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## TELLING NUMBERS

### Rise in MSPs of kharif, rabi crops

#### PERCENTAGE INCREASE IN MSP

CROPS	2014-15	2015-16	2016-17	2017-18	2018-19
<b>KHARIF CROPS</b>					
Paddy (common)	3.8	3.7	4.3	5.4	12.9
Paddy (grade A)	4.1	3.6	4.1	5.3	11.3
Jowar (hybrid)	2.0	2.6	3.5	4.6	42.9
Jowar (maldandi)	2.0	2.6	3.8	4.5	42.3
Ragi	3.3	6.5	4.5	10.1	52.5
Arhar (Tur)	1.2	6.3	9.2	7.9	4.1
Moong	2.2	5.4	7.7	6.7	25.1
Urad	1.2	6.3	8.1	8.0	3.7
Cotton (medium staple)	1.4	1.3	1.6	4.1	28.1
Cotton (long staple)	1.3	1.2	1.5	3.8	26.2
Groundnut (in shell)	0.0	0.8	4.7	5.5	9.8
Soyabean (yellow)	0.0	1.6	6.7	9.9	11.5
<b>RABI CROPS</b>					
Wheat	3.6	5.2	6.6	6.8	6.1
Barley	4.5	6.5	8.2	6.4	2.1
Gram	2.4	10.2	14.3	10.0	5.0
Masur	4.2	10.6	16.2	7.6	5.3
Rapeseed/mustard	1.6	8.0	10.4	8.1	5.0
<b>OTHER CROPS</b>					
Jute	4.3	12.5	18.5	9.3	5.7
Sugarcane	4.8	4.5	0.0	10.9	7.8

Source: Government's reply to starred question in Lok Sabha on January 8

THE MINIMUM support price (MSP) of most kharif crops saw significant increases in percentage terms in 2018-19 over the previous year, data presented by the government in Lok Sabha Tuesday show. The largest percentage increases in MSP were seen in jowar, bajra, maize, ragi and cotton. In comparison, MSP increases for rabi crops such as wheat, barley, gram, masur, and mustard were lower in 2018-19 than in 2017-18 (over the previous years).

Minister for Agriculture Radha Mohan Singh was responding to questions on the recommendations of the National Commission on Farmers headed by Dr M S Swaminathan and related subjects, asked by Balabhadra

Majhi of the BJD and Dinesh Trivedi of the Trinamool Congress.

The members asked, among other things, "whether the government plans to set the MSP at 1.5 times the C2 (comprehensive cost) as per the Swaminathan Committee's recommendation". The government said that "the Union Budget for 2018-19 had announced the pre-determined principle to keep MSP at levels of one and half times the cost of production", and "accordingly, Government has increased the MSPs for all notified Kharif, Rabi and other commercial crops with a return of at least 50 per cent of cost of production for the agricultural year 2018-19 including paddy".

# Quota for poor: Constitutional and social issues, implications

AN EXPERT EXPLAINS



P S KRISHNAN

THE DECISION of the Union Cabinet to provide reservation of 10% for "economically weaker sections of the people who are not covered by any of the existing schemes of reservation" and to bring in amendments to Articles 15 and 16 for this purpose has to be examined from the point of view of social realities and Constitutional provisions.

#### The social reality

It is a fact that there are poor individuals even among the Socially Advanced Castes (SACs), i.e., the non-Scheduled Castes (SCs), non-Scheduled Tribes (STs) and non-Socially and Educationally Backward Castes (SEBCs). They too do need help. The issue is what is the specific problem they face, and what is the appropriate Constitutionally sustainable solution for it.

#### Provisions of the Constitution

The relevant Constitutional provisions stand on two legs, which are mutually supportive. On the one hand, there is the principle of Equality, which prohibits the State from discrimination against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them under Article 15(1), and guarantees "equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State" under Article 16(1), in addition to prohibition against discrimination against any citizen on the same grounds as in Article 15(1), specifically with respect to employment or appointment under the State.

The other leg is the special provisions, which under Article 15(4) empowers the State to "make any provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes", and under Article 16(4) provides "for the reservation of appointments or posts in favour of any backward class of citizens, which in the opinion of the State, is not adequately represented in the services under the State".

The term "backward class of citizens" has been generally understood, and also defined by the Supreme Court in the Mandal case (*Indira Sawhney vs Union of India, 1992*) judgment, to include the SCs, STs, and SEBCs. These are not exceptions, but special provisions to ensure that the principle of Equality enshrined in Articles 14, 15(1) and 16(1) becomes really effective, in the peculiar inherited Indian context of a society riddled by gross inequalities between social classes.

#### Rationale for SC, ST, SEBCs reservations

As the Mandal judgment describes, the founding fathers of the Constitution were keenly and poignantly aware of the "historic injustices and inequities" prevalent over the centuries in Indian society. These were not inequities against individuals. These were deprivations imposed on certain social classes as a whole.

Such social classes consist of a number of castes. It is well known that the worst affected are the SCs, on whom the caste system imposed "untouchability", which is not merely a series of humiliating prohibitions and injunctions, but also a mechanism to deprive them of access to education and every opportunity for advancement and upward and outward mobility. Equally deprived, though for different reasons, were the STs,



Delhi University student Rajeev Goswami became the face of the Mandal protests after he set himself on fire in 1990. Express Archive

who have been steadily pushed back to remote areas.

The third category of social classes is that of the SEBCs, who are not victims of untouchability, but have been accorded a low position and status in society by the caste system, and each of the castes of which have often been traditionally linked with occupations socially considered to be lowly. They too were denied access to education and opportunity to have a "look-in" into administration and governance of the State.

The Supreme Court in the Mandal case judgment quoted Dr Ambedkar's statement in the Constituent Assembly while replying to the debate on the provision in Clause (4) of Article 16 (at the draft stage Clause (3) of Article 10) that, "the purpose of the clause (4) was to emphasise that there shall be reservation in favour of certain communities which have not so far had a 'proper look-in' into so to say the administration".

#### Difference between the Socially Excluded and Deprived and the Poor among the Socially Advanced Castes: Observations of the Supreme Court in Mandal judgment

Reservation was envisaged only for those belonging to these three social classes. This was part of the national and Constitutional mission to eliminate the gross social inequalities created by the Indian caste system over the centuries, of which the worst victims were the SCs and STs and, though to a lesser extent, the SEBCs. These inequalities and injustices are not merely a matter of the past, as certain mediapersons say. They continue to be with us at present, though in a quantitatively reduced form, and threaten to con-

tinue with us into the future for failure to address this issue comprehensively at its roots.

The deprivations and backwardness of these three classes is different from the poverty suffered by individuals of the forward castes. These individuals belong to castes which were not interdicted or prohibited or prevented in any manner from access to education and from entry into services under the State.

The majority judgment in the Mandal case per Justice Jeevan Reddy held that "a backward class cannot be determined only and exclusively with reference to economic criterion. It may be a consideration or basis along with and in addition to social backwardness, but it can never be the sole criterion..." Justice Sawant, in his separate concurring judgment, held that economic backwardness of the poor among higher castes is not on account of social backwardness. He also held that the educational backwardness of some of the upper castes on account of poverty can be remedied by economic

props alone, which may enable them to gain equal capacity to compete with others.

#### A quota for the economically poor of the Socially Advanced Castes is not a new idea

During the debate after his decision to institute reservation for the SEBCs in 1990, V P Singh, in a conciliatory gesture, offered, if the Opposition agreed, to bring a Constitutional amendment to enable provision of 5% or 10% reservation for individuals who are economically poor, without reference to and irrespective of caste. This conciliatory gesture received scant attention from the Opposition, which was bent upon oppos-

ing reservation for SEBCs.

Subsequently, the P V Narasimha Rao government, by its O.M. dated 25.9.1991, made an addition to the V P Singh government's O.M. of 13.8.1990, to provide reservation of "10% of the vacancies in civil posts and services under the Government of India" for "other economically backward sections of the people who are not covered by any of the existing schemes of reservations". This particular provision was struck down by the Supreme Court in its landmark Mandal case judgment on the ground that the Constitution does not provide for reservation for any individual on economic basis alone or on the basis of poverty alone.

This is apart from the provision by certain state governments from time to time for reservation for the poor among the non-SC, non-ST, and non-SEBC castes, which on challenge were struck down by the High Courts or the Supreme Court.

#### Possible effect of the proposed Constitutional amendment

Unlike the Narasimha Rao government, the present Cabinet seems to have decided to introduce Constitutional amendments in Articles 16 and 15 to facilitate the provision of 10% reservation for the "economic backward". The question is whether such an amendment will be constitutionally sustainable.

One can expect that the present amendment will be challenged in the Supreme Court. The issue of whether the proposed amendment is in keeping with or violative of the basic structure of the Constitution is likely to arise, since the Constitution provides reservation only for any "backward class of citizens" under Article 16(4), and only for measures for SCs and STs and for the advancement of SEBCs, which includes reservation in education and much else, under Article 15(4), because they suffered, in varying degrees, from exclusion from education and employment under the State and other opportunities of advancement, while individuals of the SACs did not suffer from such exclusion.

It is likely to be held that the proposed Constitution amendment and the proposed provision of 10% reservation for individuals of the SACs are violative of the basic structure of the Constitution. It is also likely to be held that the grounds for this do not come within the exceptional circumstances in which breach of the 50% limit can be permitted. The appropriateness of the proposed criteria for the SAC poor may also raise question marks. Besides, in the case of reservation in the services, a specific criterion is inadequate representation in the services. The SCs, STs and SEBCs continue to be inadequately represented, whereas the SACs do not suffer from inadequacy of representation.

#### Appropriate solutions for the real problem of the genuinely poor among the SACs

The only problem faced by children and young people of Socially Advanced Castes who are genuinely poor is that they are not able to afford education to the fuller level for want of financial capacity. This problem has to be resolved and can be resolved by having a comprehensive scheme of scholarships and educational loans, so that no child or youth of any caste has to drop out of education at any stage only on account of financial incapacity. At the same time, this should not be at the cost of the SCs, STs and SEBCs whose needs have till now not been fully provided for, and have to be fully provided for.

(The author is a former Secretary to the Government of India and has been in the field of social justice for SCs, STs and SEBCs for more than seven decades)

## TIP FOR READING LIST

### CAN CANCER BE DEFEATED FINALLY?

THE NOBEL PRIZE in Physiology or Medicine in 2018 was awarded to James P Allison and Tasuku Honjo "for their discovery of cancer therapy by inhibition of negative immune regulation". The Laureates, the Nobel Committee said, showed how different strategies for inhibiting the brakes on the immune system can be used in the treatment of cancer.

Science writer Charles Graeber's *The Breakthrough: Immunotherapy and the Race to Cure Cancer* tells the story of the revolutionary new way to fight cancer, which might have at last led to an actual cure for the disease. In an interview given soon after the publication of his book last November, Graeber, while warning that "the idea of raising false hope is cruel", said that the arrival of immunotherapy was a "breakthrough", a "penicillin moment for this disease, which is to say we have fundamentally changed our understanding of the disease and of ourselves and how our immune system interacts or has forever

failed to interact with cancer".

Essentially, immunotherapy is about training the body's own immune system to fight cancer. In a piece written for *The Guardian* last year, Graeber said that the immune system, "our usual defence against disease", does not, in fact, ignore cancer. "Instead, cancer was taking advantage of tricks that shut down the immune system. But what if you could block those tricks and unleash the immune system's killer T-cells against the disease?"

Graeber, says the review of the book in *The New York Times*, "tells an untold story that runs parallel to Siddhartha Mukherjee's erudite 2011 cancer history, *The Emperor of All Maladies*". Because conventional medical wisdom chose to attack the disease instead trying to help the body's fight against it, "scientists became like a platoon that could get itself behind enemy lines, only to find itself without weapons... *The Breakthrough* is the story of this desperate war waged on a cellular level".



## FACT CHECK, GROUND REALITY

# What is the Emergency that Trump says he might declare to build the wall?

EXPRESS NEWS SERVICE  
NEW DELHI, JANUARY 8

AS THE US government remains partially shut down over the standoff over \$5.6 billion funding for Donald Trump's proposed wall along the country's southern border, the President has said he is "looking very strongly" at invoking emergency powers to build the wall without permission from Congress. Media and analysts in the US have since been debating whether the President can indeed take that step, and whether that is within norms laid down by the Constitution.

#### Emergency powers

The US President does indeed, have the power to declare a national emergency — when that happens, exceptions are triggered to rules that bind some of his executive powers, so that the government is enabled to react rapidly to a crisis. NPR quoted

Elizabeth Goitein, co-director of the Liberty and National Security Program at the Brennan Center for Justice as saying: "Declaring the Emergency is pretty easy. There aren't a lot of legal limits on his (Trump's) ability to do that, frankly, even if there isn't a real emergency happening."

#### Congress's options

Following the Watergate scandal of the early 1970s, Congress passed The National Emergencies Act, 1976, with the idea of putting some checks on the President's powers, while not hampering his ability to act in an emergency. The Act requires the President to formally inform Congress when he declares a national Emergency, and to provide lawmakers with a list of the powers being invoked. The administration is required to regularly update Congress, and lawmakers can, by a vote in both the House and Senate, end the Emergency.

In the present case, Congress could, by



Prototypes for the border wall are seen behind the border fence between Mexico and the US in Tijuana, Mexico, Monday. Reuters

a vote in both Houses, reject the declaration of Emergency. But Republicans control the Senate, and will likely not go that way.

#### Building the wall

The President has claimed there is a hu-

manitarian and national security crisis at the border with Mexico, with criminals, human traffickers and drugs "pouring in". *The New York Times*, which, too referred to the work of Goitein at the Brennan Center, said at least two laws could be invoked to start building

the wall without explicit authorisation from Congress. There is a provision during an Emergency to divert troops and resources to build "authorised civil works, military construction and civil defence projects that are essential to the national defence", and another that allows military construction projects "not otherwise authorised by law that are necessary to support such use of the armed forces", using appropriated military construction funds that may still not have been given to specific projects.

#### The legal position

And yet, Trump's legal authority to invoke emergency powers to build a border wall is almost certain to invite a court battle, *The NYT* report said. It quoted Goitein as saying "there (was) a nonfrivolous legal case to be made", and that there were arguments on both sides should a lawsuit emerge. While commentators have argued that a "manufactured" Emergency, essentially to settle a political

standoff, will not pass legal muster; that possibility is in itself not likely to deter the President. And if that happens, with Congress split, a challenge in courts by opponents of Trump will follow. The Justice Department would argue then that judges cannot decide for the President on whether the nation does indeed face an emergency. "The problem is that Congress has enabled abuse of power by putting virtually no limits on the President's ability to declare an Emergency," *The NYT* report quoted Goitein as saying.

#### Situation on ground

American media reports have underlined that the border situation has not deteriorated so much that an emergency to build the wall can be justified. The number of illegal aliens crossing over has fallen consistently for almost 20 years. The recent caravans of migrants have made no attempt to cross the border by stealth, rather they have approached the authorities seeking asylum.

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WORDLY WISE

YOUR ASSUMPTIONS ARE YOUR WINDOWS ON THE WORLD. SCRUB THEM OFF EVERY ONCE IN A WHILE, OR THE LIGHT WON'T COME IN. — ISAAC ASIMOV

**The Indian EXPRESS**

FOUNDED BY

RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

## THE SHIELD

By reinstating CBI director, SC has strengthened institution's firewall, set the bar for it — and for the government

THE SETTING ASIDE by the Supreme Court of the government's midnight orders three months ago, that divested CBI chief Alok Kumar Verma of his powers and sent him on forced leave, is a reassuring moment. By reinstating Verma, and by laying down that the government could not have taken the decision to transfer the CBI chief without the prior consent of the high-powered committee tasked with his appointment, and by reading "transfer" as encompassing all acts that affect the independent functioning of the CBI director, the apex court sends out at least three welcome messages at once. One, it rebukes the government for trying to short circuit due process and procedure; two, it serves up a reminder that the status of the CBI as the premier investigating and prosecuting agency, and public confidence in it, depend on its freedom to act without fear and favour which, in turn, comes from its insulation from "extraneous influence". That insulation flows from the legislative intent in statutory enactments such as the CVC Act of 2003 and the (amended) Delhi Special Police Establishment Act of 1946, and the court's own directives in the seminal Vineet Narain case. Three, the unanimous three-judge bench decision underlines that the rule of law is the "bedrock of democracy" and that "however firmly entrenched the principle may be, it gets tested in a myriad of situations that confront the courts from time to time". The present case is one such occasion, it says.

The court has directed that the reinstated CBI chief must desist from taking any major policy decisions till the selection committee, comprising the Prime Minister, Chief Justice of India and Leader of Opposition, meets within a week's time. But that is not the only caution or firewall, going ahead. The government must know that it cannot interfere with the CBI's functioning, using the CBI's internal mess as a pretext, or the Central Vigilance Commission as cover, and get away with it. While the swapping of corruption charges in the public domain by the two senior-most officers of the CBI had presented an unseemly spectacle, the government's arbitrary and heavy-footed intervention made matters worse. It revived concerns that a political executive armed with a decisive majority is not mindful or respectful enough of the need to protect and nurture the autonomy of unelected institutions. And that it needed to be reminded — as the court has done in this case — of the governing principle of a constitutional democracy: "Be you ever so high, the law is above you".

The court has set the bar. Now it is up to future CBI directors to use it as a shield and as a touchstone for their own conduct, remain vigilant against any attempts to encroach on their institutional autonomy. And for governments to read the warning on the wall against any overreach.

## SYSTEM FAILURE

Look at teacher shortage, poor infrastructure, uninspiring curricula. Scrapping no-detention policy isn't the answer

LAST WEEK, THE Rajya Sabha approved a significant amendment to the Right To Education Act. It passed the Right of Children to Free and Compulsory Education (Amendment) Bill, 2019 that empowers state governments to scrap the No Detention Policy (NDP). The policy to promote students automatically to higher classes every year till Class VIII was instituted to check the high number of dropouts, especially among the socially and economically disadvantaged sections. But 25 states raised objections against the NDP, citing it as a reason for high failure in Classes IX and X. In the debate in the Upper House, Union Minister of Human Resource Development (HRD) Prakash Javadekar agreed with the naysayers and said that the NDP had created a situation where a "7th Standard student can't solve math problems from Standard 4."

Pinning the blame for learning deficiencies on the NDP is problematic. The policy was never envisaged as a standalone reform. In his Rajya Sabha speech, Javadekar did admit that "Continuous Comprehensive Evaluation was not taking place". But the government has scarcely made any attempt to understand why the system, that involved tracking the progress of children through a range of activities over the academic year, proved to be a non-starter. The reasons would not have been difficult to find had the HRD ministry tried to connect a few dots. According to the ministry's own records of 2016, for example, government-run elementary schools are short by 5 lakh teachers. And, according to the AS-SOCHAM, there is a 50 per cent shortage of teachers across all government-run schools. The already overburdened teachers were not given any training on how to carry out the crucial reform. They had very little idea on what to evaluate and how to evaluate it.

There is no research to suggest that the quality of learning improves if the child goes over the same curriculum again. In contrast, a growing body of scholarly literature has emphasised that detention damages the morale of students, eventually forcing many — many of whom belong to the marginalised sections — to quit. In his Rajya Sabha speech, Javadekar did try to allay fears of an increase in the drop-out rate. But the HRD ministry would do well to address some of the systemic problems of the Indian education system, given that there is enough evidence to show that uninspiring curricula, poorly-trained teachers and inadequate infrastructure are the real bottlenecks in improving learning outcomes. Removing these snags will require creative solutions, not knee-jerk reactions.

## COMIC TIMING

The joke is in the Indian Science Congress

THE INDIAN SCIENCE Congress has covered the distance from the shores of scientific temper, as Jawaharlal Nehru envisioned in the 1940s, to the precipices of distempered science theories. Perhaps the journey was expedited by the famed Pushpak Viman. The history includes Kautilya from the Mauryan era where rockets, rockets, rockets, technology. And Ravana from the Ramayana had 24 types of aircraft (Andhra University vice-chancellor G Nageswara Rao). A world where a PhD holder in "renewal energy systems" from Tamil Nadu, K J Krishnan, has dismissed the theories of Isaac Newton and Albert Einstein. This isn't the first time the ISC has been gifted with the richness of retrograde science theories. In 2015, unsuspecting masses were also told that we possessed an ancient radar called "rooparknrahasya". At practically every science congress thereafter, some session or the other has yielded fantastical theories. For any ideology to seep into sacrosanct spaces such as campuses and scientific conferences, is a dangerous trend.

The ISC has announced that it will put in place a mechanism to regulate the selection of speakers at the sessions in future, and analyse their speeches as well. Which leaves one wondering at the kind of quality filter (or the absence of it) that existed till now. In 2016, Indian-origin Nobel laureate Venkatraman Ramakrishnan refused to attend any future ISC event, saying "It was a circus". K VijayRaghavan, principal scientific advisor to the Government of India, was critical in public of the sessions, too. The model of comic performances appears to have been inverted today. While comedy is taken too seriously and censored heavily, serious academic discourse is reduced to easy laughs and allowed official platforms.



FAIZAN MUSTAFA

THE NARENDRA MODI government started its innings in 2014 with a constitutional amendment giving the government a vital say in the appointment of judges. But the apex court struck it down as unconstitutional in 2016 as the amendment undermined the primacy of the opinion of the Chief Justice of India in judicial appointments, which the Court said was part of the basic structure of the Constitution. Now, the government is ending its term with another major constitutional amendment, whose chances of being struck down by the SC are even greater. Strangely, the government that overemphasised "merit" in judicial appointments has now taken reservation to 59 per cent with almost 95 per cent of the population of economically backward classes covered. Moreover, a pro-private sector government has extended the proposed quota to private educational institutions as well, though the SC in *Ashok Thakur* (2008) had left this question unanswered.

The proposal to give 10 per cent reservation to the economically backward classes, like several other schemes of the Modi government, is neither novel nor innovative. The Congress government under PV Narasimha Rao did provide for similar reservation, but a nine-judge bench in *Indra Sawhney* (1992) struck it down. There have been similar efforts in states as well — Kerala under the left government (2008) in admissions to a few courses, the Congress government in Rajasthan (2008) and the BJP regime in Gujarat (2016). Even Mayawati has been in favour of such a reservation and has welcomed the government's move.

The BJP as a party has not been a great votary of social justice through reservations. In fact, the RSS chief, Mohan Bhagwat, in 2015 called for a review of the reservation policy. But anticipating its political fallout in the Bihar assembly elections, the BJP disowned Bhagwat's remark. Likewise, the government implemented the apex court's directive to take the department instead of university as the unit of reservation, a decision that drastically reduced the number of reserved seats for SCs and STs in universities. Similarly, the government lawyer did not effectively defend the SC/ST Act in the Supreme

# Slipping on quota

Why reservation for economically backward classes may not pass judicial scrutiny

Court and almost admitted its misuse, leading to the dilution of the Act.

Historically, most reservation schemes have been announced on the eve of general or assembly elections. The political leadership treats Indian voters as stupid and forgets that in the past, such populist moves have not paid electoral dividends. Rajiv Gandhi did not win in 1989 despite overturning the Shah Bano verdict and opening the locks of the Babri Masjid. Socialist leader Karpooi Thakur and V P Singh too failed to get the anticipated support from the masses for their reservation policies.

In any case, the legality of the Modi government's move is suspect. The apex court has said in categorical terms that reservation solely on the basis of economic backwardness, that is without evidence of historical discrimination, finds no justification in the Constitution. A nine-judge bench in *Indra Sawhney* had ruled that reservation is a remedy for historical discrimination and its continuing ill-effects. The court also said that reservation is not aimed at economic uplift or poverty alleviation. Economic backwardness is to be on account of social backwardness.

The legality of the Modi government's move is suspect. The apex court has said in categorical terms that reservation solely on the basis of economic backwardness, that is without evidence of historical discrimination, finds no justification in the Constitution. A nine-judge bench in 'Indra Sawhney' had ruled that reservation is a remedy for the historical discrimination and its continuing ill-effects. The court also said that reservation is not aimed at economic uplift or poverty alleviation.

The backwardness mentioned under Article 16(1) must be the backwardness that is both the cause and consequence of non-representation in the state administration. It has to be backwardness of the whole class, not of some individuals. The economic criterion will thus lead, in effect, to the virtual deletion of Article 16(4) from the Constitution. Hence, economic backwardness has to be on account of social backwardness under Article 16(4).

Moreover, the move upsets the 50 per cent cap imposed by the SC on reservation. Justice Thommen in *Indra Sawhney* said that "any attempt to over-emphasise its compensatory aspect and widen the scope of reservation beyond 'minority of posts' is to practice excessive and invidious reverse discrimination". B R Ambedkar in his speech in the Constituent Assembly on November 30, 1948, explicitly said that equality of opportunity would require that reservation should be for the "minority of the seats" and only in favour of "backward classes who had

not so far had representation in the state".

The weaker sections as mentioned in Article 46 are a genus of which the backward class of citizens mentioned in Article 16(4) constitute a species. Thus, only backward classes, and not all the weaker sections, are entitled to reservation. Caste and class are not synonymous. Class is not antithetical to caste, caste is an enclosed class. Ambedkar, at the time of the first amendment, which inserted clause 4 in Article 15, told Parliament that "backward classes are nothing else but a collection of castes". Class here is social class. Thus, economic backwardness must be the result of social backwardness.

A constitutional amendment in the matter will be subject to the basic structure theory. There is no definition of the basic structure and in each case, the court decides what features of the Constitution constitutes the basic structure. The Modi government must be hoping that since there is some controversy about the right to equality being a part of the basic structure, it can pass judicial scrutiny. Justice K K Mathew in *Indira Gandhi* (1975) had not accepted Article 14 as part of the basic structure because equality is a multi-coloured concept incapable of a single definition. Moreover, the government may argue that reservation will widen the ideals of equality by including even the economically backward. But equality as a principle is part of the basic structure and with equality of status and opportunity in the preamble also as basic structure, the Court may agree to the economic criterion for reservation.

In any case, only an 11-member bench can overrule *Indra Sawhney* and a decision is unlikely in six months. The most likely scenario is that the Modi government's move will be stayed by the apex court till the final decision on the constitutionality of the Bill is delivered. The validity of reservation on the basis of economic backwardness in the absence of social backwardness, will depend on how many of the 11 yardsticks of backwardness laid down in *Indra Swahney* for OBC reservation is satisfied by the Bill.

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APARNA SEN

TALKING OF MRINAL Sen, the epithet that springs immediately to mind is "forever young". He was the youngest old man I knew. Not really that old, of course. In fact, he was a fairly young man when I knew him, as a girl, as my parents' friend — but at that age, anybody of your parents' generation seems old. Even so, Sen seemed younger than most of his contemporaries at the time. Full of fun, with a delightful sense of humour, and that rare quality — the ability to laugh at himself — he embodied the very spirit of youth. As did his films. Very few filmmakers have addressed the problems faced by the youth of the country in times of political unrest with as much empathy as Mrinal Sen. Films like *Interview* and *Padatik* spring immediately to mind.

Sen was acutely aware of, and continually engaged with, the social reality around him. Strong left leanings, deep humanism, and a childlike curiosity about everything combined to make him what he was — a force to reckon with in the arena of world cinema. The strong, gentle, socially aware being inside him made it impossible for him to be indifferent to the evils in our socio-political environment; the child within him would make him experiment again and again with cinematic form. That is one of the reasons why his films remain modern and relevant to this day, while many films made around the same time have become sadly dated.

His ability to critique himself and the mi-

## FOREVER YOUNG

Mrinal Sen's humanism and childlike curiosity are why his work remains relevant

lieu he came from gave him an edge over most of his contemporaries. He hailed from the middle class and knew well its weaknesses and hypocrisies. So when he made films like *Kharij* and *Ekdin Protidin*, which are ensconced firmly within the established morality of the Bengali middle class, he set out to question those very values. And this he did with enormous relish. In *Ekdin Protidin*, when Chinu the grown-up daughter (and possibly the only earning member of the family) does not return home from work all night, the whole family and its immediate neighbours all start questioning the motives of the girl and even begin to doubt her morals. When she finally does return, the director offers no explanations as to her whereabouts. I was present once at a Q&A after a screening of the film. Somebody asked Mrinal Sen where Chinu had been all night. I still remember the delight with which he replied: "How should I know where she was?" he chuckled, "I made the film expressly so that you will be plagued by this question forever!"

I could not help marvelling at the extraordinarily modern outlook of both the film (made in 1979), and its maker, and the way the false values of a patriarchal system were brought unrelentingly under the microscope.

His death has left a great void — both in world cinema and at a much more personal level.

One of the things I loved most about him was the zest he had for life and the relish with

which he made his films. The joy of the creator was so evident in films like *Bhuvan Shore*, *Akash Kusum* or even very serious subjects like in *Ekdin Protidin*, *Khandahar*, or *Mahapritibhi*, that it used to affect me as a spectator in ways that are difficult to explain.

I think I have been influenced most of all by Sen's ability and desire to continually reinvent himself. He was a serious filmmaker — the last of the greats — but like many great men, he never took himself too seriously. He infused his films with his lovely, warm sense of humour and had that wonderful quality — lightness of touch. His work was experimental and cinematic in the truest sense. Most importantly, his deep humanism expressed itself without ambiguity even in his most experimental works, and made him rank among the great international filmmakers.

His passing has been an inexpressible loss. For me, Mrinal kaka as I called him, Satyajit Ray and my parents were among the few people who reaffirmed the faith that all was not irretrievably lost to commerce and consumerism. They gave me the courage to live by the values they imparted to us. They gave me the will to continue to try and make films my way. But it is important, even as we mourn Mrinal Sen's passing, to celebrate his life and the work that he has left for future generations to enjoy. That would be our greatest tribute to him.

Good bye Mrinal kaka.

The writer is an actor and filmmaker



## JANUARY 9, 1979, FORTY YEARS AGO

**A VIETNAM TAKEOVER**  
THE VIETNAMESE TROOPS and rebel forces who captured the Cambodian capital of Phnom Penh have now claimed to have liberated all the country's provinces, according to the BBC. The claim was made by a rebel radio, which said the forces of the United Front for National Salvation would establish a non-aligned, socialist government. But the South-East Asia correspondent says that reports from the Thai border with Cambodia indicate that the Khmer Rouge troops still appeared to be in possession of frontier provinces. There was no word on the fate of the former regime's leaders. Unconfirmed reports had said that they were airlifted to Peking in a

Chinese plane before the capital fell.

**JANATA DEADLOCK**  
THE OFF-AND-ON CRISIS in the Janata Party appears to have reached a decisive stage. Some leaders in the Janata had expected that the resignation of George Fernandes, and later of L K Advani, would have made the prime minister sit up and take necessary steps to change his functioning and improve the government's performance. To their disappointment he has remained as complacent as before. It looks as if there would soon be another attempt to persuade Desai to restore unity in the party by devising a formula whereby Charan Singh could be pacified. If

this does not happen, the comparatively younger lot in the party is in a mood to go beyond the three men — Desai, Singh and Jagjivan Ram — in the search for a new leader.

**INDO-GERMAN DEAL**  
INDIA AND THE German Democratic Republic have decided to sign a long-term agreement for economic co-operation and an initial agreement for shipping services. They also agreed to double their annual trade from Rs 100 crore by 1985. These were some of decisions taken at the first round of talks here between the visiting Chairman of the Council of State of the German Democratic Republic, Erich Honecker, and PM Morarji Desai.

# 15 THE IDEAS PAGE

## Black hole in our consciousness

Undoing the appalling legacy of three millennia of injustice against Dalits requires wider support from upper caste society



RAMESH VENKATARAMAN

EVEN AS DALIT politics takes centre stage in the run up to the Lok Sabha elections and the Dalit vote portends to be a key determinant of who forms the next government, India's urban upper castes remain steadfastly indifferent to Dalit issues other than when they show up as protests at their doorstep.

Unlike in the pre-1947 era, when eradicating casteism was an important strand of both the freedom struggle and many Hindu reform movements, most savarnas today believe that there is little more that they need to do to redress three millennia of injustice against Dalits. Discrimination and violence against Scheduled Castes (SCs) are seen as an embarrassing relic of the past best left to the police and courts, while Dalit demands for economic justice are something for politicians and government to address.

Metropolitan liberals are more likely to embrace #MeToo and LGBT causes or even anti-racism than get involved in repairing the appalling legacy of caste. Combating casteism is neither cool nor a moral priority.

There are three reasons for this. First, thanks to our Constitution and progressive laws, the most abhorrent forms of casteist bias have been criminalised. Second, overt casteism is no longer visible in the anonymity of our cities; atrocities directed at Dalits are largely of rural provenance. The third and perhaps most important reason why the socially privileged feel absolved of any further responsibility for fighting casteism is the policy of reservations. Mandatory quotas in universities, government jobs and elected offices are seen as having done enough (and indeed too much in the eyes of many) to create secure pathways for SCs to achieve upward mobility.

However, while the SCs are undoubtedly much better off than they have ever been, they still badly lag the rest of the populace. One fact alone is telling: Their mean age of death in 2014 was estimated at 48, compared with 60 for their high-caste peers. Despite making up a sixth of India's population, there are virtually no Dalit names in our boardrooms, sports fields, news channels, newspaper by-lines, or cinemas.

Despite this grim picture, many believe that with all the enabling conditions now in place it is simply up to the Dalit community to pull themselves up. In a 2017 survey by the Centre for the Study of Developing Societies and Azim Premji University, nearly half the upper-caste people polled said the reason Dalits lag behind other groups was due to a "lack of effort".

The contrast with the battle against racism in South Africa, Brazil and the United States could not be starker. In all three countries, growing fractions of the white population, particularly the young, actively police racism in any form and forum and backing for civil rights, affirmative action, workplace diversity, and black empowerment is now woven into the social fabric. (One crude measure visible to even a casual visitor is the number of African-American faces on US television screens — despite being only an



Suvijit Dey

eighth of the population.) Perhaps more important is what is happening at the everyday level as racial boundaries blur — be it in business or romantic relationships.

This is by no means to suggest that racism is a thing of the past in South Africa, Brazil, or the US. But the overall response of the white community in these countries in atoning for their iniquitous past is light years ahead of India's upper castes.

What these societies have recognised is that government and the laws can only dissolve overt and violent forms of bias while quotas are but a limited enabler of socio-economic advancement: Formidable but subtle barriers remain to previously-oppressed groups making headway.

This applies to Dalits in India as well. Most Dalit students are first-generation school-goers, their English is often weak and their mostly poor, rural origins ill prepares them for urban settings. Their self-esteem is typically badly dented by daily brandings: Being seated separately at school, served food in different utensils, and being singled out to sweep classrooms and toilets.

Put them in campus and corporate contexts where proxies for caste such as "community" and "family background" are slyly deployed, and preference given to the command of English and social ease afforded by a high-caste background, and it is no wonder that Dalits struggle. Those that make it into higher education face daily roadblocks as the spate of suicides by lower caste students such as Rohith Vemula testifies. Dalit students, who take longer to finish degrees, are disparagingly termed "uncles". Most experience humiliation in examinations and interviews. Hostels and workplaces remain segregated, and Dalit students and co-workers are socially isolated. Even the commonplace of jati stereotypes — business-minded Marwaris, wonky Tamrahms — can be degrading: What career pigeon-hole can someone from a Dalit lineage lay claim to?

In short, modern urban India does not give Dalits an equal shot at success. Dalits remain subject to the sorts of casual slights that most would be livid about if directed, say, at Indians abroad in a racial context. Filling this black hole in our social consciousness cannot be the job of government — upper caste society needs to raise its own awareness and sensitivity to bias.

Heightened attention to "soft" discrimination must be underpinned by owning up to our moral responsibility for the bequest of

Moral responsibility and amplified sensitivity will amount to little without tangible support for Dalit economic advancement. Private sector companies, schools, and colleges have resisted extending reservations to them. But they can achieve a lot without government diktat by sponsoring affirmative action programmes that reach out to Dalit youth, help prepare them for higher education and jobs, and ensure supportive environments for them to succeed.

caste bigotry. Countries as different as South Africa and the US are facing up to their shameful histories in the classroom and in clear-eyed depictions in museums, monuments, and films such as the Oscar-winning *12 Years a Slave*. One of my most searing memories is of being shown around the Apartheid Museum in Johannesburg by a middle-aged Afrikaner guide who minced no words as she explained the exhibits depicting her community's unforgivable treatment of their black compatriots.

In India, by contrast, there is an undercurrent amongst high-caste Hindus that caste prejudice was somehow a "distortion" of a benign division of labour. There is zero credible scriptural or other evidence for this self-serving spin — and much to support varna ideology as deliberately rationalising and shaping underlying power and economic equations in ancient India. And yet, the Hindu right conveniently distorts this harsh history even as Hindu gurus who could speak out forcibly against the shabby heritage of varna divert themselves instead with faddish causes such as cleaning rivers.

Moral responsibility and amplified sensitivity will amount to little without tangible support for Dalit economic advancement. Private sector companies, schools, and colleges have resisted extending reservations to them. But they can achieve a lot without government diktat by sponsoring affirmative action programmes that reach out to Dalit youth, help prepare them for higher education and jobs, and ensure supportive environments for them to succeed. The lot of African-Americans has ameliorated not mainly through US government action and quotas but by concerted initiatives taken by businesses, private universities, non-profits, and society at large.

India's battle against caste discrimination remains tragically incomplete, sully our status as a civilised liberal democracy. The thwarting of rising Dalit aspirations is stoking popular anger which social media and charismatic younger leaders such as Jignesh Mevani and Chandrasekhar Azad are channelling into political action. If India's privileged classes keep looking to government and politicians and do not step up themselves to respond, justice for Dalits may only be achieved in ways that fracture India's stability.

The writer is a private equity investor and former McKinsey partner and is on the Board of Governors of the Oxford Centre for Hindu Studies. Views expressed are personal

### WHAT THE OTHERS SAY

"The evolving threat of militancy and terrorism in Pakistan and the region must be carefully analysed, and a response methodically crafted." —DAWN

## Bappa, my mentor

Sabyasachi Bhattacharya worked on a wide canvas and switched with ease from economic history to culture and biography



V KRISHNA ANANTH

SABYASACHI BHATTACHARYA HAD been unwell for almost a year. Yet the news of his demise on Monday made one realise what it means to not have him in our midst. One more of the doyens who built the Centre for Historical Studies (CHS) in Jawaharlal Nehru University is no more. Bappa, as his students and peers called him, set himself to work on a wide canvas in the discipline of history and switched with ease from economic history to culture and biographies. This is what made him stand apart from his contemporaries at the Centre and in the world of professional historians.

*The Financial Foundations of the British Raj* was a path-breaking analysis. Employing the tools of economic history and the historian's craft, Bappa explained the pattern that the colonial state set to finance itself, establish an economic doctrine that served the interests of metropolitan capital and ensure India remained a backyard to serve that purpose. First published by the Indian Institute of Advanced Studies, Shimla, in 1971, where Bappa fine-tuned his earlier research on the topic into a book, the work remained a primary text for a generation and more of economic historians in India.

He took this work to greater heights in *The Colonial State: Theory and Practice* that Primus Books published in 2016. Bappa did say at its launch at the India International Centre that year that this would be his last book. Those of us assembled there on a relatively warm February evening did not want to take him seriously. Bappa, when I met him last at the IAS, Shimla, was still in his element, delivering the keynote address at a conference commemorating a hundred years of the Champaran Satyagraha.

He delved deep into history and historiography and stressed that Gandhi walked the extra mile, then, to enumerate testimonies from people belonging to the Muslim community. Benedetto Croce's approach to history — all history is contemporary history — guided Bappa in highlighting this, 100 years after the event. His intention was to put a focus on the potential for re-asserting the idea of secularism in times when it was under siege. He was there for all the sessions, across three days, intervening every time it was called for.

The 2016 publication, where he broke new grounds in understanding the theory and practice of the colonial state, remains his last work. In this, he went beyond his own earlier work, exploring several

streams of nationalist intellectual thought — Tagore, Gandhi, Jawaharlal Nehru and several others — talking back against the colonial construct of the Orient. *Talking Back: Civilization in the Indian Nationalist Discourse*, published by Oxford University Press, in 2011 will remain a companion volume along with Edward Said's monumental *Orientalism* (1974) for students of history and the social sciences. Bappa's review of Amartya Sen's *Argumentative Indian*, in the *Economic and Political Weekly*, succinctly bought out the limitations of the book and balanced the trenchant criticism that Tariq Ali launched against Sen in the same issue of the journal.

In the mid-1980s, Bappa was drawn into research on the working class movement in India. Those were times when postmodernism was beginning to emerge as the new fashion and I distinctly recall the ease with which he engaged with Dipesh Chakravorty (who was invited to CHS at his initiative for a few weeks) and the constructive criticism he put forward when Gayatri Chakravorty Spivak was a visiting faculty at the Centre. He did not shy away or go into a shell — he engaged with cultural studies and yet did not yield ground to it.

He also served as the guiding force behind the labour history collective at a time when this branch of history had ceased to attract scholars. Bappa steered a project with the VV Giri National Labour Institute to restore past documents from trade unions and render them in a digital format.

Bappa also went on to explore another stream of history. He put together a collection of letters between Gurudev and the Mahatma. I recall my son relishing this while he was still in his early days at university. Bappa's stress on the use of documents, from the colonial archives and otherwise, made an immense contribution in preserving the discipline and saving it from fabricating facts or confusing history with myths.

Of these, his short, simple and erudite treatment, in 2003, of the political abuse that landed Vande Mataram into a controversy stands out. My students, out of school only a few months ago, say *Vande Mataram: The Biography of a Song* is a book that could be read by anyone.

Bappa taught and mentored several students on how to learn history and many of them turned teachers. The last time we met, his wife, Mala, disclosed that Bappa maintained a notebook where he had details on where his students came from, their social and economic backgrounds and that he would look at it every time he had fixed meetings with them as part of their research. I did not realise he cared so much until then.

The writer is Professor of History, SRM University AP, Amaravati. He completed his MPhil and PhD under Sabyasachi Bhattacharya's supervision from CHS, JNU

### LETTER TO THE EDITOR

#### A NEW QUOTA

THIS REFERS TO the editorial, 'The 10% answer' (IE, January 8). The reason behind the reservation for the SCs and STs is their disadvantaged social condition, which dates back to ancient times. This historical injustice continues even today. A case in point is when President Ram Nath Kovind was, as per news reports, obstructed from entering the Jagannath Puri shrine. Atrocities against Dalits, such as that in Una in 2016, are reported every few months. In this context, the new move by the government gives a new dimension to reservation.

Vinay Saroha, Delhi

THIS REFERS TO the article, 'The 10% answer' (IE, January 8, 2019). The announcement of 10 per cent quotas to the economically weaker sections among upper castes when general elections are around the corner is nothing but party politics. What is more worrying is the move changing the idea of reservation. Moreover, the announcement does not augur well for the job scenario. Enhancing people's skills, creating more jobs and structural reforms in agriculture are the need of the hour.

Jaimini Patel, Ahmedabad

#### OTHER SPORTS TOO

THIS REFER TO the editorial, 'Victory foretold' (IE, January 8). The Indian cricket team's victory in Australia is great news and the team needs to be congratulated. At the same time, let's not hype the victory or the game. The strength of Indian sports lies in athletics, wrestling, kabaddi, badminton and tennis. But cricket gets the maximum attentions. Sports authorities think twice in paying dues to our athletes, but money flows for the cricketer. So, as we eulogise Virat

#### LETTER OF THE WEEK AWARD

To encourage quality reader intervention, The Indian Express offers the Letter of the Week award. The letter adjudged the best for the week is published every Saturday. Letters may be e-mailed to [editpage@expressindia.com](mailto:editpage@expressindia.com) or sent to The Indian Express, B-1/B, Sector 10, Noida-UP 201301. Letter writers should mention their postal address and phone number.

THE WINNER RECEIVES SELECT EXPRESS PUBLICATIONS

Kohli, lets also make heroes of our medal winners in international events like Mary Kom, Saina Nehwal, PV Sindhu, Abhinav Bindra, Sushil Kumar, Vijender Singh and Hima Das.

RD Singh, Ambala

#### MONOCHROME FILMS

THIS REFER TO the editorial, 'Frames of change' (IE, January 8). The Golden Globes point out once again the monochromatic elitism of the Indian film industry. Minorities and the marginalised rarely find voice in mainstream Hindi films, though regional language cinema fares better. Hollywood's commercialism, it seems, allows for art, unlike us.

Bishwadeep Chatterjee, Delhi



APARNA VAIDIK

## Naming, erasing

Renaming islands in Andamans obscures complex loyalties, horrific memories

ON DECEMBER 30, 2018, three islands of the Andaman group were renamed. The Ross Island as Netaji Subhas Chandra Bose Dweep, Neil Island as Shaheed Dweep and Havelock Island as Swaraj Dweep. The renaming commemorates Netaji Subhas Chandra Bose's visit to the Andamans as the commander of the Azad Hind Fauj (INA) in December 1943. This was during World War II when the Japanese had occupied the Islands as allies of INA. They had wrested control from the British who had colonised the Islands in 1858. Although mistakenly assumed to be a consequence of the Revolt of 1857, the colonisation of the Andamans was an outcome of the oceanic politics of the Raj and its need for a strategic foothold in the Bay of Bengal.

The Japanese occupation was a curious phase in the Andamans' history. During my PhD fieldwork in the Andamans in 2002, I interviewed several people regarding their experience of living under the Japanese occupation. The settlers on the Andamans in the 1940s included ex-convicts, descendants of convicts (known as local-borns), the Chinese and Burmese convict labourers besides the settler communities — the Moplah rebels from Malabar; Bhanu, a "criminal tribe" of Sultana dacoit's gang from UP; Karens, a Christian hill tribe of Burma; and the Catholic labourers from Ranchi who had migrated in the mid-1920s under a settlement scheme.

The settlers across the board remembered the period of Japanese occupation as one of intense misery, poverty and constant fear.

Shanti, a septuagenarian Bhanu, recounted how they were reduced to eating wild roots and wearing gunny bags as the Japanese used to take away their entire paddy crop. Her father saved some rice by placing it in a hole at the back of the house and putting a charpoy on top. In a low conspiratorial voice Shanti also confided how the Japanese soldiers were always seeking Bhanu women.

Asharfi Lal, another septuagenarian, corroborated Shanti's horrifying tales. He was amongst the few Bhanus to attend the Japanese school and live amongst the Japanese soldiers. He reminisced with a shudder how many settlers were taken away on boats and dumped into the sea near Havelock Island and many of them were lined up and shot. Many residents of the convict villages denounced their neighbours to save themselves. When asked how they celebrated the coming of Independence, Lal replied he was very happy the day the Andamans got azadi and the Union Jack went up. I thought he got the name of the flag wrong. I asked him for the date of Independence and he said: "1945." It was the British reoccupation of the Islands on October 7, 1945, that he remembered as the day of Independence.

One wonders which "Swaraj" the renaming is celebrating — the one Netaji failed to achieve, the one in 1945 or that of 1947? And which "Shaheed" is being commemorated — the native Andamanese whom British exterminated; or the ones the Japanese massacred; or V D Savarkar who had no connection with the Andamans except for spending a few years in the Cellular Jail; or Netaji who was supposedly unaware of Japanese atrocities?

Historical evidence points in the direction of Bose's visit having been stage managed by the Japanese generals stationed on the Andamans. However, what could Bose have done had he known? Was he really in a position to challenge the only allies he had? After all, the loss of lives of the local Andamanese was small compared to the INA soldiers who were willingly laying down their lives for India's independence. I had met local people who would have liked to see Neil and Havelock islands renamed (not Ross Island as it was named after Sir Ronald Ross, the discoverer of mosquito transmission of malaria) because they were named after two British officers James Neil and Henry Havelock who were infamous for their role in the Revolt of 1857. But I am not sure if they had wished them to be changed to commemorate Netaji.

The Andaman Islands became part of the Indian Republic with Partition. Mountbatten handed them to Nehru, despite Jinnah's repeated claims, because in his view the

Republic of India was the inheritor of the legacy of nationalist struggle and thereby of the Andamans, which were a sacred symbol of this struggle. It's a different matter that Mountbatten had hoped to use the Islands as a British naval base.

The inclusion of the Andamans in the Indian Union was thus the culmination of a century-long process, beginning with its colonisation in 1858 and then with imprisonment of the Indian revolutionaries in the Cellular Jail from 1910 onwards. The experiences of the revolutionaries, who were numerically minuscule in comparison to the settlers, forged and immortalised a monochromatic image of the Islands as a *multitirth*, sacred site of nationalism. This image shrouded the history of the indigenous Andamanese, the ordinary convicts, their descendants, and settler communities who made it their home. This image continues to be reproduced with the naming of the Port Blair airport after Savarkar and the installation of his statue inside the Cellular Jail by the Vajpayee government and now with the renamings. The irony is the more we rename the more we erase; and what gets swept away is not the Mughal or the British master's history, but our own past.

The writer is associate professor of history at Ashoka University