

Housing and other amenities for poor

The LG has sought support from the people in building peace in J&K, stating that while security forces and the police are doing their part, it is the collective responsibility of every citizen to contribute to peace building. He reiterated the commitment of the administration to work for the socio-economic empowerment of all sections of society, with a focus on marginalised communities. The situation in Jammu and Kashmir regarding the lack of homes for thousands of families even after 75 years of independence is indeed a reflection of the past state of affairs. The formation of the Union Territories of Jammu and Kashmir and Ladakh brought about significant changes, as all the laws of the country were implemented in these regions, similar to the rest of India. Draconian laws that had previously caused injustice to Valmikis, West Pakistan Refugees (WPRs), Pakistani-occupied Jammu and Kashmir (POJK) refugees, and daughters of Jammu and Kashmir were abolished. The focus now is on uplifting the downtrodden and neglected sections of society. Domicile certificates and equal rights have been granted to all residents of Jammu and Kashmir. The daughters of Jammu and Kashmir have also been granted their rights. Financial aid has been provided to POJK and WPR refugees. The administration is making all-out efforts to ensure the delivery of schemes and benefits to every individual without prejudice. It is evident that steps have been taken to address the longstanding issues and inequalities in Jammu and Kashmir, and the administration is committed to improving the living conditions and socio-economic empowerment of all sections of society in the region.

The provision of 5 Marla plots for families without land is indeed a significant step to address the housing needs of the poor masses in Jammu and Kashmir. It is commendable that the Government has recognised the plight of families who don't have any land and has decided to provide them with land for the construction of their houses. This policy decision includes families from SCs and STs, which also encompass communities like Gujjars and Bakerwals, who are traditionally nomadic. By providing these families with free plots, the administration is offering crucial support for their lives and livelihoods. The LG has explicitly stated that all 2,711 plots under PMAY are allotted to local residents only, dispelling rumours and baseless claims about outsiders being allocated plots for demographic changes. It is unfortunate that certain politicians who previously held power in the erstwhile state of Jammu and Kashmir failed to address the needs of these homeless families. It is important to recognise the efforts being made by the administration to rectify this situation and provide the necessary support to those in need. Unnecessary controversies that create a divide among different sections of society must be avoided.

Significant India-UAE agreements

India and the UAE have taken significant steps to enhance their bilateral relations. During the Indian Prime Minister's visit to the UAE, several agreements were signed to promote trade, financial cooperation, and educational collaboration between the two countries. The growing alliance between India and the UAE is significant and holds mutual benefits for both countries. The decision to leverage each other's strengths is a strategic move that can contribute to their respective economic growth and development. India, with its renowned technical institutes such as the IITs, can offer its expertise in education and technical training to the UAE. This collaboration can help enhance the skill sets of the UAE's workforce and support the development of a knowledge-based economy. On the other hand, the UAE's experience in developing world-class tourist destinations can greatly benefit India's efforts to boost its tourism sector. The UAE has successfully created iconic tourist attractions and has extensive knowledge in hospitality management, which India can leverage to enhance its tourism infrastructure and services.

The agreement to trade in the individual currencies of both countries is a positive step towards strengthening their economic ties. It can reduce dependence on third-party currencies, simplify trade transactions, and potentially increase bilateral trade volumes. By facilitating transactions in local currencies, tourists visiting either country can have a more seamless and convenient experience. When tourists find it more convenient and cost-effective to transact in local currencies, it can encourage them to spend more during their visits. The UAE's investments in hospitality projects in Jammu and Kashmir demonstrate its confidence in the region's potential and contribute to the growth of tourism in the area. The development of malls and the facilitation of direct exports of local produce and art products to the UAE can provide economic opportunities for the local population, generating employment and income.

Overall, the partnership between India and the UAE has the potential to bring about significant growth in various sectors. The collaboration between the two countries can create a win-win situation, promoting trade, investment, tourism, and cultural exchange.

Asad Mirza

The UCC as envisaged by the government will affect the Muslim community, so it would be prudent for its leaders to at least once adopt a careful, logical, farsighted and well thought out strategy to counter the move.

On 9th December 2022, Kirodi Lal Meena, a R.S. - M.P. of the ruling Bharatiya Janata Party (BJP) introduced a private member bill on India's Uniform Civil Code (UCC) in the Rajya Sabha that fuelled a fresh debate on an issue, which saw no resolution even in pre-independence India and continues to haunt the political climate of India even today.

The sensitive nature of the issue besides giving political mileage to the BJP, affects various political parties, with respect to their stand on the issue. Plus, it also puts various religious communities coming under the purview of the UCC to give up their respective Personal Laws, particularly the Muslims, which are the largest religious minority in the country.

Let's dissect the political motives first and then the response of the affected communities.

First, the audacious move of tabling the Private Member Bill in the Rajya Sabha came just one day after the BJP secured victory in the Gujarat assembly polls in December last. It reinforced the BJP's political manifesto of enforcing Hindutva, which may also serve as the lynchpin of its political strategy for the upcoming general elections in 2024, by polarising the public.

Further, the second move to seek public opinion on the proposed UCC, in absence of any Draft of the proposed Bill, was a very astute move by the BJP. As it came within a week of the opposition parties' meeting in Patna in June to formulate a united front and strategy to counter the BJP in the upcoming 2024 elections. As expected the move sowed division within the opposition's ranks. Further, it saw an immediate half-baked response from the so-called leaders of the religious minorities - particularly the Muslims.

Muslim religious and community leaders without batting an eyelid immediately started opposing the UCC, and didn't stop to dwell on what grounds they were protesting and we saw a plethora of sentimentally rich and logically poor responses coming forth from them. The only common

Unravelling the UCC

stand they took was that they oppose any interference in the Muslim Personal Law.

But I'm sure, neither the leaders nor their supporters know which Muslim Personal Law they are talking about. The one codified by any Muslim rulers like the Mughals, the Khiljis or the Tughlaqs or the ones before them? The answer is NO. In fact, the British colonialists codified the prevailing Muslim Personal Law, without any consultations from any Islamic jurist or scholar.

Before 1937, Muslims of all denominations, all over India, followed the uncodified local Hindu customs, practices and usages in addition to their personal law as per the Sharia. So the British

Jinnah's political strategy on how to secure a separate country for the Muslims, but it had an added personal angle also to it.

MA Jinnah's daughter Dina married Neville Wadia - a Parsi, against his wishes, though he himself had married a Parsi lady, Rattanbai Petit. To disown Dina and leave no inheritance for her, Jinnah made use of the recently introduced Shariat Act 1937 and nominated his sister Fatima as his successor. The Act, a joint strategy of the British and the League, contained provisions to sabotage the Islamic Sharia, by secretly smuggling the Hindu customs and usages into the 1937 Act to save the property rights of the Muslim leaders, Jinnah

ties and scheduled tribes in the country. And at the moment it is just a political gimmick of the government to polarise the electorate and also sow seeds of discord amongst the unified opposition. Muslim leaders need to bring other communities leaders at the same platform and also inform their Hindu brethren that the UCC will abolish the HUF provisions for filing Income Tax, thus it would increase the tax liability of Hindus also.

The UCC Bill has been introduced as a political reform by the BJP, guided by principles of Hindutva, as a response to replace the existing complicated set of personal laws. These personal laws are so complicated that even the Britishers didn't dare to interfere with them. Further, the Constituent Assembly, besieged by two schools of thought, one supporting the UCC argued that it provided for the emergence of a secular and progressive nation, while the opponents felt it to be conflicting with the ideas of inclusiveness and pluralism, deemed it fit to circumvent the issue and leave it at the moment and thus chose to include it under the Directive Principles of the constitution, under Article 44 of the Constitution, and leaving it for the future generations to sort it out.

A realistic and practical understanding of how personal laws operate will indicate that the state's organs and the Indian society are yet not ready, even after 73 years for the substantial revamp that such legislation would bring. Instead of gunning for political gains we should try to reflect the rich Indian diversity of traditions and their importance in common Indians' daily life.

Lastly, the manner in which the Muslim leadership responded to the government's move, shows its complete immaturity and the set manner of its traditional, out of touch with reality reactive response, completely bereft of any political nuances and strategy, which was also evident during the Babri Masjid movement, Triple Talaq issue etc.

Though it is high time but still there is time for the Muslim leaders to formulate a Unified Strategy and response to the UCC, in consultation with leaders of other religious minorities and political parties, so that this time they don't get defeated by the government in its anti-Muslim campaign, though the chances of any such endeavour seem very remote.

(The author is a Delhi-based senior political and international affairs commentator)



just concurred on codifying the prevalent practices relevant to the marriage, divorce etc., but changed the ones relating to succession and division of property, in the case of Muslims.

It would be interesting to know at whose behest the colonial rulers codified the Muslim Law of Succession and Inheritance. It was none other than MA Jinnah, the leader of the Muslim League.

The Shariat Act of 1937 was imposed on Indian Muslims as a win-win political deal between the British, keen to divide Hindus and Muslims, and the Muslim League, keen to lure the Muslims away from the Congress. In a manner this also suited

and the zamindars from harm by the Islamic Sharia. Did the Shariat Act of 1937 - now acclaimed as the holy law of Islam - contain Hindu law provisions to secure the property rights of the League leaders? Yes, it does.

Historian, KK Abdul Rahiman in The History of the Evolution of Muslim Personal Law in (1986) says the British gave strength to customs and usage that had long been adhered to particularly in matters of succession by sections of Indian Muslims.

Further, we have to realise that the UCC would not only affect Muslims but also Hindus, Sikhs, Christians, Jains, Jews, Parsis and other minori-

Judicial Scrutiny of Article 370 underway

B L Saraf

Much awaited judicial scrutiny of the Presidential Order of August, the 5th 2019 which diluted Art 370 and erased Art 35 A from the Constitution, will, hopefully, get going soon. The Supreme Court has desired to hear petitions from August 2 onwards which have challenged the Presidential Order and other ones issued in the following up.

It may take a while for the Apex Court to come to a decision, nonetheless, it's move has stirred Valley's moribund political scene to life. Two major political parties like NC and PDP have come out with their reactions. The NC leaders say that they are watching these developments closely. PDP, on the other hand, has been rather vocal in reaction. One of its senior leaders has said "the Supreme Court is hearing another momentous case after Ram Janam Bhumi one. This time the court has to take call and decide between the Constitution and a party's agenda." It may give heart to the political parties in Kashmir that the Apex Court has refused to entertain Central Government's affidavit to show "the dilution of Art 370 has ensured enormous economic activity in J&K." It has observed that only constitutional aspect of the matter will be considered.

It was in April 2022 the then Chief Justice, NV Ramana announced listing of these petitions for hearing "soon ". Coming close on the heels of his announcement to list the petitions challenging abrogation of Art 370 for hearing, the Chief Justice N V Ramana addressed 11th joint conference of Chief Ministers and Chief Justices of the states, on 30 04 2022, wherein he dwelt on many issues that confront the Indian judiciary, particularly the one of pendency -which has assumed enormous proportion. PM Narendra Modi was also present in the conference. Listing number of reasons for the laws delay CJI said "At times, ambiguities in legislations also add to the existing issues. If the legislature passes law with clarity of thought, foresight and with

people's welfare in mind, the scope for litigation gets minimized. The legislature is expected to solicit views of the public and debate the bills, clause by clause, threadbare before enacting a law." The statement, then gave a hope that petitions challenging the abrogation of Article 370 which stripped J&K of its special status would see a closure of the issue, the way Court deems fit. However, it didn't happen in 2022: we trust it will happen in 2023!

Leaving merits of the case to the decision of Supreme Court, if any illustration of how a legislation of far reaching consequence was passed without "debate, clause by clause consideration and without soliciting views of the public " - which the Hon CJI flagged in the conference - the abro-

contrast in the way these developments were dealt with by the Highest Courts of the respective countries. One has the origin in Indian Parliament brought about on the prompting of Government and other was the outcome of Queen's action of prorogation of the British Parliament, initiated on the advice of British Prime Minister Boris Johnson when he failed to carry Parliament with him on matters related to British exiting EU. Both were epochal in some sense. However, thanks to the British courts the Queen's one got reversed within 27 days of its making: while as that of the Indian Parliament still awaits decision.

In last week of August 2019, the Constitutional Bench of the Supreme Court took cognizance of

It will be interesting for a student of law to know how does Supreme Court decide the question of splitting erstwhile J&K State into two Union Territories, simultaneously, with the dilution of Art 370.

gation of Art 370 and enactment of J&K Reorganization Act 2019 - Act 34, which split Jammu and Kashmir and downgraded it into two UTs, provides a classic example. It took Parliament just few hours to undo the 75 year old history written in blood and sweat of so many. Well, one hopes that when the issue comes up before the Court this circumstance, among others, may also be taken into the consideration.

We appreciate that our courts -the Apex Court including -are burdened with a heavy case load, with no proportionate men and material available to facilitate timely disposal of the cases. Here, the constitutional development that occurred in August and September of 2019, in India and Britain, respectively, come to the mind to bring out

the challenge to the Constitutional order and the J K Reorganization Act 2019. The matter is of importance to the different people for the different reasons. For a student of law quite a number of legal issues of far reaching consequences stand flagged by the subject experts.

They are: the modification of Art 367 in so far as it applies to J & K fictionalizing the reference to "the legislative Assembly of J&K as used in Article 370 to mean the governor of the state and reference to the 'Constituent Assembly " used in Clause 3 Article 370 to mean 'Legislative assembly of the state. That, according to the observers, combines in a governor role of legislature and of the Constituent Assembly. This was ostensibly done to pave way for the Statutory Notification that

resulted in the recommendations to dilute the critical caveats of Article 370. Some raised the point that Art 370 cannot be used to amendment itself.

It will be interesting for a student of law to know how does Supreme Court decide the question of splitting erstwhile J&K State into two Union Territories, simultaneously, with the dilution of Art 370. Art 3 of the Constitution, no doubt, gives power to the Parliament to make law for creating a new state within the Union by separation of territory from any state. But, the Bill for this purpose can be introduced only on the recommendations of President. Before that, the President has to refer the Bill to the legislature of the state concerned for expressing their views within a specific period. While Parliament can act as a Legislature of the state which is under President's Rule and has a power to make laws for the state in question but can it be expected to have "views" of the state legislature with respect to a matter which is revolutionary in nature. The Legislature in that sense means the group of Members who constitute it physically and not notionally. Therefore, in this context "having power to do a thing" and "expressing view" emerge out as two distinct expressions in sum and substance. Honourable Apex Court's finding on the matter would indeed be interesting and quite educative.

The interest in disposal of the matter is guided by the urge to know how the Apex Court will travel across its earlier decisions where it had ruled in favour of retention of the Article 370. The latest one came on 16th December 2016 where the Court, on the appeals filed by the SBI and others feeling aggrieved of J&K High Court's verdict which quashed their notices issued to the loan defaulters, under various provisions of Securitization and Reconstruction Of Financial Assets and Enforcement of Security Interest Act, confirmed its earlier position about the permanency of Article 370 taken in Sampant Prakash v State of J&K (1969) and Premnath Koul's case of 1959.

(The author is former Principal District & Sessions Judge)

Cluster bombs for Ukraine

Harsha Kakar

A recent announcement from the White House mentioned that the US is despatching cluster bombs to Ukraine. In an interview to CNN television, President Biden stated that it had taken him 'a while to be convinced,' adding, 'the Ukrainians are running out of ammunition.' A Cluster bomb, on exploding, releases smaller bomblets which kill indiscriminately over a wide area. Casualties are higher if used in built up areas. The ammunition is controversial as some released bomblets fail to explode. The US also claims that Ukraine had requested for this ammunition.

Unexploded bomblets can remain in situ for years and then indiscriminately explode causing civilian casualties. As per Human Rights Watch there have been between 56,500 to 86,500 civilian deaths from unexploded cluster ammunition since 1943, when it was first introduced. 123 nations are signatory to a convention banning cluster ammunition, introduced in 2008, and almost 90% stocks of cluster bombs held by these nations destroyed. The US, Russia and Ukraine are not signatories to the agreement and continue to maintain stockpiles.

Currently both Russia and Ukraine use them. Ukrainians possess Turkey manufactured cluster bombs. As per the UN, 10 to 40% of the bomblets, currently being used in the conflict, have failed to detonate and akin to mines, may explode later due to human contact. The US defended its decision of sending these bombs to Ukraine by stating that they will be employed only on their soil and hence not expand the conflict. Human Rights groups and the Red Cross have condemned the US decision.

The US National Security Advisor, Jake Sullivan, in a press conference mentioned that the cluster bombs being sent to Ukraine failed far less frequently than those being fired by Russia. UK, New Zealand, Spain and Canada, all US

allies, have protested the decision. While most nations objected being signatories to the convention, the New Zealand PM, Chris Hipkins, stated they were, 'indiscriminate, they cause huge damage to innocent people, potentially, and they can have a long-lasting effect as well.'

The US National Security spokesperson, John Kirby, defended likely civilian casualties occurring due to employment of this ammunition, by stating, 'I think we can all agree that more civilians have been and will continue to be killed by Russian forces -- whether it's cluster munitions, drones, missile attacks or just frontal assaults.' He added that Ukrainian forces are depleting their supplied ammunition at a rate of 'many thousands of rounds per day.'

There are multiple reasons as to why the US is adopting this drastic measure, ignoring global criticism. Firstly, it is aware that Ukraine is losing the war, despite the Russian Private Military Company, Wagner, being out of reckoning for the present.

There are multiple reasons as to why the US is adopting this drastic measure, ignoring global criticism. Firstly, it is aware that Ukraine is losing the war, despite the Russian Private Military Company, Wagner, being out of reckoning for the present. Kiev's much hyped counter offensive has almost stalled, opening doors for Russia to launch its next offensive.

Ukraine's space of expending ammunition is a cause of concern. With ammunition being provid-

ed by donors, Ukrainians have no control on their rate of fire. John Kirby mentioned, 'We are trying to ramp up our production of the kind of artillery shells that they're using most. But that production rate is still not where we wanted it to be.'

Secondly, with US elections due at the end of the year, the possibility of a Republican, may be Trump, entering the White House looms large. They are unlikely to support the war at the same level as Biden has done, resulting in Ukraine and ultimately NATO suffering a major setback. Trump has made his position on the war very clear. A change of guard in the White House will also impact support being provided by other NATO members, as without US funding, they alone will not be able to sustain Ukraine's military require-

ments. Most important is the state of availability of ammunition in the US, levels of which are maintained based on nature of threat. As stored ammunition reaches its shelf life and fresh supplies are received, these are rotated and expended in training. In the current case, majority of the ammunition rotated is being sent to Ukraine. This implies that ammunition reaching Ukraine comes from US

reserve stocks and includes those nearing the end of their shelf life. Fresh production, not matching quantities of ammunition being exported, has probably led to depletion of US stocks to critical levels. This would be unacceptable to the US military as future conflicts remain unpredictable. In such a scenario, alternate options would have been considered and cluster ammunition earmarked.

The US has provided Ukraine with 155mm Howitzers from its stocks. These howitzers fire cluster bombs. The US was already holding quantities of cluster ammunition and would in some time frame have to destroy them to meet global pressures. Sending them to Ukraine would be an easier option as also could financially be included as part of the aid package. Casualties to Ukrainian civilians are a result of utilization of this ammunition would not impact the US in the long term. More importantly, it could help stem a future Russian offensive by imposing caution as unexploded bomblets act like anti-personnel mines.

No nation would ever provide recently produced stocks of ammunition to a beneficiary. Nor would a nation accept depleted stocks of its war reserves. Peace time production levels are always low and aimed at meeting normal contingencies. Production is only ramped up when threats are imminent. Hence, the supply of cluster bombs to Ukraine is not with an intention of boosting its military power but because the US was compelled by circumstances. The question is whether the US should be accused of war crimes due to civilian casualties on account of use of cluster bombs.

No matter how the US justifies its actions, the reality is that it has been compelled by circumstances to adopt this measure. This, in no way, justifies civilian casualties which may accrue due to its decision.

(The author is Major General (Retd))