



## The Indian EXPRESS

FOUNDED BY  
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

### SPENDING LIMITS

Centre needs to re-evaluate its expenditure priorities. States should have the autonomy to decide on theirs

**A**N ARGUMENT HAS been made, most recently by Bibek Debroy, chairman of the Prime Minister's Economic Advisory Council, in an interview to this paper, for the creation of a body on the lines of the GST Council to oversee public expenditure in India. Given the limits of public spending owing to issues of fiscal consolidation, this argument goes, there is a need to rationalise and prioritise spending by the Centre and state governments. To be sure, there is a case for greater coordination in spending by different levels of government. But, in a federal architecture, shouldn't states have the autonomy to decide on their own spending priorities? It is debatable if setting up a new body to monitor public expenditure is a prudent approach to negotiating Centre-state relations.

The Seventh Schedule of the Constitution clearly lays out the separate as well as joint responsibilities of the central and state governments. But, over the years, successive governments have encroached on the space of states. Studies have shown that despite state governments accounting for around three-fourths of the total expenditure (Centre and states) in sectors such as agriculture, education and health, central government intervention in these areas has increased, leaving it in the peculiar position of not having enough funds for spending on items in the Union list such as defence. This has occurred even as the relative size of the central government has shrunk, while that of states (put together) has surged. This raises pertinent questions: First, if the Centre wants greater resources for spending on items in the Union list, shouldn't it draw back on its expenditure on items in the state list and re-orient its spending? Second, in a federal system, shouldn't states have the freedom to decide on their expenditure priorities in line with their developmental needs?

Moves such as these, seen in tandem with the Centre asking the Finance Commission to sequester resources for defence and internal security, are bound to raise anxieties over India's federal architecture vis a vis the government's centralising impulses. It might be seen as an attempt by the Centre to grab even more space at the expense of the states. State governments have already ceded part of their taxation powers with the shift to GST — they may resist yielding to the Centre on items falling exclusively in their domain. Part of the problem is that India does not have robust institutions to negotiate Centre-state relations. Rather than setting up an expenditure council, perhaps a better alternative to mediate intergovernmental relations, one which reflects the federal nature of the polity, is the Inter-State Council. Set up in 1990, following the recommendations of the Sarkaria Commission, the primary duty of the Inter-State Council is to investigate and discuss subjects where the states and the Union have a common interest. Rejuvenating this council — its last meeting was held three years ago — should ideally be the first step.

### UNCERTAINTY AHEAD

Despite an imminent US-Taliban 'peace agreement', no light is visible at the end of the long Afghan tunnel

**T**HE BOMBING OF a wedding party in Kabul that killed 63 people and wounded nearly 200 last week, and the August 19 string of bombings in Jalalabad that left many people injured on the day Afghanistan marked its 100th independence day from British rule, are ominous signs: Despite an imminent "peace agreement" between the US and Taliban, there may be no light at the end of the long Afghan tunnel. The suicide attack on the wedding was claimed by ISIS. The Taliban condemned the attack, but there is little to differentiate between the two, not even the fact that the Taliban are negotiating a comeback deal with the US. In the last seven months of talks, the Taliban have turned up the violence so much that there are only two explanations: They are maximising their hold in Afghanistan before a deal, leveraging their ability to commit violence in order to position themselves better for the negotiations; or, there is a rift between the leadership in talks with the US and Taliban fighters on the ground. President Ashraf Ghani was not wrong in saying in his independence day speech that it was the Taliban that had provided the platform for such violence.

The bombings come at a time when US special envoy Zalmay Khalilzad appears to have almost closed a deal for the withdrawal of American troops, which President Donald Trump wants completed before his re-election bid in 2020. In return, the minimum assurance the US has sought from the Taliban is that Afghan soil will not become a safe haven for terrorists, even though how and if the Taliban will or can keep that promise is not clear. A ceasefire and power-sharing talks with the Afghan government may or may not take place after US withdrawal.

Only one thing is certain: There is more uncertainty in Afghanistan today than there was even a year ago. The identification by ISIS of the suicide bomber as one of their Pakistani fighters underlines the dangers that confront Afghanistan. ISIS in the AfPak region is said to comprise breakaway groups from the Pakistani Taliban and disgruntled Afghan Taliban. Indian security agencies believe that Lashkar-e-Toiba and Jaish-e-Mohammed fighters are also present in Afghanistan. With fungible groups and cross-border havens, much of what unfolds in Afghanistan over the next two years and thereafter will depend on decisions made in Pakistan, the facilitator of the US-Taliban talks.

### MUSIC OF THE SOUL

Composer Khayyam's oeuvre is a rare combination of originality and versatility

**W**ITH THE PASSING of music composer Khayyam, the country has lost one of its last musical composers from the golden era that included names such as Naushad, Anil Biswas, OP Nayyar and Shankar Jaikishen. What was special about Khayyam was originality of a kind one saw in few composers. And in that originality, steeped in his learning of Hindustani classical music, he showcased his versatility. No two songs are similar, even though so many are based on similar ragas. The compositions in Muzaffar Ali's *Umrao Jaan* (1981) are as melodious and soulful as those in *Bazaar*, *Razia Sultan* and *Kabhie Kabhie*.

In *Umrao Jaan*, in the famed *pratham dhar dhiyaan*, Khayyam used different ragas such as Bhairav, Todi and Kedar to communicate the story of a young girl becoming a courtesan. The film resurrected ghazal as a genre in the 1980s. It's difficult to think that "inn aankhon ki masti ke" or "justuju jis ki thi" could exist in any other form. Every composition from the Khayyam oeuvre had one thing in abundance — soul.

Then there was the song that merged the world of the poet with that of the composer. "Mana ke abhi tere mere armanon ki qeemat kuchh bhi nahii/ Mitti ka bhi hai kuchh mol mager/ Insaanon ki qeemat kuchh bhi nahii/ Insaanon ki izzat jab jhoote sikkon mein na toli jayegi/ Woh subah kabhi toh ayegi, woh subah kabhi toh ayegi" by Sahir Ludhianvi needed a tune that would let the words have the effect of a recitation, without being one. Khayyam turned to one of his favourite ragas — Yaman Kalyan. The song has stood the test of time. When composers such as RD Burman were turning to western sounds, Khayyam stood his ground to deliver songs with Hindustani music as the foundation. The melody-maker who managed to touch the most obscure corners of the heart will be remembered.



MADAN B. LOKUR

THE ECONOMIC SURVEY OF 2017-18 and of 2018-19 provided new insights into traditional areas of judicial reform. These surveys, along with the World Bank's Ease of Doing Business of 2018 and 2019 debunked and also confirmed some myths associated with justice delivery. These four reports tell us that knee-jerk reactions do not work and the need is for systemic and structural reforms.

The government is the biggest litigant and the problem starts at the grass-roots. Therefore, government adjudicators performing quasi-judicial functions or taking administrative decisions must improve the quality of their orders. Judgment writing is an art and it must be developed by the adjudicating authorities. Poorly drafted orders have resulted in contested tax revenues in the region of Rs 7.58 lakh crore as on March 31, 2017. This is equal to 4.7 per cent of the GDP and it is rising. The success rate in government litigation relating to tax is less than 30 per cent and, in some instances, goes down to 12 per cent and further, while litigation is increasing. Decision-making is often complex and putting down the reasons in an intelligible and logical form is challenging.

Roughly Rs 50,000 crore are locked up in stalled projects and investments are reducing. Both these complications have arisen because of injunctions and stay orders granted by the courts primarily due to poorly drafted and poorly reasoned orders. The Economic Survey points out that the only beneficiaries are lawyers who get about 31 per cent of the total claim.

Increasing the number of judges or criticising judicial activism is not a solution. About 87.54 per cent of the total pendency of cases is in the district courts where judicial activism does not exist. Let's not expend energy over a mere fraction of public interest litigation out of the remaining 13 per cent pendency. Increasing the number of judges is also not necessary. The Economic Survey states that in the district courts only 2,279 vacancies need to be filled up to achieve 100 per cent clearance rate and 2,580 posts can be left vacant. In the high courts, 93 vacancies need to be filled up to achieve 100 per cent clearance rate and 315 positions (roughly 30 per cent) can be left vacant. Sure,

# Justice delayed

Vacancies, adjournments, vacations are bogies. Time to identify real causes, find meaningful solutions

if there are no vacancies, the clearance rate will increase dramatically, provided support staff is also provided. Increasing the number of judges has never reduced the pendency of cases.

But where is the money? Assuming that increasing judge strength and providing adequate staff does make a difference in the pendency figures, the fact is that the budget allocated to the judiciary is between 0.08 and 0.09 per cent of the GDP. Only four countries — Japan, Norway, Australia and Iceland — have a lesser budget allocation and they do not have any problem of pendency like we do. How do we define pendency? A case filed half an hour ago should not be counted in the pendency figures, as at present. For a start, let's decide (arbitrarily) that only cases pending for more than one year will be counted. This will make a substantial and realistic difference and introduce some sense in understanding figures.

Judges take too many holidays — really? District court judges work the same number of days as government officers — 242 days in a year. The annual average disposal of cases by each judge is 746. This is quite good considering that evidence has to be weighed and sifted in every trial. High court judges work for 212 days in a year but their annual average disposal is 2,348. How much harder should high court judges work when only 93 more are required to achieve 100 per cent clearance rate? Cutting down on holidays is not a realistic answer — better case and court management is key.

Case and court management are the most important areas which, unfortunately, have not been adverted to in the Economic Surveys. The Ease of Doing Business Report of the World Bank for 2018 and 2019 shows that the time taken to decide a case has remained static at 1,445 days. Why is that? The quality of judicial process (out of 18 points) has marginally increased from 10.3 in 2017 to 10.5 in 2018. Clearly, judicial process in India needs huge investment to bring about significant improvement. Fast track courts or special courts or increasing the number of judges are not viable solutions, but ad hoc measures. About 30 per cent of the life of a case is spent in something as simple as serv-

ice of notice. Will an increase in the number of courts or judges speed up the process? By way of a solution for expeditious service of notice and summons, the eCommittee of the Supreme Court launched a mobile application called National Service and Tracking of Electronic Processes (NSTEP). But it is seldom used, if at all.

A number of other tools have been provided to judges and the administrative staff through the eCourts Project of the Supreme Court. The sole aim is to make justice delivery more responsive to the needs of litigants. The latest is the launch of a Virtual Court in Delhi. Unfortunately, computerisation and automation are not being fully and effectively utilised by the high courts and district courts.

Yet another managerial solution that needs serious consideration was suggested by the 13th Finance Commission which introduced the concept of professional managers, an idea that has gained traction in the Economic Survey. However, when court managers were introduced in some of the courts, only a handful of chief justices took their engagement seriously, resulting in the experiment turning out to be a complete flop. In my view, court managers or equivalent professionals are the need of the hour and justice delivery can improve only if the courts accept and adopt professional help in their administration.

The usual suspects — vacancies, adjournments and vacations — are bogies and it is time we stop thinking about them and get down to identifying the causes of delays in our justice delivery system and providing meaningful solutions. The Economic Surveys have provided food for thought and we must digest it and have detailed discussions and debates, experiments and innovations, on a variety of proposals with a long-term perspective.

If we take up judicial reforms with seriousness, expeditious and effective justice can see the light of day and improve India's standing in the reports of the World Bank and other institutions and organisations that study judicial processes.

The writer is a retired judge, Supreme Court of India



YOGINDER K ALAGH

### MORE THAN A DAM

Sardar Sarovar Project should be completed to avail of the promised gains

THE SARDAR SAROVAR Narmada Project (SSP) is showing substantial benefits although it has not been implemented the way it was designed. Activist NGOs agitated against closing the gates of the dam because this would flood the backwaters as the reservoir fills up. Some politicians have already given this a political hue although Madhya Pradesh Chief Minister Kamal Nath has maintained a dignified, studied silence.

This year, the onset of the kharif monsoon was delayed by over a month in Gujarat, causing much misery. Drinking water was scarce. The sown crop withered away and kharif area was at one time a tenth lower. By now the deficit is wiped out, but the losses are there in terms of non-preferred crops grown and loss of potential yield. The reservoir filling up has high socio-economic benefits.

Memories of the original (SSP) plan dim and a number of exciting new alternatives are visualised. In a water scarce area, the possibilities are many. Given the passage of time, redesigning the plan is of some importance. New crops are possible. Scarcities change. Gujarat and Indian agriculture is now trade dominated. Resource-based planning is important to keep us anchored. A more serious reason for this caution is the fact that central

resources have been an important part of financing the project. Resource-based planning is the only way of accessing them. The conditions of central assistance for the project are still as set up 25 years ago when it was approved by then Prime Minister Rajiv Gandhi, who, after he was convinced of its merits, became a great supporter of the project. These may need review.

Gujarat has correctly stated that after the reservoir fills up, if water is still flowing into the dam, the largest main canal of the world will be used to take water to Saurashtra and will fill up the many small dams in the plateau. This was modelled as a benefit of the project in the original blueprint of the SSP in 1984. It has been said that some of the unique features built into the planning of the project are "concrete-lined canals to reduce conveyance losses, use of control volume concept for design of distribution systems, efficient water-use allocation with optimised crop planning for 13 different agro-climatic zones of the command, extensive irrigation to a 1,80,000 ha area... deepening of village tanks for borrowing soil for canal embankments, computerised automated operation of canal system, participatory irrigation management through water users associations, and promoting micro-ir-

rigation systems like drip and sprinkler for efficient water use."

The benefits of the SSP project will be more when this is done. Without it, the coverage of beneficiaries is less; we must issue the SCADA contracts so that the largest number of farmers benefit. Mathematical models have been developed using the services of Indian consulting firms for the command area at different time stages. These need to be used.

There is some urgency to getting back to the original design configuration of the SSP plan. As long as upstream use of Narmada waters was not according to MP's full entitlements, Gujarat as the lower riverine state was entitled to all the water flowing down from the Sardar Sarovar Dam. This was more than the water which would be available as Gujarat's share when MP uses all its share. The SSP plan had anticipated all this.

The SSP plan is not cast in stone. Planning is meant to be a flexible business in its best variants. However, in some of the great social decisions, pursuit of objectives with tenacity is also a virtue not to be scoffed at. It is quite obvious that completion of the SSP plan is of great priority.

The writer, a former Union minister, is an economist



### AUGUST 21, 1979, FORTY YEARS AGO

**CHARAN GOVT RESIGNS**  
CHARAN SINGH'S COALITION government, which was in office for 23 days, submitted its resignation this morning and advised the President to order fresh parliamentary elections. Soon after, Singh handed in his resignation to the President, the Leader of the Opposition Jagjivan Ram, met Sanjiva Reddy, and staked his claim to form the government. Ram opposed Singh's advice for dissolution of the Lok Sabha. The possibility of the president ultimately deciding to dissolve the Lok Sabha and order fresh elections in winter could not be ruled out.

**NO INDIRA SUPPORT**  
CHARAN SINGH SAID in a statement that he had resigned as the prime minister of the

coalition government because he did not want support from Indira Gandhi who wanted him to withdraw certain cases against her relating to excesses during the Emergency. This is for the first time that Singh has said that Mrs Gandhi had attached conditions to her support to his government. Singh did not name Mrs Gandhi in the statement but his reference to the "authoritarian forces" and the "quarters which sought interference in the normal functioning of the judiciary" left no doubt as to whom he was referring. "The country would not have forgiven us if we had, for the sake of remaining in office, agreed to withdraw prosecutions against persons responsible for atrocities during Emergency," the statement read.

**DEMAND FOR POLLS**  
INDIRA GANDHI MET the President and reportedly asked for a mid-term poll as soon as possible. Earlier, during the day, the Congress-I Parliamentary Board discussed at two meetings whether the party should support Charan Singh's recommendation to the president that the Lok Sabha should be dissolved and a mid-term poll ordered. Before the Parliamentary Board met for the second time, Mrs Gandhi had met the party PCC chief and other state leaders who were in Delhi. According to Congress-I sources, they overwhelmingly voted for a mid-term poll. A R Antulay, Congress-I general secretary, told newsmen that the parliamentary board might meet again tonight, but the meeting did not come off.



# 15 THE IDEAS PAGE

## China and its quasi-colony

Beijing's hypocritical stance at the UN against India is a bid to distract from its own troubles in Xinjiang, Hong Kong. It is patently wrong to claim that scrapping of Article 370 has resulted in 'internationalisation of J&K'



SUJAN R CHINOY

ON AUGUST 16, the 15 members of the United Nations Security Council (UNSC) engaged in closed-door informal consultations in response to a letter written by Pakistan's Foreign Minister Shah Mahmood Qureshi to the President of the United Nations Security Council (UNSC), backed by a request by Pakistan's "iron brother" China, on the situation in Jammu and Kashmir (J&K).

A great deal of hullabaloo has been raised about the meeting. However, informal consultations are held in the UNSC all the time. There is no official record of the proceedings nor does the informal exchange result in any outcome document. In this case, the only consensus that had the backing of the majority of members was that India and Pakistan should resolve matters bilaterally. The members of the UNSC did not authorise the rotational president for the month of August, Poland, to issue even informal remarks on their behalf to the mediators who stake out the chamber, let alone a UNSC press statement by the president, which needs to be negotiated in a formal meeting and must be based on consensus, at least among the five permanent members. Such a press release or press advisory is not even considered an official document on record.

But for China's request, even the closed-door informal discussion would not have taken place. China's attempts to get the president of the UNSC to issue an informal statement to the media, was curiously backed by the UK, perhaps in the hope of scoring some brownie points with the large domestic constituencies of Pakistanis. The UK might also have hoped to carry some favour with China to further its mercantilist interests in the face of an imminent Brexit meltdown.

Pakistan's Permanent Representative Maleeha Lodhi made a mendacious and propagandist statement to the media making allegations against India, claiming that "the voice of the people of Kashmir was being heard in the UNSC". Pakistan should first permit the voice of the Baloch people to be heard, along with that of the oppressed in Gilgit-Baltistan.

China's Permanent Representative Zhang Jun egregiously arrogated to himself the role of the president of the UNSC in an extraordinary breach of traditional practice and protocol, and spurnously claimed that members of the UNSC "had expressed their serious concern concerning the situation in Jammu and Kashmir". He added that "they are also concerned about the human rights situation there and also, it is the general will of the members that parties concerned should refrain from taking any unilateral action which might further aggravate the tension". He then went on to repeat the remarks of Chinese state councillor and foreign minister, Wang Yi, that "the Kashmir issue is a dispute left from colonial history. It should be properly and peacefully resolved based on the UN charter, relevant UN Security Council resolutions and bilateral agreements".

The Indian government's bold step to revoke the special status of J&K, long overdue, has given Pakistan and its cohorts in J&K a big jolt. It has hurt vested interests in the Valley who, for generations, have siphoned off the wealth of the state and waltzed with separatists at the same time. Prime Minister Narendra Modi emphasised in his Independence Day address that the move to revoke Article 370 will bring development and prosperity to the region. Earlier, the external affairs minister, S Jaishankar, had clearly conveyed, during his visit to Beijing, that the decisions were internal to India and aimed at providing good governance, promoting social justice and ensuring economic development in J&K. He had also pointed out to the Chinese



C R Sasikumar

that the constitutional change in India had no bearing on the boundary issue or the Line of Actual Control with China.

While it is a known fact that China treats Pakistan as a quasi-colony and backs it on all matters, its initiative to trigger informal consultations in the UNSC may have a broader rationale. China is facing global censure for its unbridled human rights violations in Xinjiang province, the mass incarceration of Uighurs in so-called re-education camps and the razing of mosques and other historical places that give the Uighurs their distinct identity.

The daily images on television screens around the world of the mass unrest in Hong Kong must be galling for a regime that takes pride in its ability to use force to quash dissent and seeks, with vaulting ambition, to emerge as the number one power in the world. The long-drawn public protests in Hong Kong are a reaction to the progressive erosion of the special status accorded to Hong Kong Special Administrative Region under the terms of its Basic Law, which protects Hong Kong's capitalist system, the independence of the judiciary and the media.

Apart from its undying commitment to Pakistan, it is to deflect scrutiny of its own actions in Xinjiang and Hong Kong that China would have decided to support Pakistan's request and also to have its permanent representative masquerade as a spokesman for members of the UNSC.

That China has never commented when Pakistan unilaterally changed the status of regions in PoK exposes its deep bias. Gilgit-Baltistan was re-designated by Pakistan as Northern Areas in 1970. In 1974, Pakistan unilaterally overturned a law of the erstwhile princely state of Jammu and Kashmir prohibiting outsiders from owning property, and encouraged large-scale settlement by Sunnis in predominantly Shia-populated Gilgit-Baltistan. Pakistan once again unilaterally issued the Gilgit-Baltistan Empowerment and Self-Governance Order in 2009, without any consultation with the people.

One should recall that in 1965, when China reorganised the erstwhile Tibet region into the Tibet Autonomous Region, giving it a provincial status, India was not apoplectic, like China has been following the designation of Ladakh as a union territory. That was not necessary since the claims of the two sides and the ground situation remained unchanged, whether then or now. Based on the principle of non-interference in each other's internal affairs, India has always refrained from making statements concerning the internal situation of China.

It is patently wrong to claim, as vested political interests have done in India, that the scrapping of Article 370 has resulted in the "internationalisation of Jammu & Kashmir" and that the informal discussion by UNSC members is the first of its kind in six decades.

Many sections of the Indian media have erroneously claimed that the last time the UNSC discussed the issue of J&K was in 1965. First, the UNSC does not have any agenda item explicitly termed "Jammu and Kashmir". The only agenda item on its mandate is "The India Pakistan Question". Second,

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## The healing word

There cannot be a single story for layered narratives in a time of trauma



KUNAL RAY

THE LAST FEW weeks have been distressing owing to the various developments that this nation has seen. I was constantly reminded of W B Yeats' oft quoted lines: "Things fall apart; the centre cannot hold." Large parts of the country are adversely affected by floods while some still continue to languish in water scarcity. Kashmir is back in public discourse, and how. In such anguishing times, I often think about the role of writing. Does writing really help? Why must we write? In his iconic poem, *Ode to a Nightingale*, John Keats writes: "My heart aches, and a drowsy numbness pains." I wonder if language is an enabler or often imperils this expression of heartache and the painful numbness that Keats mentions in his poem. Is there a language for distress or do we invent/ find new registers for it? How do we really write about distress? If writing doesn't help contain calamities,

then why write at all? I soon dismissed my initial misgivings and array of banal thoughts which now seem rather churlish. Looking to resolve my dilemma, I turned to the novels of Toni Morrison, much loved author and recently deceased Nobel laureate. Morrison was a peerless humanitarian, who constantly endeavoured to unpack the Black female experience in the US. Her life was devoted to writing about their many struggles and agonies. At the heart of her writing, one finds intensely humane stories — people struggling to live a life of dignity. James Baldwin comes to mind too. In his poignant novel, *If Beale Street Could Talk*, Baldwin, in a humdrum way, mentions the daily struggles of a couple who want a life together. Both Morrison and Baldwin gave voice to distress in their writing. Owing to the recent developments in Kashmir, poet Agha Shahid Ali has found a

new lease of life on social media. His poems about his homeland are being widely shared and discussed. In *Postcard from Kashmir*, Ali bemoans his distance from home and laments how the landscape and Valley wouldn't be the same again when he returns. His verse pulsates with a sense of desolation, impending gloom and longing for home. There are numerous others who emerge in my memory. Mahasweta Devi, who relentlessly fought and wrote about the tribals and their rights. Krishna Sobti, whose unabashed writing on sex and desire from a female perspective shook up the Hindi literary establishment. Dalit poet, Namdeo Dhasal, in a series of poems wrote about life in Kamathipura, the red light area of Mumbai, incorporated the language of the slums. Words that were never deemed appropriate for poetry found place in his work.

But why am I recounting these names and examples? To say that these authors and their writing taught us to resist. Writing in itself is an act of resistance. But then there are moments of self-doubt and personal trepidation. In such moments, one turns to writing to seek answers. Chimamanda Ngozi Adichie has famously cautioned us about the dangers of a single story, the perils of a linear approach to history. It is in and through writing that we can defeat the single story and accommodate divergent views. A close friend recently told me that if not now, may be all that is being written will find an audience later. But write we must without thinking of immediate gains. Therefore, we must persist, in distress or otherwise, to challenge the perils of a single story. The writer teaches literary and cultural studies at FLAME University, Pune

## WHAT THE OTHERS SAY

"If Washington wants to link trade talks with Hong Kong under such circumstances, it so flatters itself." — GLOBAL TIMES, CHINA

## Protect the LoC

Because it is the Line of Control that has, ironically, preserved common political space between India and Pakistan



AMEYA KILARA

THE EVENTS FOLLOWING the August 5 announcement reminded me of a Kashmiri friend saying they are the proverbial grass beneath two elephants. "When two elephants fight, the grass suffers; and, when the same two elephants make love, the grass also suffers."

For 72 years, this dynamic has played out at the Line of Control (LoC): When the elephants fight, shelling across the LoC kills, injures and displaces Kashmiri communities. When the elephants make peace, as in the Vajpayee-Musharraf era, Kashmiris fear a secret deal that puts a legal gloss on the territorial status quo, converting the LoC into an international boundary overnight, without considering what the Kashmiris themselves want. However, preserving the sanctity of the LoC will prevent the crisis from further unraveling and sustain hopes of finding common ground in an increasingly polarised environment.

Legally, the LoC is a ceasefire line and not an international boundary. Under international law, it is defined and protected by a bilateral treaty, the 1972 Simla Agreement, executed in writing between India and Pakistan following the 1971 war, and subsequently ratified by both parliaments. Records of these negotiations show Prime Minister Indira Gandhi would have preferred to declare the ceasefire line an international boundary and permanently settle the Kashmir question but agreed instead to the LoC at Pakistan's request. It is also significant that the same agreement largely restored the territorial positions of both countries in Jammu and Kashmir prior to the war.

The language of the agreement and the negotiating history make abundantly clear the intent behind defining the line in this way: The territories on either side of the line remain the subject of a dispute and making arrangements (military or otherwise) at the LoC do not prejudice the final resolution of the conflict. The parties have since reinforced this understanding of the LoC in subsequent compacts such as the Lahore Declaration of 1999, an unpublished ceasefire agreement in 2003, and, a statement from the Indian and Pakistani Directors General of Military Operations in 2018 reiterating their commitment to uphold the 2003 ceasefire understanding in letter and spirit. As with any bilateral treaty, the status or definition of the LoC can be legally altered only with the agreement of India and Pakistan.

While the constitutional changes to Article 370 are being fiercely contested under Indian and international law, they don't automatically impact the status of the LoC. A domestic law of one country simply cannot amend a bilateral treaty without the consent of the other party. Previous amendments and additions to Article 370, too, haven't changed the LoC. Last year, Pakistan

introduced the Gilgit Baltistan Order 2018, an executive order to begin the integration of Gilgit Baltistan into the federal structure of Pakistan and a step towards making it the country's fifth province, akin to Punjab or Sindh. While India and Kashmiris on both sides of the LoC opposed the move, there was no suggestion that the LoC should be sacrificed.

It is arguable that the unilateral constitutional changes, like we saw earlier this month, fundamentally violate the letter and spirit of the Simla Agreement. Article 4 (2) of the Simla Agreement states: "Neither side shall seek to alter it (the LoC) unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this Line." Such an interpretation would justify internationalising the conflict, violating the ceasefire and in the extreme, direct military action. Indeed, Pakistan briefly threatened to reconsider its adherence to bilateral treaties, including the Simla Agreement, in response to India's latest move, but has since gone silent on the issue. The reasons are as much political as they are legal. Pakistan realises the Line of Control is the only remaining way for it to retain its claim on Kashmir. India has adopted an identical position for exactly the same reasons. When the Indian home minister was questioned in Parliament about what his changes mean for territory on the Pakistani side, he reiterated with some force India's claim to all of Kashmir. Diplomatic speak from the Ministry of External Affairs followed to confirm that the changes do not affect either the LoC or the Line of Actual Control, the disputed border with China running through Ladakh.

For all these reasons, many see the LoC as merely perpetuating an indefinite and harmful status quo, preventing a substantive resolution of the conflict. However, given the reality of ever-hardening territorial positions (particularly in India) and increasingly polarised narratives within Jammu and Kashmir, the LoC, ironically, is the only surviving political space where common ground can be found. This is why the much-maligned Four Point Formula, centred around opening up the LoC for trade, travel, religious tourism and people-to-people exchanges, has survived in the imagination of Kashmiris of vastly different political inclinations. It allows the historic identities, cultural and familial ties, and to a limited degree, political aspirations of the people of Jammu and Kashmir to be celebrated without asking either India or Pakistan to climb down from their respective legal and political positions. The governments should preserve the gains made on the LoC rather than using it to settle scores on other issues.

The LoC can be changed in two ways: Bilateral agreement or an all-out war. The former is practically impossible when all diplomatic channels for dialogue are suspended. The latter is unlikely to produce a decisive victor and will inflict untold suffering on Kashmiris. They deserve better from two countries claiming to act in their best interests.

The writer, a lawyer, has worked on dialogue and peacebuilding initiatives in Kashmir. Views are personal

## LETTERS TO THE EDITOR

### USE IT FIRST

THIS REFERS TO the editorial, 'A new playbook' (IE, August 20). New Delhi's nuclear strategy was based on the doctrine of Credible Minimum Deterrence, which perceives a responsible response from the adversary in question. India's volatile neighbour, Pakistan, is infamous for its state-sponsored terrorism and violent extremism. Expecting from it a credible, rational and calculated response in the face of a perceived threat is overly courageous on the part of India. The US, Russia and NATO, despite their military prowess, did not commit to a no-first-use policy. India should project itself as a responsible nuclear power with the right to use its nuclear weapons in the most extraordinary circumstances.

Sudip Kumar Dey, Kolkata

THIS REFERS TO the editorial, 'A new playbook' (IE, August 20). The defence minister's remarks regarding the reviewing of the "no-first-use" policy is in keeping with the Narendra Modi government's muscular approach towards the nation's safety. With China and Pakistan continuing their shenanigans, India must send out the signal that it cannot be taken for granted. Controlled aggression pays rich dividends in the contemporary world. Moreover, in diplomacy, nothing is cast in stone. Machiavelli had said: "The promise given was a necessity of the past, the word broken is a necessity of the present."

Kamna Chhabra, Gurgaon

### 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

### FANS' DUTY

THIS REFERS TO the editorial, 'This isn't cricket' (IE, August 20). Cricket is a gentleman's game. This extends not just to players but the fans as well. Booming and jeering does not fit that remit. Fans should appreciate a good game, whether the player is from the home team or not. They should not spoil the atmosphere. The sportsman spirit exhibited by fans raises the performance of players in every sport. Hooliganism does the opposite.

Subhash Vaid, Noida



## TELLING NUMBERS

### XDR TB: what makes it deadly, how many have contracted it

#### TB CASES WORLDWIDE, 2017



#### NOTIFIED MDR/RR AND XDR TB BY REGION, 2017

Region	Total notified	MDR/RR TB	XDR TB
Africa	13,23,450	26,845	867
The Americas	2,43,064	4,084	121
Eastern Mediterranean	5,36,185	4,969	168
Europe	2,64,563	48,299	6,758
South-East Asia	29,65,311	51,788	2,755
Western Pacific	13,75,550	24,699	131

Source for all data: WHO

IN A groundbreaking development recently, the United States Food and Drug Administration approved a three-drug regimen against the most lethal form of multi-drug-resistant tuberculosis, known as the XDR (extensively drug-resistant) strain. Essentially, this strain of TB is resistant to some of the most potent anti-TB drugs, making it difficult for patients suffering from this strain to be cured. A trial in the US, which enrolled 109 patients with the XDR strain, was able to cure 90 per cent of them.

Cases of XDR TB are much fewer than those of the other drug-resistant strain, MDR/RR TB, and have been reported from 117 countries until 2017, a World Health Organization (WHO) report said. Out of 10,800 cases worldwide, India accounted for 2,650 cases, or almost one-fourth. As per WHO,

two-thirds of cases of the XDR-strain are in China, India and Russia. These countries also share 47 per cent of the burden for MDR/RR TB. The average success rates for drugs to treat the XDR strain has been 34 percent globally.

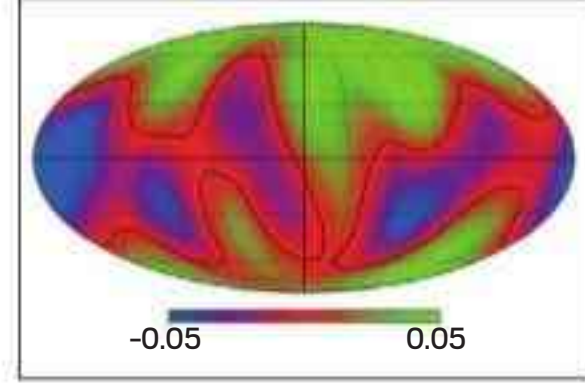
WHO explains that XDR can be contracted in two ways. It may develop in a patient who is already receiving treatment for TB and misuses the anti-TB drugs, or it can be contracted from a person who already has the disease. The risk of transmission for XDR remains the same as the risk of transmission of other strains of TB. Often, XDR TB may go undiagnosed since lower-middle-income countries lack the infrastructure to detect it.

Worldwide, TB has surpassed HIV-AIDS as the leading cause of death due to infectious diseases. In 2017, over 13 lakh people died of the disease.

## TIP FOR READING LIST

### HOW EARTH MAY APPEAR TO AN ALIEN FROM LIGHT YEARS AWAY

IN THE search for extraterrestrial life, what do astronomers look for? There are standard biosignatures, such as evidence of oxygen or liquid water. But when an exoplanet is light years away and barely visible through even a powerful telescope, such signs may be difficult to detect. So, a team of scientists has offered a solution by looking at the problem from the opposite point of view — that of a potential alien. If an alien were to view Earth from light years away, what would she see?



S Feng et al. Arxiv

The scientists came up with the contour map pictured. They worked with 10,000 images of Earth taken by the Deep Space Climate Observatory (DSCOVR) satellite, which NASA has positioned so that it can see only the daytime side of Earth. The images were taken at 10 wavelengths every one to two hours during 2016-17. For each wavelength, the scientists reduced the images into a single brightness reading, which produced light curves over the images to represent a prolonged view of Earth, *Science* magazine explained. The team then compared the constructed map with the original image, and was able to identify the

specific light curves that represented land masses and cloud cover. The idea is that a similarly created image for an exoplanet may allow astronomers to assess whether an exoplanet has oceans, clouds etc. The scientists, from the California Institute of Technology, have made it clear this may not represent how a real alien would see Earth. "We present the first two-dimensional surface map of Earth reconstructed from light curve observations without any assumptions of its spectral properties," they said in their paper, now on a preprint server at <https://arxiv.org/abs/1908.04350>.

## SIMPLY PUT QUESTION & ANSWER

# Milestone now, Moon in sight

Chandrayaan-2 has just entered a lunar orbit. What makes it a milestone big enough for the ISRO head to announce it to the country? What are the next milestones coming up before the September 7 landing?

AMITABH SINHA  
PUNE, AUGUST 20

ON TUESDAY, India's Chandrayaan-2 mission crossed a major milestone on its journey towards the Moon, having entered a lunar orbit, almost exactly 30 days after being launched on July 22. The mission has several more milestones to cross before the Lander and Rover components of the spacecraft, called Vikram and Pragyaan respectively, make a soft landing on the Moon's surface in the early hours of September 7. But Tuesday's milestone was big enough for India Space Research Organisation (ISRO) Chairman K Sivan to call a press conference and inform the nation about the event.

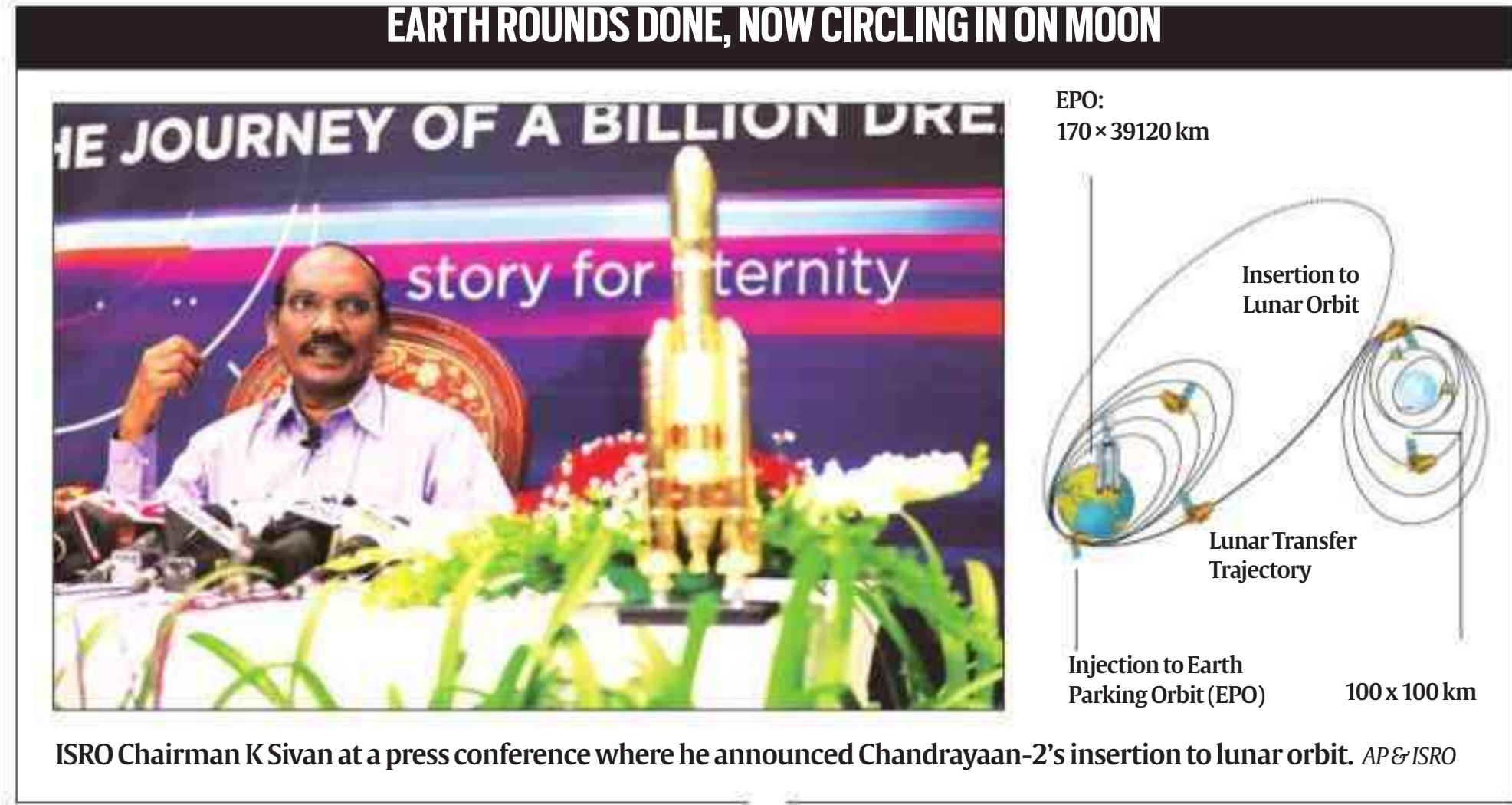
#### So, what exactly did Chandrayaan-2 achieve on Tuesday?

After being launched, Chandrayaan-2 had been put in an elliptical orbit around the Earth. Until August 14, it had been going around the Earth, incrementally raising its orbit by firing boosters on five occasions. Eventually, it reached an orbit that was 276 km from the Earth's surface at its closest and 142,975 km at the farthest. It spent nearly a week in that orbit, before firing a booster once again to break free from the Earth orbit and begin its journey towards the Moon. This transit from orbit to orbit happened on August 14. After five days of this journey, Chandrayaan-2 came sufficiently close to the Moon to experience its gravity. And on Tuesday, it entered into an orbit around the Moon.

#### What exactly is meant by 'insertion into lunar orbit'?

Just like it was going around the Earth at the start of its journey, Chandrayaan-2 is now orbiting the Moon. On Tuesday, it was placed into an elliptical orbit that was 114 km from the Moon's surface at its nearest, and 18,072 km at the farthest.

The spacecraft will carry out a few more manoeuvres to eventually place itself in a circular orbit of 100 km x 100 km around the Moon (see illustration). The Lander and Rover modules will detach themselves from here and descend into lower orbits before finally making a landing on September 7. The main spacecraft, however, will continue to orbit



ISRO Chairman K Sivan at a press conference where he announced Chandrayaan-2's insertion to lunar orbit. AP & ISRO

the Moon in the 100 km circular orbit for at least one year, making observations through the several instruments it has on board.

#### But why are these manoeuvres needed in the first place?

Indeed, it is possible to fly straight to the Moon, without getting into the Earth orbits. The lunar orbit, however, cannot be avoided. The spacecraft cannot land directly on the Moon.

In fact, none of the Apollo missions that landed astronauts on the Moon took the route that Chandrayaan-2, or all other recent missions to Moon, have taken. The Apollo missions flew directly to the Moon. But this is not considered wise or economical.

That is because the rockets need to be extraordinarily powerful to carry the spacecraft all the way to Moon. An enormous amount of fuel too is required. Taking a longer route, however, makes it much easier for the spacecraft to travel. The rocket has to take the spacecraft only about 200 km from the Earth's surface and deposit it in Low-Earth Orbit. Thereafter, the spacecraft moves around the Earth under the influence of gravity. This stable position is also a good time for

ground controllers to check on the health of the equipment on board.

While circling the Earth, a substantially lower amount of energy is required to propel the spacecraft into higher orbits due to reduction in atmospheric drag. This is easily possible with a small amount of fuel on-board. With each higher orbit, however, the gain in energy is enormous, enabling the spacecraft to achieve great velocities, and the power to move much deeper into space.

To put things in perspective, the Apollo missions were carried on giant Saturn V rockets, which even today remain the most powerful rockets ever built. They were 111 metres tall, higher than a modern 30-storey building, and weighed 2,800 tonnes, a significant part being contributed by the fuel it carried. According to information on NASA website, the fuel it burnt to land astronauts on the Moon — several million litres of liquid oxygen and liquid hydrogen in different stages — could take a normal car 800 times around the Earth. It is said to have consumed 20 tonnes of fuel every second.

In comparison, ISRO's GSLV Mk-III rocket used to launch Chandrayaan-2 is extremely modest. At 43.43 metres, it has less than half

the height of Saturn V, and weighs 640 tonnes, less than one-fourth of Saturn V. It can carry less than 350 tonnes of fuel, roughly about one-fifth of what Saturn V needed for its Apollo missions.

#### Chandrayaan-2 is said to have slowed down before entering lunar orbit. Why did it need to slow down?

ISRO Chairman Sivan said Chandrayaan-2, after coming under the influence of lunar gravity on Monday, had begun to accelerate. At one point, it had reached a velocity of 2.4 km per second (8,640 km per hour). This is just about equal to the escape velocity of the Moon. If Chandrayaan-2 had been allowed to speed up unrestrained, it would have escaped the Moon's gravity and moved away. To keep it in the lunar orbit, therefore, its velocity was brought down to 2.1 km per second (7,560 km per hour).

Spacecraft increase or decrease their velocities by firing on-board thrusters. To speed up, the thrusters are fired in a direction opposite to the motion of the spacecraft. It has an effect similar to the recoil that a gun experiences after firing. Velocity can be reduced if the thrusters are fired in the direction of motion.

## THIS WORD MEANS | PANGLOSSIAN

# From a Voltaire character to RBI Governor Das

YASHEE SINGH  
NEW DELHI, AUGUST 20

RESERVE BANK OF India Governor Shaktikanta Das on Monday stressed the importance of "mood" and "sentiment" when talking about the Indian economy. Despite the reports of job losses and deepening slowdown in many sectors, a "mood of doom and gloom is not going to help anyone", Das said. "I am not saying we maintain a Panglossian countenance and smile away every difficulty," Das said, addressing the Ficci-Indian Banks Association banking summit in Mumbai.

"But in any real economy, the mood is very important. There are several opportunities amid the challenges we face today and together with the financial sector, the business community, the policymakers and the regulators, we should address the challenges

and look ahead with greater confidence." So, who was Pangloss, and why did his countenance find its way into the Governor's address?

In less esoteric terms, a Panglossian way of life is one of extreme optimism, in which you are convinced whatever happens is for the best, and hence make no effort to change it.

The expression refers to Professor Pangloss, a character in *Candide, ou l'Optimisme* (translated into English as *Candide: Optimism*), a satirical novella published by the French Enlightenment philosopher François-Marie Arouet a.k.a. Voltaire in 1759. Pangloss was convinced that "all is for the best in this best of all possible worlds", an idea that he also

taught his young student, Candide.

While this philosophy was easy to believe in while Candide and his tutor lived a sheltered life in a baron's castle in Westphalia, Pangloss refused to part with his optimism even after contracting syphilis, becoming a beggar (after the castle was attacked and many inmates were killed before his eyes), surviving an earthquake, a fire, and a tsunami, and being almost hanged, among other hardships.

Nor was Pangloss's optimism limited to his outlook on his own affairs. At one point in the story, Jacques, who had helped Pangloss in many ways, including curing his syphilis, is drowning. While Candide tries to save him, Pangloss lets

him die because, in his philosophy, whatever happened was for the best, and one should not make any effort to change it.

Voltaire created the exaggerated character of Pangloss to mock the extreme optimism advocated by Gottfried Wilhelm Leibniz, a German philosopher a few years his senior. (Leibniz also designed a calculating machine that was the predecessor of the modern calculator.)

Leibniz's theory was that a benevolent God created this world, the best possible one that He could have created. Voltaire on the other hand, believed that if this were indeed the case, earthquakes, famines and other non-benevolent things wouldn't occur with the regularity that they did.

He, thus, placed more importance on human effort and intent, something Candide finally tells Pangloss — that the world may be what it is, but "we must cultivate our garden".

# How CBSE fee hike is different in Delhi and other states, why the protests

SUKRITA BARUAH  
NEW DELHI, AUGUST 20

EARLIER THIS MONTH, the Central Board of Secondary Education (CBSE) sent out a circular to the heads of all schools affiliated to it, giving directives for the submission of lists of students who will be appearing for the classes X and XII board examinations in 2020. The directives for the collection of examination fees from the candidates showed that these have been doubled for all students. In the case of Delhi government school students in class X, the hike is even steeper — an increase of 3.2 times for students belonging to the Scheduled Castes and Scheduled Tribes categories, and of 4 times for the rest. The move has led to opposition from the state governments in Delhi as well as Odisha.

#### The hike

Until last year, students across all states appearing for both the class X and the class XII examinations had to pay Rs 750 as the examination fee for five subjects, with an additional Rs 300 for each extra subject they might have opted for. The only exception

was in the case of the students of Delhi government schools. Here, the fees were Rs 375 for class X candidates and Rs 600 for class XII candidates. Over and above this, through a special arrangement of the Delhi government with the Board, SC/ST students of both classes were required to pay only Rs 50 on their own, with the rest paid by the Delhi government to the board — Rs 325 per student in for class X, and Rs 550 per student for class XII.

With the hike put in place this year, the fee has increased to Rs 1,500 for all students except SC and ST students of Delhi government schools, in whose case the fee has increased to Rs 1,200.

#### Why hike fees

According to a CBSE official, one of the primary reasons was the loss of a large source of its revenue with the setting up of the National Testing Agency in 2018. "The CBSE is a self-funded organisation and needs to create its own resources. There is no budgetary allocation towards it. It is used to generate the greater share of its revenue through the fees of a number of public examinations it used to conduct such as the National Eligibility cum Entrance Test

Students	BREAKING DOWN THE HIKE			
	Govt & aided schools		Private schools	
	Now	Proposed	Now	Proposed
<b>CLASS X, DELHI</b>				
SC/ST	375*	1,200	750	1,500
General	375	1,500	750	1,500
<b>CLASS XII, DELHI</b>				
SC/ST	600*	1,200	750	1,500
General	600	1,500	750	1,500
<b>CLASSES X &amp; XII, OTHER STATES</b>				
SC/ST	750	1,500	750	1,500
General	750	1,500	750	1,500

\* For SC/ST students in Delhi government schools, Rs 50 paid by students, rest by government.

(NEET), National Eligibility Test (NET), and Joint Entrance Examination — Main (JEE Main). With these being transferred to the NTA, this source has been lost even as the board is running with a deficit in its finances of Rs 200 crore," said the official.

The last time the CBSE increased its examination fees was five years ago. According

to officials, since then the costs of conducting examinations has been increasing because of efforts to make it more efficient. Among the causes for increased costs cited by the CBSE are the introduction of one lakh new evaluators and invigilators for each day of the examination this year, the introduction of 5,000 new observers and 5,000 new super-

intendents, an increase in the honorarium of evaluators by 33 per cent, and face-to-face training of up to 2.5 lakh evaluators. The Board had also introduced a number of technological interventions this year to prevent paper leaks like in 2018. These include a "Confidential Material Tracking and Monitoring (CMTM)" app for supervisors through which they had to send geo-tagged and time-tagged photos of three stages of the exam day process — opening the question paper packets, distribution of question papers, and sealing of answer-script packets.

#### Opposition in Delhi...

The Delhi government threatened to form its own Board, stating that the decision to increase the fee was "arbitrary" and taken without taking into consideration the government's opposition to it. There are more than 1,000 schools run by the Delhi government, all affiliated to the CBSE. Schools run by various state governments almost all follow their respective state education boards. Delhi, like other Union Territories, follows the CBSE in its government schools, and it is the UT with the largest number of government-run schools. Apart from this, the largest number of CBSE-affiliated schools are private

schools and central government schools.

Because of this, the Delhi government has claimed to be the "largest partner" of the CBSE and opposed the fee hike. Following its opposition, the CBSE announced that it will restore the previous arrangement of SC/ST students of their schools paying only Rs 50, with the Delhi government paying the remaining Rs 1,150. The Delhi government has also promised that it will pay the entire examination fee for all its students; however, no such directive has been issued to schools so far.

#### And in Odisha

Odisha Chief Minister Naveen Patnaik has written to Union HRD Minister Ramesh Pokhriyal asking that the decision be reconsidered. "You may know that Odisha Government has opened more than 200 English Medium Model Schools affiliated to CBSE in rural areas for the benefit of economically and socially under-privileged sections of the society. This decision is bound to result in acute hardship to them," Patnaik wrote.

However, the CBSE has not announced any special arrangement for students in any state other than Delhi.