whose voting majority swings back and forth are the focus of this election. There are a total of 538 electors with each state getting an elector for each representative they have in Congress—both senators and House members. The concept was to convince small states that their votes were equally valued compared to states with much larger populations.

America's role in world affairs will vary enormously depending on who is elected.

From 2015, Trump has been articulating that the US is in decline with systemic problems in every aspect of life. Yet today, with three and a half years of Democratic leadership, unemployment is low, wages are increasing, illegal immigration has declined significantly, and the stock market is at an all-time high, with corporate profits exceeding expectations in significant industries.

vast resources and taking aggressive measures for Trump in Pennsylvania and other key battleground states. His direct use of social network influencer X as a backer of Trump and right-wing conspiracy theorists has been obvious for months.

A recent move raises legal and ethical concerns. Musk says he will randomly award one \$1 million to a swing state voter daily through Election Day. It is ostensibly about signing a petition from Musk's pro-Trump political action committee to avoid regulations prohibiting paying people to vote. Musk has already personally contributed \$75 million on Trump's behalf.

Pennsylvania Governor Josh Shapiro, a Democrat, said: "Musk obviously has a right to express his views. I don't deny him that right. But when you start flowing this kind of money into politics, I think it raises serious questions that folks may want to take a look at." He added: "I think it's something that law enforcement could take a look at."

The Democratic Party's strength is in urban areas, while rural dwellers tend to be

Trump's admiration for dictators such as Vladimir Putin and other oligarchs has been crystal clear for some time. Trump himself has said he wants to be a dictator on Day One, implying a one-shot deal. A dictator, by definition, wants total control, as Trump himself made clear, saying: "Domestic threats are more dangerous than China, Russia... the bigger problem is the enemy from within. We have some very bad people, we have some sick people, radical left lunatics. And I think they're the big—and it should be very easily handled by, if necessary, by the National Guard, or if really necessary, by the military, because they can't let that happen."

These are not the words of the leader of a pluralistic democracy that is involved in social, political, and defense relationships on a global basis. ■

—The writer has worked in senior positions at The Washington Post, NBC, ABC and CNN and also consults for several Indian channels



Lebanon's national air carrier MEA is the only commercial airline still operating out of Beirut airport, despite it being located on the coast near the heavily populated suburbs which Israel has been targeting since they are believed to be where most of Hezbollah's leadership and its support systems are based. The airport has not been targeted in the current conflict.



Capt. Mohammed Aziz, adviser to MEA chairman Mohamad El-Hout, said the airline has received assurances that Israel won't target its planes or the airport as long as they are used solely for civilian purposes



Media coverage of Beirut where explosions (above) are a regular occurrence, shows passenger jets landing amid the plumes of smoke that frame the city's skyline

Flying In Turbulence

Despite Israel's daily strikes on Lebanon, mostly targeting the capital Beirut's southern suburbs, locals are pointing to a strange phenomenon, one that keeps their hopes literally high: Middle East Airlines (MEA).

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Capt. Mohammed Aziz, adviser to MEA chairman Mohamad El-Hout, said the airline has received assurances that Israel won't target its planes or the airport as long as they are used solely for civilian purposes. The carrier conducts a risk assessment each day to determine if it is safe to fly, he said. "As long as you see us operating, it means our threat assessment says that we can operate," Aziz said. "We will never jeopardize the life of anyone."

Media coverage of Beirut where explosions are a regular occurrence, shows passenger jets landing amid the plumes of smoke that frame the city's skyline. Such images have gone viral on social media. Since Israel's bombing and ground invasion of Lebanon began, foreign governments have been desperate to get their citizens out of the country and MEA has been chartering flights to cater to the demand. Lebanese citizens have also used the airline to fly to nearby destinations like Turkey and Cyprus. Foreign airlines have cancelled their flights to Beirut so MEA is the only option for those looking to escape the destruction.

MEA has altered its operations to ensure flights are safer by spacing out flights and parking most of its aircraft outside Beirut till they are needed, depending on demand. Right now, the sight of passenger aircraft taking off or landing in Beirut airport is the only sign of normalcy, even though air strikes by Israel have targeted areas not far from the airport.

Partnering Against Putin

Even as Russian President Vladimir Putin plays host at the BRICS Summit 2024 to prove he is not as isolated as it may appear, Germany and Britain have just concluded a new defense pact to counter the growing threats from Russia. It is the first of its kind defense agreement between the two countries and is aimed at boosting European security.

“The UK and Germany are moving closer together. With projects across the air, land, sea, and cyber domains, we will jointly increase our defence capabilities, thereby strengthening the European pillar within NATO,” German Defence Minister Boris Pistorius said in a statement ahead of signing the deal. “It is particularly important to me that we cooperate even more closely to strengthen NATO’s eastern flank and to close critical capability gaps, for instance in the field of long-range strike weapons,” he added. The European Union and Britain are worried about Russia’s new moves to strengthen its armed forces in its war against Ukraine.

Under the agreement, German submarine hunter aircraft are expected to operate “periodically” from a Scottish military base



Under the agreement, German submarine hunter aircraft are expected to operate “periodically” from a Scottish military base to patrol the North Atlantic

to patrol the North Atlantic. The two countries will also work closer together to protect vital underwater cables in the North Sea. They will also cooperate to prioritize developing long-range strike weapons that can travel farther than the UK’s existing Storm Shadow missiles. German Defense giant Rheinmetall is also expected to open a factory producing artillery gun barrels using British steel.

Officials say the pact will mean British and German forces committed to NATO in Estonia and Lithuania will exercise and operate together more closely, ensuring that “land forces on NATO’s eastern flank remain a strong deterrent and are ready to fight and win if required.” Britain and Germany are also expected to collaborate on developing new land-based and aerial drones.



Germany and Britain have just concluded a new defense pact to counter the growing threats from Russia. British Defence Secretary John Healey (left) and his German counterpart Boris Pistorius after signing the agreement



“The UK and Germany are moving closer together. With projects across the air, land, sea, and cyber domains, we will jointly increase our defence capabilities, thereby strengthening the European pillar within NATO,” said German Defence Minister Boris Pistorius ahead of signing the deal

Sins Of The Son?

Lee Kuan Yew is a revered figure in Singapore; the man who founded the city-state and supervised its rapid rise from a British colonial backwater to a global trade and financial centre. His sons have proven a mixed bag. His eldest son, Lee Hsien Loong, was prime minister for two decades until May this year. Now, his youngest son has created a huge scandal by declaring that he is a political refugee in the United Kingdom. That is the culmination of a high-profile feud within Singapore's most prominent family.

Lee Hsien Yang declared last week that the UK government granted him asylum from what he described as "persecution" at home. Lee and his sister Lee Wei Ling, who died on October 9, have for years been estranged from elder brother Lee Hsien Loon. The rift centred around disagreements over the fate of their father's home following his death in 2015.

The frayed relationship has played out publicly, with the younger Lee, 67, aligning himself with an opposition party during the 2020 election, saying he was considering running for the Singapore presidency, a largely ceremonial post.

In a Facebook post last week, Lee Hsien Yang said that he sought asylum in 2022 "as a last resort," which the UK granted him in August. "The Singapore government's attacks against me are in the public record. They prosecuted my son, brought disciplinary proceedings against my wife, and launched a bogus police investigation that has dragged on for years," he wrote, adding that he had been unable to return home for his sister's funeral as a result. "On the basis of these facts, the UK has determined that I face a well-founded risk of persecution and cannot safely return to Singapore." Singapore's government, however, said the persecution claim was baseless and unfounded.

Lee Hsien Yang and his sister, Lee Wei Ling, have accused their eldest brother of abusing his power to stop them from demolishing the family home according to the wishes of their father, who died in

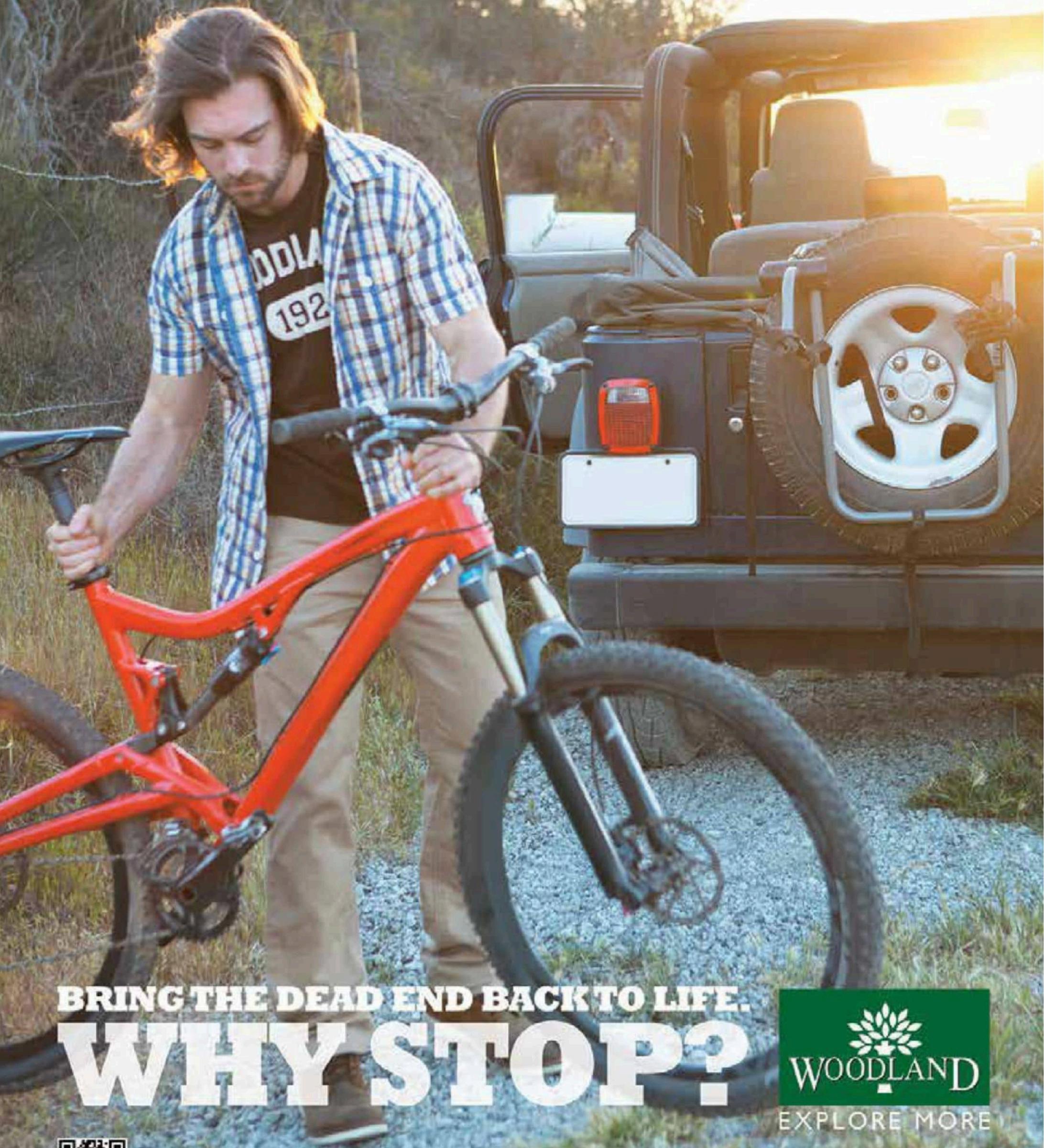


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Lee Kuan Yew's eldest son, Lee Hsien Loong, was prime minister for two decades until May this year

2015. Lee Hsien Loong thought it should be up to the government to decide what to do with it, including retaining it as a heritage landmark. The elder Lee remains in the cabinet in the post of senior minister.

In Singapore, any scandal is a rare occurrence, but this one involving what is considered Singapore's First Family has elevated it to a higher level.

Back To Africa

British actor Idris Elba, 52, has said he will relocate to Africa within the next decade as part of his plans to support the continent's movie industry. The 52-year-old movie and TV star has already invested in projects in Sierra Leone and the Ghanaian capital, Accra. Although born in London, Elba's mother is from Ghana and his father from Sierra Leone.

Despite his hugely successful career in movies and hit TV series, he has retained a strong attachment to Africa. "I think [I'll move] in the next five, 10 years, God willing. I'm here to bolster the film industry—that is a 10-year process—I won't be able to do that from overseas. I need to be in-country, on the continent. I'm going to live in Accra, I'm going to live in Freetown [Sierra Leone's capital], I'm going to live in Zanzibar. I'm going to try and go where they're telling stories—that's really important," Elba said.

His plans include a film made by the studio he has set up in Accra. Elba, who played South African anti-apartheid leader Nelson Mandela in the 2013 biopic *Long Walk to Freedom*, believes that it is vital for Africans to be involved in every



British actor Idris Elba, 52, has said he will relocate to Africa within the next decade as part of his plans to support the continent's movie industry. The 52-year-old movie and TV star has already invested in projects in Sierra Leone and the Ghanaian capital, Accra

aspect of the film-making process—in front of the camera, behind the camera and also in financing, distribution, marketing and promoting the final product. He wants to promote soft power, not just across Ghana, but across Africa. Nigeria already produces hundreds of

movies a year.

Elba believes that Africa has the talent, but facilities were "lacking". As he says: "We have to invest in our story—telling because when you see me, you see a little version of yourself and that encourages us."

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Art and design help to create a stimulating experience for our guests. Our innovative Arrival Artwork installation engages them upon arrival with its interactive ingenuity. Works of contemporary art and architecture within the hotel are exhilarating discoveries that awaken the senses. Inspiring a new way of seeing.

N 28° 37' E 77° 13'
DESTINATION UNLOCKED

For more information or to make a reservation, call +91 11 2371 0101

INFLATION



APN

खबर है तो दिखेगी

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