



Not kosher

The Chanda Kochhar case raises issues of corporate governance that go well beyond her

The inquiry by former Supreme Court judge Justice B.N. Srikrishna into the allegations against former ICICI Bank CEO Chanda Kochhar has taken eight long months to confirm what seems apparent - that she did not conduct herself as she should have in relation to conflict-of-interest issues. It was only last week that the Central Bureau of Investigation filed an FIR against Ms. Kochhar, her husband Deepak Kochhar, head of the Videocon group Venugopal Dhoot and ICICI Bank executives for sanction of credit facilities in violation of rules, that caused a loss of ₹1,730 crore to the bank. The investigating agency has a long way to go before it establishes whether the loans were given in return for financial favours, a charge that is at the heart of booking them for criminal conspiracy, cheating and corruption. But clearly, Ms. Kochhar erred, and badly at that, in not disclosing to the bank's board her husband's business connections with the Videocon group, which was a client of the bank. Worse, she failed to display the correctness expected of her by sitting on committees that sanctioned credit facilities to Videocon when she ought to have recused herself. Just a day after a ₹300-crore loan was disbursed to Videocon International Electronics in 2009, Mr. Kochhar's NuPower Renewables received ₹64 crore from the Videocon group. Whether this was a *quid pro quo* for the loan, as the CBI suggests, needs to be proved. But there is no denying that it made for poor, even suspicious, optics.

The inquiry report holds her guilty of violation of the bank's "code of conduct, its framework for dealing with conflict of interest and fiduciary duties, and in terms of applicable Indian laws, rules and regulations." The bank's board has accepted the report and decided to treat her voluntary resignation from the bank in October as "termination for cause", also deciding to claw back all bonuses paid to her since April 2009, hold back unpaid amounts and divest her of her stock option entitlements. These are strong penalties, but the question is: how did the board give her a clean chit as recently as March last year? It had then repored its full confidence and faith in Ms. Kochhar and commended her and the management team for their "hard work and dedication". It is impossible to believe the board was not aware of the allegations against the CEO given that a whistle-blower had made them public in October 2016. Was the board then influenced by Ms. Kochhar into giving her a good conduct certificate? These are uncomfortable questions that raise doubts over the standards of corporate governance at one of India's largest banks. The ICICI Bank episode is only one among several instances of governance lapses in corporate India in recent times. Clearly, regulators need to up their game.

On a cliff edge

Britain veers to a hard Brexit as Prime Minister May continues to placate Tory hardliners

The prospects for Britain's orderly withdrawal from the European Union on March 29 have receded further, even as MPs rallied to stop a no-deal scenario. An amendment to the draft bill on the termination of London's membership of the bloc obliges Prime Minister Theresa May to renegotiate her withdrawal agreement with Brussels. A Tory backbencher's proposal calls on the government to come up with alternatives to the Irish backstop, a central tenet of the deal Britain agreed with the rest of the EU. The arrangement is meant to guarantee continuation of the soft border between Northern Ireland and the Republic of Ireland, even if London and Brussels fail to strike a concrete relationship after Brexit. The reservations that Conservative Eurosceptics have over the backstop was a crucial factor why Ms. May delayed a House of Commons vote on her withdrawal agreement. Her subsequent attempts to secure assurances from Brussels to set a time limit on the backstop, or for Britain to quit the mechanism unilaterally, yielded no tangible outcome. A strong Eurosceptic opposition on the issue was also the reason for Ms. May's overwhelming defeat in the House of Commons a fortnight ago. Ironically, this is the same deal Ms. May has all along insisted as being the one that could deliver the Brexit that people voted for, and to avoid Britain's crashing out of the EU. Soon after the passage of the amendment on Tuesday, the President of the European Council reiterated the bloc's unanimous position, ruling out a reopening of the withdrawal agreement. The Irish government has been equally categorical that as the basic guarantor of the 1998 Good Friday accord, the soft border was non-negotiable.

With less than 60 days to the deadline, the scope to overcome such fundamental differences in approach is rather narrow. Moreover, the Commons voted down a move, by Conservative and Labour proponents, to initiate legislation to defer the leave date. The latter had hoped the postponement plan would be a way to gain time, if the government failed to reach any agreement with Brussels or could not secure ratification at Westminster by late-February. Opponents, including Ms. May, dubbed the idea a remainder's ploy to delay Brexit, or worse still, to lay the groundwork for a second referendum. But Parliament has wrested control of the Brexit process, and the demand to defer the deadline could well resurface. In that event, the EU's favourable disposition to extend the Article 50 process could serve to influence the parliamentary balance. But Ms. May has seemed reluctant to confront the extreme stance of her Tory backbenchers and might remain hostage to a hard Brexit reality, notwithstanding the resulting chaos and upheaval. That outcome is surely not one that most leave voters would have even remotely imagined.

Heading towards strategic instability

India must be alert as there is a possibility of emerging disruptive technologies prompting inadvertent conflict



HAPPYMON JACOB

In late 2018, the government decided to set up three new agencies - the Defence Cyber Agency, the Defence Space Agency and the Special Operations Division - in order to address the new age challenges to national security. While this is indeed a useful step in the right direction, it is also important to note that the constitution of these agencies is a far cry from the crucial recommendations given by the Naresh Chandra Task Force and the Chiefs of Staff Committee, both of which had suggested the formation of three separate joint commands to deal with new challenges to India's national security in the cyber, space and special operations domains.

This rather lacklustre response to major 'futuristic' challenges to our national security raises a larger question: is India adequately prepared for the new age wars in general or is it still preparing for the last war it fought, and won?

High-tech innovations

There is a revolution in military affairs that seems to have attracted the attention of strategic analysts and policy planners across the world. The current focus in military thinking across the world is increasingly moving away from traditional heavy-duty military hardware to high-tech innovations such as artificial intelligence (AI), big data analytics, satellite jammers, hypersonic strike technol-

gy, advanced cyber capabilities and spectrum denial and high-energy lasers. In the light of the unprecedented capabilities that these systems offer, there is also an increased focus on developing suitable command and control as well as doctrinal concepts to accommodate and calibrate them.

The arrival of these technologies might deeply frustrate strategic stability as we know it given their disruptive nature. Strategic stability in the contemporary international system, especially among the nuclear weapon states, depends on several age-old certainties, the most important being the issue of survivability of a state's nuclear arsenal and its ability to carry out a second strike after a first attack. Once accuracies get better, hypersonic glide vehicles replace conventional delivery systems, real time tracking and surveillance make major strides, and AI-enabled systems take over, survivability of nuclear arsenal, which lies at the heart of great power stability, could take a severe beating. There was, for instance, an assumption that the naval leg of a nuclear triad is the most survivable part since it is hidden away in the depths of the ocean away from the adversary's gaze. However, the potential ability of deep-sea drones to detect ballistic-missile armed nuclear submarines or SSBNs may make this assurance a thing of the past thereby frustrating traditional calculations.

Now add the arrival of these new technologies to the emerging strategic competition among great powers. The U.S.'s withdrawal from the Intermediate-Range Nuclear Forces treaty is perhaps an indication of a potential arms race



GETTY IMAGES/ISTOCK PHOTO

in the offing. In a January 2018 article, the *Economist* put it succinctly: "Disruptive new technologies, worsening relations between Russia and America and a less cautious Russian leadership than in the cold war have raised fears that a new era of strategic instability may be approaching."

Fears of conflict

There is an inherent paradox vis-à-vis high technology-enabled military systems. While on the one hand, it is imperative for states to redesign their systems in the light of these new technologies, especially the digital and cyber components, this also makes the cyber and digital-enabled systems vulnerable to covert cyberattacks. More so, given that such surreptitious attacks might take place in the early stages of a conflict, ensuring confusion and scare might lead to uncontrolled escalation with little time for assessment and judgement.

The biggest fear about these technologies, the implications of which we don't fully understand yet, is their potential to increase the risks of intentional and inadvertent nuclear use. Such scenarios may be unlikely but not improbable. Here's what the *Economist* had to say on precisely such a scenario: "Both China and Russia fear that new American

long-range non-nuclear strike capabilities could be used to deliver a disarming attack on a substantial part of their strategic forces or decapitate their nuclear command and control. Although they would still launch their surviving nuclear missiles, improved missile-defence systems of the U.S. would mop up most of the remainder before their warheads could do any damage."

The fear of a bolt-from-the-blue attack against one's command and control systems or a disabling strike against strategic arsenal using new technological solutions is likely to dominate the strategic mindset of great powers in the days ahead, thereby further deepening mistrust and creating instability. Therefore, the possibility of emerging military technologies prompting inadvertent escalation and conflict cannot and should not be ruled out.

Chinese capabilities

China has emerged as a key actor in the field of emerging military technologies. This is something that will concern New Delhi in the days ahead. Some analysts believe that Beijing is in the lead position in emerging technologies with potential military applications such as quantum computing, 3D printing, hypersonic missiles and AI. If indeed, Beijing continues to develop hypersonic systems, for instance, it could potentially target a range of targets in the U.S. While the Chinese focus is evidently on U.S. capabilities, which China interprets as a potential threat, this is not without latent concerns for New Delhi. India might, in turn, consider developing some of these technologies which will create dilemmas for Islamabad. The cas-

cademic strategic competition then looks unavoidable at this point, and that is worrisome. And yet, it might be difficult to avoid some of these developments given their dual use.

However, there is a need to ask how survivable India's naval platforms are given the feverish developments of advanced sensory capability in the neighbourhood. Is it sufficiently prepared to face the new age wars? Has the urgency associated with these technological developments dawned on the security planners in New Delhi?

It is in this context that we must revisit the government's decision to set up the agencies to address cyber and space challenges. Clearly, this is a timely effort from the government to have finally decided to set them up - though they are not yet in place. It is unfortunate that unlike what was envisioned earlier, these agencies will be reduced in their powers and their standing in the pecking order of defence planning in the country. Moreover, reports indicate that the Space Command will be headed by the Air Force, the Army will head the Special Operations Command, and the Navy will be given the responsibility of the Cyber Command. If indeed that happens, their effectiveness in terms of tri-service synergy will be much less than anticipated. Even more so, given that the higher defence decision-making in the country is still civil services-dominated, despite the recent attempts to correct it, the effectiveness of these agencies will remain weak.

Happymon Jacob teaches disarmament studies at JNU and is the author of *Line Of Fire: Ceasefire Violations and India-Pakistan Escalation Dynamics*

In the Northeast, a David versus Goliath battle

With political protests erupting in the region against the Citizenship (Amendment) Bill, the BJP has been put on notice



SANJOY HAZARIKA

The tiny States in India's east, the Davids, have put the Goliath of political parties, the Bharatiya Janata Party, on notice with a carefully aimed slingshot that may hurt the giant.

Why the opposition?

The Chief Ministers of Meghalaya and Mizoram, a representative of the Nagaland Chief Minister, and an ally of the BJP government in Tripura declared their unilateral, united and unhesitating opposition to the Citizenship (Amendment) Bill of 2016, which seeks to fast track citizenship to migrants of Hindu and five other non-Muslim groups from Bangladesh, Afghanistan and Pakistan. The carefully crafted North-East Democratic Alliance of non-Congress parties in the region has stumbled.

Meghalaya's Conrad Sangma, who runs a coalition government which includes the BJP, convened the meeting in Guwahati, the region's political hub, challenging the BJP on its own turf. Interestingly, the Congress, which walked out

of the Lok Sabha when the Bill was being passed, was initially muted. Now, it has said it will ask its MPs to vote against the Citizenship Bill in the Rajya Sabha.

Amid the din of street protests across Assam and elsewhere, reference is made time and again to the Assam Accord of 1985, which laid down the criteria, strategy and structure for the deeply troubling 'foreigners' issue in the State. The Accord sought to calm a movement against illegal migration that had erupted in bloodshed and confrontation taking thousands of lives between 1979 and 1985. The key concerns that the Accord sought to address, through an agreement of the Centre, the State government and the All Assam Students Union, involved not only illegal migration from Bangladesh but also constitutional safeguards for citizens and economic initiatives for the State's growth. Such growth would benefit the entire region since Assam, the largest of the eight States, drives the regional economy.

When the BJP came to power at the Centre and in the State, it sought to fast track a key demand of the Accord, the updating of the National Register of Citizens (NRC), to ostensibly clarify the existence of large numbers of non-Indians in the State. This had been stymied by earlier Congress-led governments. However, a July



ABHISEK SAHA

2018 NRC draft, which left out four million people, was sharply denounced as prejudiced and flawed. A group of senior retired officials wrote a letter to the Prime Minister drawing attention to what they saw as a deeply problematic process.

The Supreme Court, which has been issuing a set of ad hoc directions for a project it is directly supervising, has given NRC organisers more time to fix the problems. This came after nearly 32 lakh persons filed challenges to their non-inclusion. The Citizenship Bill came plumb in the middle of this, with government officials in Delhi asserting that the Centre is committed to it and that the Bill is being misunderstood.

By excluding Muslims from its ambit, thus making citizenship contingent on religion, the provisions in the Bill appear to be contrary to Article 14, which guarantees "equality before the law or

equal protection of the law" in any part of India. The Joint Parliamentary Committee, which assessed the views of stakeholders, political and civil society groups across the country, asked the Intelligence Bureau (IB) for a figure of immediate beneficiaries of the Bill. The IB said there were just 31,313 members of these minority groups staying on long-term visas after claiming religious persecution in the three countries of focus in the Bill. But is it the Centre's case that this small figure is the sum total of persons that it wants to benefit? This does not appear to be so, according to statements of BJP leaders in Assam, where lakhs of illegal migrants are said to have settled since 1971. However, there are no hard figures, only estimates.

At the heart of the matter is a very simple issue. The 1985 Accord, by which everyone swears, is specific and unique. It is specific to a State (hence the Assam Accord) and an issue (illegal migration), and defines the effort to settle an issue which was swamped by discord. It cannot be undone by legislation that seeks to supersede it. The Accord was sanctioned by Parliament and has acceptance in the State across party lines.

Shifting goalposts

That is why arbitrary efforts and manufactured consent are meeting such resistance. The goalposts

are being changed without adequate dialogue. Lack of discussion and transparency are reasons why parts of this sensitive region erupt repeatedly. Delhi does not learn from the past. How could it expect the shifting of political goalposts to be accepted quietly? The Accord placed the cutoff year for deportation of illegals at 1971, when Bangladesh was created. The Bill changes that to 2014. Constitutional rights must be upheld. While the Bharat Ratna to Bhupen Hazarika is overdue and welcome, it cannot detract from the core questions that are being asked.

The words of Mahatma Gandhi to the emissaries of Gopinath Bordoloi, later Assam's first Chief Minister in Independent India, on December 15, 1946 ring true today. That was when the British Cabinet Mission, through constitutional trickery, sought to impose Bengal majority control over Assam. "If Assam keeps quiet, it is finished. No one can force Assam to do what it does not want to do. It must stand independently as an autonomous unit," he said.

Assam is speaking as are the peripheries. But is Delhi listening? The act of dialogue presupposes compromise by either side, especially the more powerful.

Sanjoy Hazarika is the International Director of the Commonwealth Human Rights Initiative. Views are personal

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.

Coalition governments

Past experience shows that a majority government does more harm than good, so the nation needs a coalition government ("Modi warns against coalition regime," Jan. 31). The Emergency under Congress rule and the failures of this government such as demonetisation, weak implementation of the Goods and Services Tax, the breakdown of institutions, and a frayed social fabric show why "strong and big decisions" are a problem. While the Prime Minister and the BJP president are trying to convince the people that too many cooks spoil the broth, Indians must remember that absolute power corrupts absolutely.

KSHIRASAGARA BALAJI RAO, Hyderabad

Sacking of Kochhar

First, CBI Director Alok Verma was removed in view of an adverse report by the Central Vigilance Commission against him and now Chanda Kochhar has been sacked ("ICICI Bank sacks Chanda Kochhar," Feb. 1). Whether in the public or private sector, it seems common for people to abuse their power for personal gains. However, in Ms. Kochhar's case, it is curious why she has been singled out and punished when the board failed to act initially and even jumped to her defence. And what about responsibility on the part of the bank's loan-sanctioning and credit committees?

N. VISVESWARAN, Chennai

War of words

The row between Congress

president Rahul Gandhi and Goa Chief Minister Manohar Parikkar over Rafale is needless ("Rahul, Parikkar engage in an all-out letter war over Rafale," Feb. 1). India's political discourse is all about politicians making allegations and counter-allegations, which lack evidence. When the discussion between two leaders is not made public, any claim made misleads the people. In this case, it seems as though Mr. Gandhi's visit was political rather than personal given that the controversy erupted soon after his return and also because the Congress seems determined to keep the Rafale controversy alive.

N. SADHASIVA REDDY, Bengaluru

This is not the first time

that the Congress president has visited ailing leaders. When Rahul Gandhi visited former Prime Minister Atal Bihari Vajpayee and External Affairs Minister Sushma Swaraj, there was no controversy and no barbs were exchanged, so why is there suddenly a controversy now? This drama looks like it is going to continue till there is some clarity on the Rafale deal.

BIDYUT KUMAR CHATTERJEE, Faridabad

Ram Mandir again

In yet another move that shows that it will go to any extent to appease the electorate, the NDA government has suddenly woken up from its slumber and requested the Supreme Court to return the "superfluous land" to the Ram Jannabhoomi Nyas

trust ("An unnecessary move", Feb. 1). Perhaps learning from opinion polls that its prospects seem quite bleak this election, the government is doing everything it can to regain trust, from providing 10% reservation for the economically poor among the forward communities to making this request to the court. The hope is that the court will act fairly and quickly in both these matters.

THARCIUS S. FERNANDO, Chennai

CORRECTIONS & CLARIFICATIONS:

>>>"Speaker Sumitra Mahajan wants smooth Lok Sabha session" (some editions, Jan. 31, 2019) mistakenly said the Parliament session was scheduled to go on till January 13. It should have been February 13.

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, Kasturba Buildings, 859 & 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

YES, NO, IT'S COMPLICATED

Is there a case for reservation for the forward classes?

YES



MEENAKSHI LEKHI is a BJP member and a lawyer

Social justice is not possible if we exclude the economically backward sections of our society

Social justice is inclusive in nature. It means ensuring that no marker of backwardness is left untouched. Poverty is one such marker of backwardness, and a very strong one, which denies certain basic rights and equality in society to individuals affected by it.

The Preamble, which is the soul of the Constitution, promises to all citizens social, economic and political justice. The economic status of citizens constitutes one of the three tests of backwardness. Hence, the ends of social justice cannot be truly met if we exclude the economi-

cally backward sections of society from availing the fruits of development in an equal manner.

A move to help the poor

Poverty denies equality of opportunity to individuals in education and employment. It denies them the opportunity of a decent and sustainable livelihood. Reservation, by the prevalent logic, ensures participation of the disadvantaged sections in employment through positive discrimination. Hence, there was a strong case for making a provision for reservation for the eco-

nomically backward in the general category in education and employment to ensure that they also get reasonable opportunities to advance in life.

The present provision of 10% reservation for the economically backward in the general category is being referred to as reservation for the 'savarnas', or upper castes. However, reservation under this category is not limited to upper caste Hindus; it is available to the poor in all general categories, who were not eligible for reservation under any other category hitherto. As for the upper caste Hindus, a significant proportion of the population



live in the villages and in remote areas with limited economic opportunities. They face disadvantages in the matter of getting access to education and employment. Hence, it was necessary to lend a helping hand to them as well.

The test of constitutionality

To those who point to the Supreme Court's capping of reservation at 50% in the famous *Indira Sawhney* case, I wish to mention that this ceiling is applicable only for reservation for the socially and educationally backward category, i.e. to the Scheduled Castes/Scheduled Tribes (SCs/STs) and the Other

Backward Classes (OBC) categories under Articles 15(4) and 16(4) of the Constitution. It does not apply to the present case of reservation, which has been provided as a special provision through a Constitutional amendment.

Further, to those who mistake the provision of reservation under the Constitution to be applicable only to the SCs/STs and OBCs, I wish to remind them that the present quota, introduced through the 124th Constitution Amendment Bill, is provided through adequate amendments in Articles 15 and 16 of the Constitution, which allow for making "special provision for the advancement of any economically weaker sections of the citizens".

Hence, it can stand the test of constitutionality in the Supreme Court.

Social justice is a dynamic concept which has evolved over time in accordance with the changing needs and circumstances of our society. The concept has not been defined in our Constitution. It has rightly been left to the wisdom of the lawmakers to increase its ambit from time to time, according to the needs of the time. A quota for poor citizens was a crying need of our times. The Modi government realised this and, under the true spirit of 'Sabka Saath Sabka Vikas', made the dream of 10% reservation a reality. For other political parties, this had been nothing more than an electoral gambit all along.

NO



MANOJ KUMAR JHA is an academic and a Rajya Sabha MP

Nothing stopped the government from providing jobs or scholarships to the poor

The 124th Constitution Amendment Bill, proposed and promulgated in just a few days, is a gross and willful subversion of the principle of social justice, which the Supreme Court has held to be the part of the basic structure of the Constitution. It is hard to understand how the government, which has all the legal resources and counsel at its disposal, chose to characterise reservations mandated by the Constitution as a job guarantee or a poverty alleviation programme. Reservations for students in public institutions of

higher education and jobs in the public sector were envisioned to bring about adequate representation to those sections of society that are oppressed by caste discrimination. Reservations along with legal protections against discrimination form the juridical structure for social upliftment of the backward classes of Indian society.

Constitutionally invalid

The Constituent Assembly amended Article 15 by inserting Clause (4), which states: "Nothing in this arti-

cle or in Clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes." The use of income or economic criteria for providing reservation for those not included in the backward classes, or for those belonging to the general sections, is thus constitutionally invalid.

If indeed the Narendra Modi government wished to benefit the poorer sections of those not included in the backward classes, Sche-



duled Castes and Tribes, there was nothing that stopped it from creating jobs along the lines of the Mahatma Gandhi National Rural Employment Guarantee Act, which also created rural infrastructure. Nothing stopped it from instituting new universities and colleges and providing need-based scholarships for poor students. Granting 10% reservation in government jobs and education institutions to households in the general category with an income of less than ₹8 lakh per annum will make little difference to their poverty levels as corporate-led jobless growth

has increased income inequality exponentially.

A mere fig leaf

True to its 'jumla'-gimmickry model of governance, the Modi government chose not to increase the size of the pie but to cut away another slice from the already shrinking pie of public sector institutions. The promise of existing reservations is nowhere near to being fully realised. Public spending for scholarships for students in the SC/ST/OBC categories (and minority students) has come to a near halt. Rohith Vemula's suicide is a direct result of such tactical obstacles propped by this government in the path of so-

cial justice.

The move reverses the progress made in India over decades. It was perhaps put in place as the government was unable to provide any relief from the economic distress felt by small farmers, manufacturers, entrepreneurs, traders and the working class. In fact, this distress was worsened by the impact of the rash decision called demonetisation and the poor implementation of the Goods and Services Tax.

The 10% reservation is nothing but a fig leaf to cover the monumental failure of this government on all fronts. It is a ploy that will cost India dearly and push away further its hope for social harmony.

IT'S COMPLICATED



BHARTURHARI MAHTAB is an MP from the Biju Janata Dal

When you allow reservation for the advanced classes, it changes the meaning of reservation

During the Lok Sabha debate on the 124th Constitution Amendment Bill, to provide reservation in jobs and education for the economically weaker sections in the general category, an opinion was expressed that 50% of the States have to approve it. But that is not the case. Under Article 368(2), Parliament can amend the Constitution by passing the Bill in each House by a majority of the total membership of that House present and voting. Thereafter, the President shall give his assent to the Bill and the Constitution will stand amended.

But amendments which seek to

make a change in certain specific provisions, including Articles 54, 55, 73, Chapter IV of Part V, Chapter V of Part VI or Chapter I of Part XI, or any of the Lists in the Seventh Schedule, or the representation of States in Parliament, shall require to be ratified by the Legislatures of not less than one-half of the States.

Providing the context

Article 15 guarantees the fundamental right of prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth. Article 15(1) and (2) broadly state that the "State" shall not discrimi-

nate against "any citizen" on grounds only of religion, race, caste, sex, place of birth or any of them. Article 15(3) onwards, the Constitution lays down provisions relating to protective discrimination - the policy of granting special privileges to underprivileged sections. Articles 15(3) and 15(4) are the foundations for reservations in education and employment in the country.

Article 15(5) was introduced by the Constitution (93rd Amendment) Act, 2005. It is an enabling clause that empowers the State to make such provision for the advancement of SCs, STs and socially and educationally backward classes of



citizens in relation to a specific subject, namely, admission to educational institutions including private educational institutions, whether aided or unaided by the state, notwithstanding the provisions of Article 19(1)(g). This was challenged in the court. In 2008, a five-judge Bench headed by the then Chief Justice of India, K.G. Balakrishnan, upheld the law providing 27% quota for OBCs in IITs, IIMs and other central educational institutions, but said it would not apply to the creamy layer. The Supreme Court upheld the validity of the Constitution (93rd Amendment) Act, 2005. It also held that the amendment does not violate the

basic structure of the Constitution.

It is in this context that the reservation for the economically weaker sections is to be considered. A nine-judge Bench of the Supreme Court had ruled that reservation is a remedy for historical discrimination and its continuing ill-effects. The court had also said that reservation is not aimed at economic uplift or poverty alleviation. Economic weakness is on account of social backwardness. The economic criteria will lead, in effect, to the virtual deletion of Article 16(4) from the Constitution.

Is this the new poverty line?

Since the new amendment talks of economic criteria and addresses the grievances of Brahmins, Bani-

yas, Patels, Marathas, Gujjars, Thakurs and even Muslims and Christians for the first time, many think it will be broad-based. It is the responsibility of the state to uplift the poor. Traditionally marginalised sections need affirmative action. But the current policy says those households earning less than ₹8 lakh annually or owning less than 5 acres of land can avail of the quota. That is a salary of ₹66,000 a month. If so, is this the new poverty line of India? And if so, why are those earning more than ₹25,000 a month being taxed? The moment you make reservation for the advanced classes, it changes the meaning of reservation altogether. Reservation is not an anti-poverty programme.

SINGLE FILE

Blending fact and fiction

To deal with the problem of propaganda films being taken as the truth, we need discerning viewers

KUNAL RAY



Bollywood biopics are one of my pet peeves. Yet I gathered the courage to see *Thackeray* because I was curious. I never thought I would say this, but I found *Thackeray* to be a rather well-made propaganda film. I certainly disagree with its politics, but I shuddered thinking to myself and discussing with a friend seated next to me the consequences of a well-made propaganda film. Nawazuddin Siddiqui delivered a most convincing performance as the eponymous central character. While in the same column some months ago, I had critiqued his portrayal of Manto, his performance as Bal Thackeray made me sit up and take notice. Here was a good actor delivering a consummate performance.

I was at a loss. Should I applaud him for his performance or critique what he was choosing to portray on screen? *Manto* and *Thackeray* are worlds apart. The actor does his job. He moves on to his next role, but can a role be performed without convincing yourself about the character you are essaying on screen? Isn't acting fiction though? I had several questions but no easy answers.

The combination of Siddiqui's performance and the film's almost compelling storytelling readily pulls you into the narrative. It also occurred to me then that cinema as a mass medium can be used to transform fiction into fact. We often argue that there are numerous ways of writing and recording history beyond academic history books. Cinema has often reached where no book has been able to tread. Think about Ingmar Bergman's exposition of time and Michelangelo Antonioni's evocation of space. Through repeated viewing, images often attain a new power, a new historical truth. They can transform our understanding of events. Several war films fit into this bracket. Cinema can create or endorse new histories and this to me was the alarming aspect of the film.

This year several propaganda films were made in Bollywood: *The Accidental Prime Minister*, *Uri: The Surgical Strike*, *Manikarnika: The Queen of Jhansi*. While the timing of their release is anybody's guess, these films clearly serve a nationalist agenda benefiting a certain political ideology.

One also cannot dismiss the commercial aspect of such decision-making when there is enormous public interest in seeing the lives of well-known and much debated political personalities on screen and other events from the recent past such as the Uri surgical strike, which drew much attention.

For most filmgoers, it is their date with history, their chance to witness an event up-close to form an opinion based on the film's rendition. Films then become the new truth. To tackle this phenomenon we need a more discerning viewership.

The writer teaches literary and cultural studies at FLAME University, Pune

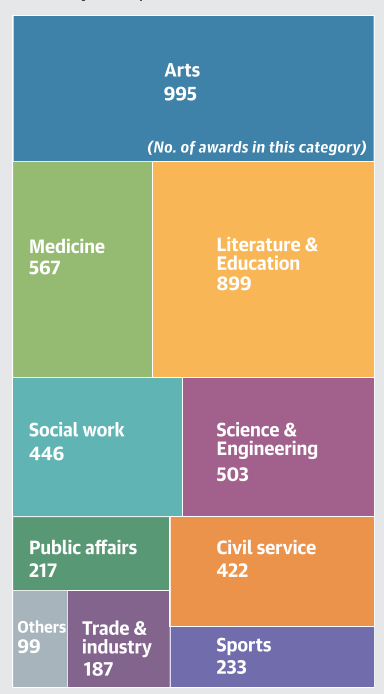


DATA POINT

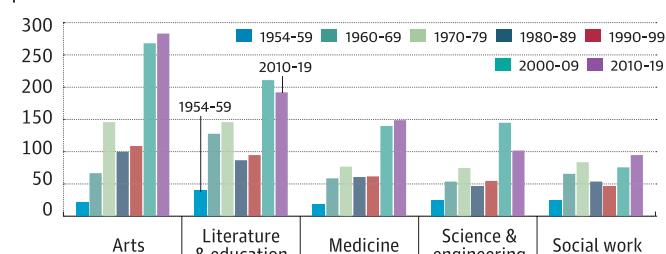
Honours roll

Nearly 40% of the Padma* awards, instituted in 1954, have honoured contributions to the arts, literature and education. **Varun B. Krishnan** also finds that the highest number of awardees are from Delhi, Maharashtra and Tamil Nadu

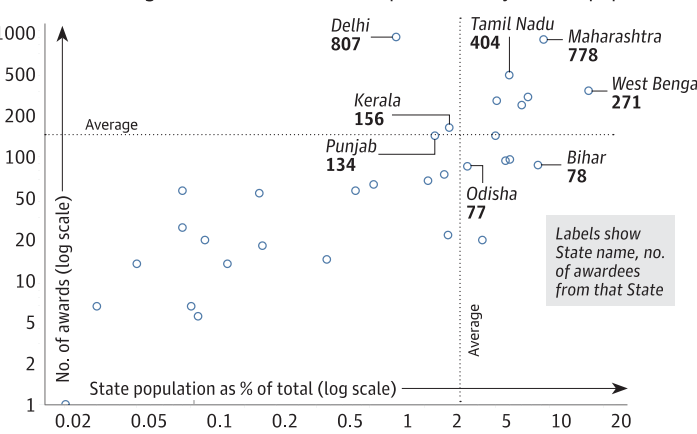
Masters of Arts | The highest number of awards have been given for contributions to the arts, literature and education. Comparatively fewer awards were given in the fields of trade and industry, and public affairs



Changing composition | The number of awards in the fields of arts, medicine, and science & engineering have been increasing at the fastest pace over the decades



Awards' capital | Delhi has the highest number of Padma awardees despite a relatively small population. Kerala and Punjab have an above average number of awardees despite relatively smaller populations



FROM THE HINDU ARCHIVES

FIFTY YEARS AGO FEBRUARY 1, 1969

U.S. tops in West for civil strife

The United States suffers from more civil strife than 17 other Western democracies, according to an official report published here [Washington, January 31]. The National Commission on violence said about 11 out of every 1,000 Americans took part in various forms of civil strife in a five-year period ending last May, resulting in 220 deaths. Comparative studies suggested that since 1963, the U.S. has experienced strife of greater intensity and greater duration than all but few other western democracies, the Commission said. The 13-member study group, appointed to probe the causes of American violence after Senator Robert Kennedy's assassination last June, said the U.S. ranked sixth among 14 nations in the magnitude of public strife. The Commission's preliminary findings were submitted to the White House in a progress report on January 9, 11 days before President Johnson retired, but were released for publication only yesterday.

A HUNDRED YEARS AGO FEBRUARY 1, 1919

Returning Soldiers.

Transport "Baroda" arrived in Karachi this morning [January 31] bringing one British and nine Indian officers and 446 ranks of Patiala Lancers and one British Officer and 37 Indian ranks of 21st Cavalry. After official reception on the wharf the men were entertained before proceeding to the rest camp. Addressing the troops in Urdu on behalf of the Army the Welcoming Committee the Hon'ble Mr. H.S. Lawrence, Commissioner in Sind said: Colonel Pendington, Col. Achra Singh, Officers and men of Patiala Lancers and 21st Cavalry: On behalf of Hindustan we welcome you back on your safe return to your native country. The fame of Indian cavalry was well-known before the time of this great war, but its fame has been increased a hundred fold by the brave deeds of daring and of endurance which you have performed during this war.

CONCEPTUAL Primitive reflex

BIOLOGY
This refers to reflex actions exhibited by newborn babies that involve no conscious thought. These reflex actions usually subside as the frontal lobe of the brain of the infant develops sufficiently during the first few months of its life. In some cases, however, certain primitive reflexes may persist beyond the first year of a child's life. The sucking reflex, stepping reflex, and the rooting reflex are some of the primitive reflexes exhibited by newborn babies. It is believed that some primitive reflexes may simply be remnants of behaviour from the evolutionary past which may have helped infants to survive in tough conditions.

MORE ON THE WEB

Ilaiyaraaja 75: In conversation with the maestro

<http://bit.ly/Ilaiyaraaja75>