



## Bail or jail

The Law Commission's report on bail law reforms deserves urgent attention

That bail is the norm and jail the exception is a principle that is limited in its application to the affluent, the powerful and the influential. The Law Commission, in its 268th Report, highlights this problem once again by remarking that it has become the norm for the rich and powerful to get bail with ease, while others languish in prison. While making recommendations to make it easier for all those awaiting trial to obtain bail, the Commission, headed by former Supreme Court judge B.S. Chauhan, grimly observes that “the existing system of bail in India is inadequate and inefficient to accomplish its purpose.” One of the first duties of those administering criminal justice must be that bail practices are “fair and evidence-based”. “Decisions about custody or release should not be influenced to the detriment of the person accused of an offence by factors such as gender, race, ethnicity, financial conditions or social status,” the report says. The main reason that 67% of the current prison population is made up of undertrials is the great inconsistency in the grant of bail. Even when given bail, most are unable to meet the onerous financial conditions to avail it. The Supreme Court had noticed this in the past, and bemoaned the fact that poverty appears to be the main reason for the incarceration of many prisoners, as they are unable to afford bail bonds or provide sureties. The Commission's report recommending a set of significant changes to the law on bail deserves urgent attention.

The Commission seeks to improve on a provision introduced in 2005 to grant relief to thousands of prisoners languishing without trial and to decongest India's overcrowded prisons. Section 436A of the Code of Criminal Procedure stipulates that a prisoner shall be released on bail on personal bond if he or she has undergone detention of half the maximum period of imprisonment specified for that offence. The Law Commission recommends that those detained for an offence that would attract up to seven years' imprisonment be released on completing one-third of that period, and those charged with offences attracting a longer jail term, after they complete half of that period. For those who had spent the whole period as undertrials, the period undergone may be considered for remission. In general terms, the Commission cautions the police against needless arrests and magistrates against mechanical remand orders. It gives an illustrative list of conditions that could be imposed in lieu of sureties or financial bonds. It advocates the need to impose the “least restrictive conditions”. However, as the report warns, bail law reform is not the panacea for all problems of the criminal justice system. Be it overcrowded prisons or unjust incarceration of the poor, the solution lies in expediting the trial process. For, in our justice system, delay remains the primary source of injustice.

## Maduro's excesses

Venezuela needs an immediate end to its one-man rule

Even by the standards of Latin America's relatively volatile politics, there seem to be few parallels in recent memory to the brutally authoritarian rule of Venezuelan President Nicolás Maduro, who has plunged a prosperous nation into complete paralysis. But Mr. Maduro seems in no mood to mend his ways, even after the controversial move in March to nullify the popularly elected Parliament drew strong rebuke from regional allies as well as the international community. Of course, few believed then that such condemnation of the Supreme Court's aborted dissolution of the nation's highest democratic institution would result in a rethink on Mr. Maduro's overall approach. In a coldly calculated move, the government in April disqualified Henrique Capriles, seen to be a key contender for the 2018 presidential election, from holding public office for 15 years. The move was reminiscent of the bar on another opposition politician by former President Hugo Chávez. The current regime, unfazed by the groundswell of resistance against its dictatorial rule, has persisted in deploying the security forces to unleash violence and terrorise protesters. Any number of broken families have been witness to the horrors of routine abduction of young activists and murder of opposition leaders in the last few years. Instances are legion of Mr. Maduro's contempt for the rule of law and the will of the people since the victory of the Opposition-dominated National Assembly in the December 2015 general elections.

In fact, a month after those polls, an economic emergency was declared, concentrating powers in the President's office. Mr. Maduro's policy of a ruthless clamp-down touched a low when a signature campaign to exercise the citizens' constitutionally enshrined right to recall the President was crushed. He then packed the judiciary with party loyalists, culminating in the unsavoury episode of an attempt to dismiss the legislature. A 700% rate of inflation and chronic shortages of food and medicines spotlighted ruinous economic governance. But corrective measures to counteract the effects of the collapse in oil prices have been long overdue. It is ironical that the nation with the world's largest oil reserves finds itself in deepening civil unrest, with its people struggling to get essential commodities. Amid all this turmoil, Mr. Maduro seems determined to brazen it out. Signs of further intransigence emerged when Caracas recently threatened to pull out of the Organisation of American States. The OAS, which monitors democratic and human rights standards among member-states, has been unequivocal in its criticism of Mr. Maduro's autocratic style. Such defiance risks further global isolation and chaos at home. Venezuela needs an immediate end to its one-man rule. Only then will the nation see a semblance of normality return to the lives of its citizens.

# Wooing the Indian vote

With all parties targeting them, it remains unclear if voters of Indian origin will continue a Tory-ward shift



VIDYA RAM

Britain's snap general election, for June 8, is particularly interesting on a number of counts: being the first poll since the referendum on Brexit, and one called with less than two months' notice. It is also likely to be an important test of Britain's South Asian and Indian community in particular, and how loyal they will remain to the Labour party. Britain's Indian community has traditionally voted Labour, with only a slight shift happening over the decades, spurred by loosening community ties (younger people are now less likely to be bound by the loyalties that their older family members may adhere to) as well as efforts by the Conservatives and other political parties to reach out to them. Parties across the political spectrum have also sought to diversify their candidates: in the forthcoming election, the Conservatives have 13 candidates of Indian origin, and Labour is fielding 14.

### Labour's vote bank

Though some have suggested a significant shift to the Conservatives at the last election, researchers have warned that this should not be overestimated, even within Britain's Hindu community, within which the biggest shift happened. “I don't think there has been a sharp move, even within the Hindu community; there has been no re-

volution or fundamental realignment, which would leave us to expect that there is not going to be a sudden big change in how Indians in the U.K. vote,” says Nicole Martin, a senior policy research officer at Essex University who conducted research in the run-up to the 2015 general election, that put Indian support for Labour at 65%, against 27% for the Conservatives and 3% for the Liberal Democrats. (For the Pakistani community the figures were 80%, 8% and 5%, respectively, and for the Bangladeshi community they were 82%, 10% and 1%, respectively).

Like most ethnic minority groups Indians voted strongly in favour of remaining within the European Union (EU) – 59% of those of Indian origin voted to remain, against 48% of the population as a whole. But during the election campaign it's unclear to what extent parties' positions on this issue will impact the decision of voters at the ballot box.

While the Conservatives have focused on their re-election as the best chance for Brexit negotiations, Labour has pledged to rewrite Britain's approach to Brexit, to include guaranteeing the rights of those EU nationals already in the country, and to protect working rights and environmental standards. The Liberal Democrats, by contrast, have positioned themselves as the party that would work to ensure Britain avoided a “hard Brexit” and retained access to the single market.

Potentially of more interest and significance to the Indian community will be the inclusion of India-relevant issues in the parties' election manifestos, to the greatest



extent to date.

The Labour party has pledged a further review into Britain's involvement in Operation Blue Star at the Golden Temple in Amritsar in June 1984.

This has been welcomed by Sikh community groups, including the Sikh Federation, which last year said it had uncovered a document that referred to the possible involvement of a Special Air Services unit of the British Army. However, despite Labour leader Jeremy Corbyn's strong past support for the introduction of legislation to outlaw caste discrimination, the manifesto does not include mention of this issue.

The Liberal Democrats have pledged to outlaw caste discrimination, in a move that has been warmly welcomed by Dalit organisations and others who have been championing the introduction of legislation against caste discrimination. However, parties' positioning on the issue could also be used by those within the Indian community who have vocally cam-

# The bleak new academic scenario

Liberalisation has eroded the institutional capacity to train young people who might pursue liberal values



KRISHNA KUMAR

The other day, a student asked me what exactly the word ‘liberal’ mean. She wanted to know whether ‘liberalisation’ promotes ‘liberal’ values. She had noticed that institutions of higher education, which are supposed to promote liberal values, were finding it difficult to resist ideological and commercial pressures triggered by the process of economic liberalisation. So, was economic liberalism different from political liberalism? And what do people mean when they refer to neo-liberal policies? The questions she was asking could hardly be addressed without invoking the political economy that has emerged over the last three decades.

When liberalisation of the economy started to receive common consent in the mid-1980s, few people thought of examining what it would mean for education. Then, in 1991 came the dramatic announcement of a new economic policy, accompanied by a package of steps to be taken for ‘structural adjustment’ of the Indian economy. The purpose of ‘adjustment’ was to facilitate India's integration into the global economy. Even then, education didn't receive specific attention. Some critics of the new economic policy expressed anxiety about the consequences of

state withdrawal from its prime role and responsibility in sectors like education and health. The national policy on education drafted in 1986 had mostly adhered to the established state-centric view. A major review in the early 1990s vaguely resonated the new discourse of liberalisation, but offered little evidence of change in the basic perspective. The Programme of Action, announced in 1992, stopped short of admitting that the state's role in education was about to change. Nobody could imagine at that point that over the following decades, the state's role in education would change so much that the Constitution would begin to sound like rhetoric.

### School education

In order to examine what happened, we must make a distinction between school and higher education. When Prime Minister P.V. Narasimha Rao spoke about liberalisation as the central theme of the new economic policy, he also referred to the ‘structural adjustment programme’. Under this programme, the World Bank offered a ‘safety net’ for primary education. It meant additional resources and policy guidance to enable the system to expand its capacity for enrolling children. The District Primary Education Programme (DPEP), which later mutated into Sarva Shiksha Abhiyan (SSA), symbolised the ‘safety net’ approach. It was designed to cushion the harsh effects that ‘structural adjustment’ under liberalisation was expected to cause in welfare sectors like children's



education and health. The DPEP and SSA efficiently served this role, creating an ethos in which children's education seemed to have become a major priority of the state. The success of these programmes emboldened the government to push the Right to Education (RTE) law through Parliament. Governments of many States registered their anxiety over their capacity to fund the implementation of RTE after the Central assistance provided under SSA runs dry.

How valid that anxiety was is now amply clear. All across northern India, the DPEP and SSA have left a radically expanded system that no one wishes to own. The contractual teachers appointed on a massive scale to fulfil the ambitious goals of DPEP and SSA are crying aloud for dignity and stability. Post-RTE, many State governments have drawn on the services of mega-NGOs and private companies to look after schools. As one might guess, it is children of the poor who attend these schools. Un-

pained against the introduction of legislation. In 2015, the National Council of Hindu Temples urged voters to support the Conservatives because at the time they opposed the introduction of legislation, warning that for Indian communities to vote for the Labour party would be like “turkeys voting for Christmas”. (The government is currently running a consultation on the issue but critics argue that it is biased against the introduction of legislation, and is being used to brush the issue under the carpet.)

Ms. Martin also pointed to the emphasis placed on issues of race and equality more widely across the manifestos, noting the Conservatives' pledge to tackle issues such as the racial disparity across public services, enforce equality laws to ensure that services weren't denied on the basis of ethnicity, religion or gender, and also require the biggest companies to publish information on the pay gap for people of different ethnic groups.

### The class distinction

However, what may disturb many South Asian voters is the party's tough line on immigration: alongside doubling the amount that firms must pay to hire non-EU workers, the Conservatives have committed to raising the earning threshold for those who wish to bring in spouses from outside the EU, already a major issue for many within the Indian community who have argued the high threshold has left families divided. Labour by contrast has pledged to treat family differently to economic migration and will remove the threshold alto-

gether. Still, some within the Indian community have been critical of Labour under Mr. Corbyn. Manoj Ladwa, a former campaign adviser to Prime Minister Narendra Modi, who once headed an organisation for Indians supporting the Labour party, has spoken publicly of his reservations about its new leadership, describing Mr. Corbyn as “out of sync” with British Indians.

However, Mr. Corbyn has inspired others such as members of the Indian Workers Association (IWA), which will be urging its members to vote for the Labour party for the first time. “Finally, Labour has policies that we can relate to as Indian workers, where they have been talking about taking control of industries, giving control back to workers, looking after ordinary working people,” says Harsev Bains of the IWA.

If the polls are to be believed, the Conservatives are on for a comfortable victory. A recent poll for *The Guardian* showed that the Conservatives' lead had fallen from 20 to 14 percentage points, which would still put them ahead of their performance in 2015. The big question is whether this shift will be matched within the Indian community.

“This election will be a test of the Conservatives,” says Ms. Martin. “They are reaching out to some within the Indian community with some policies but others will hit minority groups. If they fail to make inroads in this election, I think we can stop asking the question about if they are going to make a big breakthrough any time soon.”

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der the policy of liberalisation, the state has outsourced these children to non-state players. Those belonging to the better-off sections of society have moved to private schools.

### Higher education

In higher education, the new economic policy designed on the principles of liberalisation offered no safety net. From the beginning, the assumption was that higher education ought to generate its own resources. An accompanying idea was that higher education should respond to market demands in terms of knowledge and skills. Over the last three decades, these two guiding ideas have dented the established system of higher education in all parts of the country. Both Central and State universities have been starved of financial resources. Cutting down on permanent staff, both teaching and non-teaching, has emerged as the best strategy to cope with financial crunch. A complex set of outcomes, specific to different universities, makes any general analysis difficult. In some, self-financed courses, mostly vocational in nature, have provided a means of income. In others, such courses have been resisted by teacher unions. However, these unions have gradually lost their power and say because they are broken from within.

A shrinking elite of senior, permanent teachers is struggling to represent a vast underclass of adjunct teachers. The old idea that an academic career should attract the

best among the young holds no meaning now. Research fellowships have been used as a cushion to absorb the growing army of unemployed, highly qualified young men and women. They have no organised voice, and each one of them is individually too vulnerable to protest against continuous exploitation.

This is the bleak new academic scenario. In India, the term ‘liberal’ essentially meant a voice representing courage and wider awareness. Training of such a voice was the main job of colleges and universities. This function grew under severe constraints in colonial times. The constraints were both social and cultural, but as electoral democracy advanced, political constraints gained ground. Politicians of every ideological persuasion resented the role of colleges and universities in maintaining the supply of critical voices. These institutions have now been forced to compromise their role in training the young to speak out. The compromise has taken over three decades to occur. It is hardly surprising that no political party shed a tear. So, if we now return to the question my young student had asked: ‘Does liberalisation promote liberal values?’ The answer is, ‘It hasn't.’ Rather, it has eroded our society's institutional capacity to train young people who might pursue liberal values by exercising an independent voice.

Krishna Kumar is professor of education at Delhi University and a former director of NCERT

## 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.

### Failed war on terror

The Greater Manchester police have expressed their anguish and anger over the leaking of information related to the terror attack. They have, in response, stopped giving information to the U.S. British Prime Minister Theresa May has also said that she would raise the issue with U.S. President Donald Trump. Following such incidents, both the investigating agencies and the media need to act cautiously and responsibly. We saw the downside of irresponsible media behaviour during the Mumbai attacks when they telecast rescue operations. Unfortunately, the quest for ‘breaking news’ has resulted in a race to the bottom, the publication of information relating to bomb parts being an instance of this. Governments and agencies across the world need to

exercise restraint while sharing such critical intelligence with the media even as a probe is on.  
S.A. SRINIVASA SARMA,  
Hyderabad

The terrorist strike in Manchester, coming on the heels of attacks in other European countries, may be the consequence of Europe's assistance to the U.S. in the latter's pursuit of its foreign policy. The destabilisation of Afghanistan, Iraq and Libya by the U.S. and its allies, on the pretext of aiding democracy, and Washington's unflinching patronage of Pakistan while fighting its war on terror have both made the world a very dangerous place to live in. While there is little hope for the war on terror reaching its logical conclusion in the near future, every civilised democratic nation needs to

build its own foolproof strategy.  
SHIVAJI K. MOITRA,  
Kharagpur

### Controversial honour

The commendation to Major Leetul Gogoi conferred by Army Chief General Bipin Rawat, despite his use of a civilian as a human shield, comes at a time when the Indian Army is facing increasing opposition from the people of Kashmir (“The commendation,” editorial, May 25). The felicitation will only provide further impetus to violence in the Valley. If the Army wanted to award Major Gogoi for his role in counterinsurgency, it surely could have waited till the Court of Inquiry finished its probe. Human shields have been a chosen weapon for terrorists in their efforts to cause maximum damage. The use of such a tactic by

an officer of the Indian Army – known for its selflessness when it comes to saving lives – is saddening. It is imperative upon the institution to ensure that such acts are not repeated and efforts to win the confidence of the Valley's citizens continue.  
ISHANT CHUTTANI,  
Bahadurgarh, Haryana

The human shield was not used in a combat zone. The officer, responding to an SOS, was on a rescue mission. We need to understand the intent and the context. A section of the media has twisted the narrative, presenting it as one involving a human rights violation. If Major Gogoi had not done what he did, the resulting violence targeting Election Commission officials and security personnel at the polling booth would quickly have been forgotten.

That Major Gogoi saved lives, without a single bullet or pellet being fired, needs to be acknowledged. Yes, we can question the timing of the commendation but portraying it as an act of breaking away from the long and honourable tradition of guarding the Republic is incorrect. I am sure the lot

which is calling Major Gogoi's act a human rights violation would also sternly disapprove of violence that an inaction on his part would have caused.  
SANJAY P.,  
Hyderabad

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### CORRECTIONS & CLARIFICATIONS:

The report headlined “Fresh move to impeach Justice Nagaraj Reddy” (May 25, 2017) talked about the constitution of a three-member committee under the 1968 Judges (Inquiry) Act, consisting of a sitting Supreme Court judge and two *High Court Chief Justices*. Actually the composition is: a sitting Supreme Court judge, a *High Court Chief Justice*, and an *eminent jurist*.

The report subsequently said the committee's decision would be placed in both houses of Parliament for a vote, and would require a two-third majority of MPs present voting in favour of the motion in the same session, or an *absolute majority of a joint session*, for the judge to be removed. It should have been a two-third majority of MPs present voting in favour of the motion in the same session, and an *absolute majority in each House*. There is no need for a joint session.

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