



## The violent aftermath

The court must re-examine the SC/ST Act verdict, but in an atmosphere of calm

The loss of nine lives in violent protests against the Supreme Court ruling introducing safeguards against misuse of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is tragic. Clearly, both the Centre and State governments were caught unawares by the scale and intensity of the protests. The government has sought an urgent review, in an attempt to dispel the impression that its own stand was responsible for the Division Bench laying down fresh guidelines on handling complaints under the Act. From the day of the court ruling, what was a matter of concern was the nature of the message the Bench might have conveyed to marginalised and oppressed sections. Norms to safeguard the innocent against false complaints may not have been so unpalatable as the serious implications of the finding that there is large-scale misuse of the SC/ST Act. Proceeding on this premise, the court ruled that the bar under Section 18 of the Act on grant of anticipatory bail was not absolute. It mandated a preliminary inquiry into complaints before an FIR can be registered and barred any immediate arrest of the accused, unless approved by a higher authority in the case of public servants or the Senior Superintendent of Police in respect of private citizens. Whether these directions amount to judicial legislation and go against the grain of prevailing law and policy are complex questions that need careful judicial determination. But it is a moot question whether recent explosion of Dalit anger stems entirely from the fine print of the judgment. It is likely that it is a result of the perception that in a social environment where the legal and administrative system is already loaded against the community, a verdict like this may worsen the lot of the vulnerable.

As the Bench has now agreed to hear the petition to review its own March 20 order, what is needed is a spell of calm and peace. It is true that the Bench has declined to suspend the order and clarified that its objective was to safeguard the innocent and that it has not diluted the Act or undermined the rights of SCs and STs in any way. In a larger sense, there are two disparate factors at play — protecting the innocent against harassment and misuse of a law, and faithfully preserving the letter and spirit of a piece of legislation aimed at upholding the rights and dignity of the historically oppressed classes. Neither should be sacrificed for the sake of the other. Given the mood of anger and discontent, it is both pragmatic and necessary for the entire question to be re-examined by the court. The first requirement for this is a conducive atmosphere for such a hearing. One hopes that the initial fury has spent itself out and that there will be no cause for its being unleashed again.

## Gaza on fire

Apart from an inquiry into the latest violence, there must be an aid package for the territory

Protests last week along Gaza's border with Israel, which turned violent with Israeli troops killing 18 Palestinians, were long in the making. Gaza, the 225 sq km strip of land where over two million people live, has been under an Israeli blockade for over a decade. In recent years, Egypt has also joined the blockade, practically cutting off the strip from the rest of the world. The flow of both goods and people into and out of Gaza is heavily restricted. Life has become miserable under these conditions, and it is not an exaggeration when the territory is called one big open-air prison. Recent sanctions by the Ramallah-based Palestinian Authority have not helped matters. Despite international calls and repeated warnings by rights groups, Israel has not eased its restrictions on the strip. It says they are in place for "security reasons" — the ruling Hamas is designated a terrorist group by Israel. It was against this background, amid mounting frustration and resentment against the *status quo*, that Hamas and other organisations in Gaza called for a six-week sit-in on the Israeli border to protest against the blockade as well as to support the Palestinians' right to return to the lands that became Israel in 1948. Most Gaza residents are refugees of the first Arab-Israeli war or their descendants.

There are conflicting views on what triggered the violence. Palestinians say Israeli soldiers opened fire on peaceful protesters. Israel says force had to be used to stop the tens of thousands of protesters from crossing the border into its territory. The real picture can be ascertained only through an impartial international probe. But the U.S. has already blocked a move in the UN Security Council seeking such an inquiry. In the past, Israel has faced serious allegations of using force against Gazans. A UN-appointed commission probing the 2009 Gaza war accused both Israel and Palestinian militants of committing war crimes. While Hamas is designated a terrorist organisation by most Western countries, Israel has hardly been held accountable for its actions. With the Trump administration's unconditional support for the government of Prime Minister Benjamin Netanyahu, Israel could escape censure for the latest outbreak of violence in Gaza as well. The Palestinian leadership too deserves blame. Gaza and the West Bank are ruled by rival factions, Hamas and Fatah. Despite occasional declarations of unity, there have been no joint efforts to mitigate the suffering of Gaza's people. For its part, the international community remains unresponsive when it comes to the grave rights violations in this Mediterranean enclave. Yet, the path ahead is clear. There has to be an international probe into the latest violence. World powers should urgently provide economic assistance to Gaza to save it from total collapse, and put incremental pressure on Israel to end the illegal blockade of the Gaza strip. But the question as usual is, who will put pressure on Israel?

# An act of unlearning

The plan to give select universities autonomy and create a multi-tier academe is a crisis for our democracy



SHIV VISVANATHAN

Moments of crisis often create moments for rethinking, when the basic concepts and institutions we employ are subject to critical scrutiny. Such a crisis haunts the idea of the nation state, the vision of democracy and, at another level, our model of the university. Such a crisis of change also produces a mimicry of original concepts, with mediocrity reified as excellence, status confused for quality, and a few narrow indicators defining the existence of the new paradigm. Mediocrity in mimicking excellence subverts the very essence of the institution. One witnesses such antics masquerading as reform as one watches the struggle of the Indian university over the autonomy issue.

### The grammar of reform

Merely labelling such a process will not do. Protest must be accompanied by scholarship which exposes in detail the logic and mechanics of the rituals of appropriation. One witnesses three at the outset. The first involves the attempt to appropriate the rhetoric of scholarship and to coat it with a sheen of scientism, through the use of rankings and indicators. Quality is now a numbers game evaluated by a separate directorate. Second, concepts of freedom, autonomy, the public good are bowdlerised and managerialised, transforming intellectual facts into a set of instrumentalities. Third, the public and the private are fused without any philosophical or ethical debate. One is opened up to privatisation under

the claim that private institutions contribute to the public good. It narrows the notion of the public good from a democratic idea relating to welfare and justice to a market concept. The market replaces democracy as the grammar of this reform.

All this has been created through a simulated politics of urgency, a crisis inadvertently triggered by Pranab Mukherjee, then President, bemoaning the fact that there was no Indian university listed in the top 200 in the world. Suddenly, all India suffered from rankings envy and we decided to vie for the Olympics of rankings. Sadly, speed became a substitute for efficiency and mobility appropriated justice. What got projected was a sense of decisiveness which one mistake for judgment. The hollowness and superficiality of reform was startling.

This brings to mind two stories. The first is from the national movement. Patrick Geddes, the sociologist, biologist and polymath, designed one version of the 'University of Benares'. Watching the outline unfold, people asked him out of curiosity where the administrative department was? He pointed to a little outhouse on the side and warned that if it got bigger, it would swallow the university. The prescient Geddes was warning against the bureaucratisation of the intellect and its great institution, the university. Today, sadly it is the bureaucracy that is defining the university, even dictating what autonomy means for us.

The second story is more apocryphal and is about the epidemic of rankings worldwide. The story goes that Snow White's wicked stepmother went to consult the legendary mirror. When the queen asked, "Mirror, Mirror, on the wall, who is the fairest of them all?" The mirror replied, "According to QS rankings, you are fourth



in the list for beauty and third for intelligence." The wicked queen was struck dumb with dismay and confusion.

The bureaucratic rituals around quality and autonomy have to be read in this context. Quality in this would get reduced to productivity. The ordinary process of research as learning, as a craft game, with a sense of play and experimentation is sidelined. A leading scientist once told me that PhDs get discredited and risk-taking in terms of choice of topics comes down. The machine produces more convergers than divergers. Dissent is at a discount as one must adhere to textbook paradigms for guaranteeing high scores.

### State's abdication

If excellence is marginally defined, autonomy is reduced to a market instrument. The state seems to withdraw from education playing a reluctant Father Christmas. Institutions have now the right to change admission rules, charge more fees to attract more people. The idea of university as a public space, as a commons where subsidies allowed marginals to participate in education with dignity, is lost. The market creates its own filters and slowly the poor lose entry to a system.

This was the much maligned and misunderstood battle the students and faculty of Jawaharlal

Nehru University (JNU) in Delhi decided to fight. JNU as a public system represented both quality and equality. The new rituals of autonomy, the faculty argued, would pretend to give it agency on bureaucratic issues while denying it any real empowerment. Autonomy here becomes the right to play a rule game as dictated by the state. The right to plurality, dissent, critique will decrease.

There is also an illiteracy of history here as autonomy is regarded as some new invention when autonomy was always a part of the university tradition. The state might support a university while the rules of the craft were always in the hands of practitioners. The word peer group reflects solidarity, fraternity and a definition of quality in terms of collectively debated norms. Certification had an intellectual rather than clerical quality to it. The government's insistence on divesting itself of its responsibility cannot be disguised in creating a few narrow entitlements for a few institutions. What we then face in India is a split-level world where the majority of institutions suffer from neglect and mediocrity, while a few parade their affluence as quality. It is an attempt to enforce a Darwinism in education while pretending to offer freedom. The rich can create captive institutions while the middle class watches helplessly as quality education in democratic spaces empties out. The JNU battle is a fight to define one's future without having it specified to one in the name of an ersatz freedom.

Similarly, ranking is an act of fetishism where quality gets defined as a product than a process. The university loses its ritual right to initiate a student in terms of the rules of the craft. This world of creativity disappears as we instrumentalise education and reduce the university to a certification machine, a glorified tutorial col-

lege. All this is done in the name of acceleration where India hopes to manufacture two Oxfords without sensing the organicity or the tacit knowledges of education. Here autonomy as limited agency loses out to justice as a right to define and evaluate one's situation. The academe becomes a passive receiver of diktats in the name of freedom. What one loses here is the creative pluralism of the university as the home of dissenting, as knowledge is standardised in the name of market efficiency. Also, freedom here is seen in the narrow sense of entrepreneurship. The creative tensions of the university get mowed down in this wave of standardisation and managerialisation; market friendly freedom destroys many of the lesser domains of knowledge which are custodians of the value systems of the future.

There is another issue. The university is a place for dreaming, for following not the logic of productivity or fame but a vision of new possibilities, many of them which may not be majoritarian or market-oriented. Ranking, as one professor said, allows others to dream for us. Nothing can be more unfair.

### Retaining plurality

The question is, how does a university as a plural, almost invertebrate institution react to such a crisis? There is a sense that the battle is different today. We must stand by the original vision, the culture of the university, re-emphasise its sense of play, its plurality, its sense of craft which challenges the assembly lines of knowledge. In this moment of crisis, the university must stand strong, telling society gently that democracy without the cultures of knowledge is doomed.

Shiv Visvanathan is a member of the *Compost heap, a group of academics and activists working on alternative imaginations*

# Confidence in the House

The Speaker has enough powers to restore order in the Lok Sabha and act upon a notice for a no-trust vote



M.R. MADHAVAN

Think of the day in 1997 when Prime Minister H.D. Deve Gowda had to face a no-confidence motion in the Lok Sabha. Now imagine the following situation. Some MPs from one of the numerous parties disrupt the proceedings by storming the well of the House and showing placards. The Speaker expresses that he is unable to conduct the House and adjourns for the day. Repeat this for several days. The Prime Minister continues to hold his office. Would this be a legitimate government?

This is not a mere academic question. About three weeks ago, several members of Lok Sabha gave written notices to the Speaker for a no-confidence motion against the current council of ministers. The rules of procedure require the Speaker to verify whether 50 Members of Parliament support the motion by asking them to stand at their seats and taking a count. Since March 16, the Speaker has every day expressed

her inability to count the members supporting the motion as some members were shouting slogans and showing placards in the well of the House.

### A primary function

The primary role of the Lower House of Parliament is to determine who forms the government. The Prime Minister and the Council of Ministers can hold office only as long as they have the confidence of the Lok Sabha. While defending the parliamentary system over a presidential system, B.R. Ambedkar had stressed that the former provided accountability on a daily basis, which was desirable for India. Of course, his assumption was that such accountability would be ensured through parliamentary processes such as questions, adjournment motions and as a final measure, the no-confidence motion. Our Parliament has belied this expectation.

Parliamentary processes recognise the primacy of the no-confidence motion. After all, most other parliamentary work is either designed to have the government answer on its policies and actions, or to debate government bills or sanction its budgetary proposals. These activities cannot be undertaken when the very legitimacy of the government is being ques-



tioned. Thus, if there are any notices for the no-confidence motion, the Speaker has to verify whether there are at least 50 MPs who support its introduction, and then fix a time for discussing it. It is this process that has been stalled.

What can the Speaker do if some MPs are not allowing the House to function? The Constitution and the Rules of Procedure in Lok Sabha do not give her the discretion to decide whether to allow the motion. She is duty bound to verify whether there are 50 members in the House who support its introduction. In case of disruptive behaviour by some MPs, she has the powers — and the responsibility — to bring order to the House. She can ask these MPs to return to their seats, failing which they can

be named and asked to withdraw from the House. If they don't, they can be forcibly removed. There are a number of occasions when MPs have been suspended. Indeed, during the term of the current Lok Sabha, 25 members were suspended in August 2015 for not allowing the House to function.

This is not the first time that such a situation has arisen. During the winter session of 2013, several members had given notice for a no-confidence motion. This was during the agitation for creating Telangana, and several members disrupted the House. For several days, the Speaker adjourned the House, and the motion was never introduced. However, in the midst of the ruckus, the Bill to reorganise Andhra Pradesh into two States was passed.

The present Speaker should not follow her predecessor's path. After all, an incorrect step should not form a legitimate precedent. Her duty is to put the motion to rest immediately. Otherwise, the very existence of the government (as well as that of Parliament as a body representing the will of the people) is under question.

### A long tradition

Till now, there have been 26 no-confidence motions. Many of these were symbolic in nature,

such as the first one against Jawaharlal Nehru in 1963, three against Lal Bahadur Shastri and two against Indira Gandhi in the next three years. Of these 25 were unsuccessful, and one did not get to the voting stage as Morarji Desai resigned. On all these occasions, the no-confidence motion was given priority over all other business. It is this tradition that the Speaker must follow.

Given the membership of the Lok Sabha, it is evident that this government enjoys a comfortable majority. That said, this position still needs to be tested if questioned. Parliamentary democracy works because there is a broadly held belief in the fair and just exercise of power by the state. The inability of Parliament to function and to test the support for the government undermines the very basis of our democratic structure. The Speaker has the responsibility of ensuring that the House functions and taking whatever steps are necessary — including suspension of members, if needed — to ensure order and check whether there is requisite support to admit the debate on the no-confidence motion.

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## LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

### Court on Dalit rights

By refusing to stay its order, the Supreme Court has made its stand abundantly clear *vis-à-vis* interpretation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act ("No affront to Dalit rights, says SC", April 4). The top court's inference that those who have hit the streets unleashing violence and destroying private and public property might not have understood the import of the judgment could be valid as these protests appear to have been engineered largely by vested interests.

C.V. ARAVIND,  
Bengaluru

■ The judges have reiterated their reasoning that arbitrary arrests would violate Article 21 of the Constitution. Instead of insulating specific laws against the possibility of misuse, the government can utilise the great opportunity

that has presented itself to address three glaring deficiencies of our criminal justice system. One, the legal system does not deter the misuse of laws by imposing deterrent costs on filers of false cases.

Two, even if an innocent person is acquitted of charges later, the law does not compensate them for the ordeal they underwent. Three, the closure of criminal trials is not subject to a time frame. Delays in the law incentivise malicious litigation. We need a comprehensive law to tackle these inadequacies. The rule of law that fails to secure natural justice is neither fair nor effective.

V.N. MUKUNDARAJAN,  
Thiruvananthapuram

### CBSE re-examination

It is shocking to see the way education and the examination system in our country are steadily deteriorating, more so in

northern India, where it appears that quality education is not given importance.

Many a time, the system appears to be getting hijacked for one reason or the other. The example of the paper leak in the CBSE examination, a board held in high esteem, is a case in point ("SC to hear petition against CBSE re-exam", April 4).

In the rat race to do well, as only marks seem to decide the future of a student, dubious ways and means to get through an examination are rampant. Ethical and moral value-based classes along with behavioural sciences should be incorporated in the curriculum. The respective Education Departments should also try to see how quality and value-based education can be made possible.

R.S. RAGHAVAN,  
Bengaluru

### Egypt elections

The Editorial, "No surprises" (April 2) on Egypt's elections, has tried to depict a constructed version of reality that implies irregularities during the presidential elections.

It overlooks the fact that the President came to power in 2014 after winning a presidential election with more than 96% of the vote, and that a similar majority re-elected him for a second term to complete the economic and political reforms that he started in 2014.

The Editorial is based on a couple of self-defeating arguments that have described the election as "anything but democratic", while admitting, ironically, that "this doesn't deny Mr. Sisi's support base". It didn't even provide any evidence of fraud or irregularities that breached the election process. In fact, independent non-governmental national

and international organisations that observed the entire electoral process, including overseeing polling stations and checking vote counts, didn't report any irregularities. According to Egypt's National Elections Authority, 25 million people voted, which is about 42% of the electorate. President Al Sisi won a second term with 92% of the total votes, while his opponent, the leader of the Al Ghad Party, Moussa Mustafa Moussa, netted 3%; 5% of the votes were invalid. A number of opposition candidates who announced their intent to contest

withdrew for different reasons. Finally, references to the trials of Hosni Mubarak and members of the Muslim Brotherhood group, which is designated as a terrorist group according to Egyptian law, have been clarified in rejoinders put out by the Embassy on earlier occasions and published in this daily. The legal basis to these were also explained on these occasions.

HATEM TAGELDIN,  
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OF EGYPT,  
New Delhi

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### CORRECTIONS & CLARIFICATIONS:

The photograph that was published with the report headlined "Kochhar-Dhoot link under PMO scanner" (April 4, 2018) was erroneously captioned [Videocon group chairman] Venugopal Dhoot. It was not the picture of Venugopal Dhoot.

It is the policy of The Hindu to correct significant errors as soon as possible. Please specify the edition (place of publication), date and page. The Readers' Editor's office can be contacted by Telephone: +91-44-28418297/28576300 (11 a.m. to 5 p.m., Monday to Friday); Fax: +91-44-28552963; E-mail: readerseditor@thehindu.co.in; Mail: Readers' Editor, The Hindu, Kasturi Buildings, 855 & 860 Anna Salai, Chennai 600 002, India. All communication must carry the full postal address and telephone number. No personal visits. The Terms of Reference for the Readers' Editor are on www.thehindu.com