



Great expectations

Ending commercial surrogacy will not be possible without regulating ART clinics

It is a truth, universally acknowledged, that surrogacy needs to be regulated by law. There is no argument about whether an issue such as surrogacy fraught with bioethical issues aptly requires regulation: it does. The Surrogacy (Regulation) Bill, 2019, should have come a long time ago. Regulations in the past in the area of child adoption and transplantation of human organs have, historically, borne fruit, effectively putting an end to rampant commercial transactions, and providing a structure by which any excursions outside of the law may be shut down. Flagrant violations of human rights have been witnessed repeatedly in the 'baby-making factory' in India, the underprivileged woman often in the cross hairs, and at the bottom of the pile. The plethora of unregulated assisted reproductive techniques (ART) clinics that mushroomed, coinciding with India becoming a global health-care destination, ensured that there was a good volume of traffic toward the country, besides growing domestic demand for surrogacy services. In this context, there is expectation that the Surrogacy Bill will regulate commercial surrogacy, while allowing an altruistic form of it to continue, by putting in place strict supervisory and regulatory frameworks. The question here is whether the Bill, recently passed by the Lok Sabha, will serve the wholesome purpose of regulating the vastly complex area of surrogacy, while sensitively balancing the needs of 'intending parents' and surrogates.

The Bill mandates payment to the surrogate mother, who can only be a 'close relative', to the extent of covering medical expenses and providing insurance during the term of the pregnancy. It has specified that 'exploiting the surrogate mother' would attract punishment of imprisonment of up to 10 years and a fine of up to ₹10 lakh; advertising for surrogacy and selling/importing human embryos or gametes for surrogacy also attract the same punishment. It has mandated registration of surrogacy clinics, and put in place regulatory boards to ensure compliance with the law. But its critics have panned it for the lack of specifics in definitions (the generalised 'close relative' criterion for surrogates); the exclusion of various groups of people from access to surrogacy (only married couples of a certain age group are eligible); and primarily, of trying to put the 'cart before the horse' by seeking to regulate surrogacy before setting the ART house in order. The capacity of the state to end commercial surrogacy may itself be compromised if it does not first set up a regulatory framework for ART clinics, which provide the basic technology for surrogacy. Else, the government is merely setting itself up to implement a law that may spectacularly fail. That would be a tragedy, because this is one law that is pregnant with the possibility of truly revolutionising the surrogacy sector, cleaning it up, and fulfilling the dreams of people who are themselves unable to bear children.

Open obsession

An ingrained gun culture and patchy regulations set off hate crimes in the U.S.

Two American cities, El Paso, Texas, and Dayton, Ohio, more than 2,500 kilometres apart, witnessed lethal shootings resulting in mass fatalities over the past weekend, with at least 31 people dead, many injured, and a nation in shock. The El Paso attack, which bore tell-tale signs of a hate crime, was the deadliest mass shooting in the United States since November 2017 and brings to 32 the tally of shootings there in 2019 that had at least three victims. In his reaction to the shootings, U.S. President Donald Trump appeared to denounce the racist intention behind the shooting when he said, "In one voice our nation must condemn racism, bigotry and white supremacy," and that these "sinister ideologies must be defeated." While he was not wrong to highlight the pervasive threat of racist violence — police investigating the El Paso shooting said they found an anti-immigrant document espousing white nationalist and racist views, which they believe was written by the suspect, Patrick Crusius — his focus on violent video games, mental illness and online bigotry leaves a glaring gap in policy: common-sense gun control reforms to curb the proliferation of deadly, military grade weapons and high-capacity magazines.

The battle to pass broad, effective gun control legislation, such as tougher background checks for gun buyers and the banning of certain gun technologies and accessories such as bump stocks that exponentially raise the lethality of weapons, has punctuated the past few decades of America's unrelenting, 228-year-old love-affair with guns. Despite sustained lobbying to push forward basic gun control laws through the U.S. Congress — former President Obama saw no fewer than 17 of his attempts to bring gun control to the floor of Congress defeated by conservative lawmakers — the constitutional right to bear arms has never been more fiercely defended. Further Mr. Trump's regular dog whistles to the forces of racist xenophobia appear to have emboldened fringe elements within the gun-loving fraternities to carry out mass attacks against minorities. The National Rifle Association quietly hands around \$6 million annually to lawmakers in Washington to retain its pro-gun agenda as a top priority. Pro-gun lobbies consistently mobilise voters around the Second Amendment. The result of combining this ingrained "gun culture" with patchy gun regulations is ever more incidents of mass shootings. The societal and economic challenges that minorities face in the U.S. are already immense; if they become targets of a new vector of racist hatred, buttressed by the unregulated firepower of guns, then America's "melting pot" dream will unravel fast.

Kashmir has been cut to the quick

The Centre is riding roughshod over Kashmiri public opinion already beset with disaffection



WAJAHAT HABIBULLAH

In the face of a massive security build-up in Kashmir at the close of July, a seasoned journalist conjectured, "This is just the right time when militants and their masters in Rawalpindi could do with a terror attack in Kashmir." Such were the arguments trotted out by experienced media persons in seeking to account for the extraordinary lock down that had descended on Kashmir throwing its citizens into a panic, with a run on banks, petrol pumps and stores across the Valley. I began receiving phone calls from friends and associates as far as Gopalpora, Mattan and Doabgah and Sopore asking what was happening. My former colleagues in government, some in key positions, had no inkling and made dire predictions.

A steamrolling

And then he had the statement of the Home Minister, Amit Shah, in the Rajya Sabha on the morning of Monday August 5, 2019. Under Article 370 of the Constitution of India, the State of Jammu and Kashmir had its own Constitution and its own laws, with the President of India empowered to decide which provisions of the Indian Constitution would be applicable within the State, but only with the assent of the State.

In one fell swoop, the President, Ram Nath Kovind, declared that all provisions of the Indian Constitution shall now apply to the State, thus nullifying Article 370 with the use of that same article thereby ending the special autonomous status of Jammu and Kashmir that it had enjoyed since the promulga-

tion of India's Constitution. The Jammu and Kashmir Reorganisation Bill 2019 further bifurcates the State of Jammu and Kashmir into two Union Territories, both with a Muslim majority namely: the Union Territory (UT) of J&K and the Union Territory of Ladakh. While the UT of J&K will have a legislature, the Union Territory of Ladakh will be without one. Although in the past UTs have been upgraded to States, never has a State been downgraded, thus bringing to a consummation the process initiated with the accession, although hardly in the manner dreamt.

Umbilical link

Article 370 has governed the accession and relationship of the princely State of Jammu and Kashmir with India under the Indian Constitution. As originally envisaged, Article 370 formed the basis of Kashmir's special and autonomous status. Mainstream political leaders such as Farooq Abdullah, Mehbooba Mufti and others have warned that revoking Article 370 will mean a break in the relationship between the State and India.

A devout Muslim, the then unchallenged Kashmiri leader, Sheikh Abdullah (Baba-i-Qaum to his people), 'faced a clear choice in 1947; he could join a Muslim nation or he could join a secular state, where Kashmiris would be free to live a life of their own choosing. In making his choice, India's Prime Minister Jawaharlal Nehru was the Sheikh's reassurer. Of Kashmiri descent, a heritage that Nehru cherished, Nehru had an inclusive vision of what India was to be'. By contrast, the leader of the newly emerging nation of Muslims, Mohammed Ali Jinnah, was a cold and distant figure, a modernist who could excite awe but little affection. At the time of accession, the portion of the State where Jinnah's Muslim



League had its support lay not in the Kashmir Valley but across the Pir Panjal, in Mirpur and the old Poonch principality of the feudal State of Jammu and Kashmir, an area a large part of which Pakistan occupies today and calls 'Azad Kashmir'.

It is important to remember that the Kashmir freedom movement was a movement to rid Kashmir of despotism, working in tandem with the national movement but not part of it. This was primarily a Kashmiri movement drawing almost universal Kashmiri support in a Muslim majority State where the Kashmiris were the largest single ethnic group. Despite efforts by Maharajah Hari Singh's Prime Minister Ram Chandra Kak in eliciting the Sheikh's support for independence, the latter stood steadfast in his demand for an end to the monarchy.

Visiting Srinagar on June 18-23, India's Viceroy Lord Louis Mountbatten urged Hari Singh not to make a declaration of independence. He conveyed Sardar Vallabhbhai Patel's message that 'the States Department was prepared to give an assurance that, if Kashmir went to Pakistan, this would not be regarded as unfriendly by Government of India'. It was only when Jammu and Kashmir forces faced an uprising by the Poonch troops of the British Indian Army's decommissioned Sixth Punjab Regiment (in the border district of Poonch), and then a military rout by invading frontier tribesmen in the State's border town of Domel on October 22, 1947 that the Maha-

raja turned in desperation to India.

Pakistan's lost cause

According to the 1941 Census, 77.11% of the population of Jammu and Kashmir was Muslim, 20.12% Hindu and 1.64% Sikh. Pakistan has argued that the logic of Partition meant that the State had to be a part of Pakistan. But by recourse to an invasion by Pakistan's frontier tribesmen and the support of the invasion by Pakistan's armed forces, Pakistan virtually lost its case, certainly in the eyes of Kashmiris. India's case rested on the public will. Indeed, Sheikh Abdullah spoke for Kashmir at the United Nations in February 1948 as part of a delegation led by N. Gopalaswami Ayyangar firmly declaring, "We shall prefer death rather than join Pakistan. We shall have nothing to do with such a country." And it was this freedom within the Indian Union that Abdullah sought through the constitutional guarantee of Article 370, which read with Article 369, provided temporary powers to Parliament to make laws for J&K.

Under sub-section 3 of this Article, the President of India can revoke Article 370 only on advice from the Constituent Assembly of Jammu and Kashmir. The Constituent Assembly was dissolved in 1957, and replaced by a Legislative Assembly, which was dismissed last year after the coalition between the Bharatiya Janata Party (BJP) and the Jammu and Kashmir Peoples Democratic Party collapsed and the Governor Satya Pal Malik rejected a bid for an alternative coalition. Importantly, the current Presidential order modifies Article 367 of the Constitution, with "Constituent Assembly" to be read as "Legislative Assembly of the State" and the State government construed as the Governor. This has enabled the President to abrogate Article 370 with the con-

sent of the Governor as consent of the State. The people themselves, who the Constitution is designed to serve, therefore, had no part in this process. The constitutional validity of these amendments are for the Supreme Court to ponder. But the question here is that if these are indeed designed to benefit the people, was it necessary to bring them before Parliament under stealth, with the leaders of mainstream parties, the former Chief Ministers the Abdullahs (father and son), Mehbooba Mufti and the BJP's ally Sajjad Lone all under house arrest?

Opaque moves

There is little doubt that these are bold constitutional measures described with contrasting adjective or invective, consummating a process that began with the Constitution of India. But if the view of government was simply to rectify a constitutional error or remedy an anachronism as claimed by assiduous government spokesmen, did it not follow that democratic compulsion required that it be placed before the public most affected — the people of J&K, — before being sneaked into Parliament in tight secrecy? This without the knowledge of even the local government amidst security measures unprecedented in their intensity, surpassing even those that the Jagmohan government was forced to take following the outbreak of insurgency in 1989-90? This endeavour has meant riding roughshod over Kashmiri public opinion already beset with widespread disaffection. What it has succeeded in doing is leading to a feeling of betrayal among a section of our people and foreboding among well wishers of Kashmir.

Wajahat Habibullah, a retired civil servant, has served as Chief Information Commissioner and Chairperson of the National Commission for Minorities

The pitch for a second term

The Trump strategy seems to focus on internal progress and in pursuit of peace abroad in unconventional ways



T.P. SREENIVASAN

Today, there is expectation that U.S. President Donald Trump will not only complete his term but also win a second term in 2020. But not so long ago, the demand to impeach Mr. Trump on the charge of Russian interference in the U.S. presidential electoral process arose within weeks after his largely unexpected victory in 2016. Many believed he would not complete his term as accusations gathered momentum, which culminated in the Mueller report — it had enough material to indict the President. The Presidency came close to one constitutional crisis after another, but the President used the same report to claim there was no collusion or cover-up.

While the Democratic challengers to the President have multiplied with each passing day there are no serious Republican contenders even though many in the Grand Old Party believe that the President has undermined the party. While age was an issue when Mr. Trump offered his candidature first the same issue is now in the President's favour today as the two serious contenders, name-

ly Democratic candidates Joe Biden and Bernie Sanders, are older than him.

'America First'

With his majority in the Senate enhanced, Mr. Trump has set aside his fears of impeachment and moved on with his 'America First' policy, internally and externally, marked by his characteristic unpredictability of upstaging friends and enemies alike. The President is busy dealing with weighty matters of state such as trade with China, North Korea, Iran and Afghanistan, and improving the economy. The Democrats are also coming round to the view that it is better to focus on the election than on the impeachment, a move which is bound to fail.

Mr. Biden, who started leading the polls even before he announced his candidature recently, and raised a contribution of a little more than \$6 million in first day fund-raising, has been tainted by his official and personal actions as the Vice President, which include inappropriate pictures and his alleged interference in Ukraine to help a company with ties to his son. The candidature of Pete Buttigieg, who is in a same-sex relationship, and characterised by *Time* magazine as "unlikely, untested and unprecedented" will be another distraction in the months to come.

Unlike his predecessor and Peace Nobel winner, Barack Obama



ma, Mr. Trump has withdrawn U.S. forces from abroad, even from active fronts such as Syria and Afghanistan. In contrast, the National Security Adviser, John Bolton, has been on the warpath, constantly urging the President to use force in different theatres of conflict, especially North Korea. For all his threats of rage and fury, Mr. Trump has not declared war on anyone. Though he has issued a warning that the U.S. is ready to defend itself if Iran threatens its interests in the Gulf or elsewhere (even announcing the deployment of the USS Abraham Lincoln Carrier Strike Group and others to the U.S. Central Command region), the war-monger-in-chief has become a messiah of peace.

A thread of reform

The regime-changing policy of the U.S. is very much a part of Mr. Trump's global strategy, but he is pursuing a path of reforming world leaders rather than eliminating them. Bluster in words and

peace in action has tempered the image of the President. Though his announcements of withdrawals from international treaties have been swift, he seems to be relying on his bureaucracy to soften the blows. The Paris Agreement commitments have not been reversed pending the formal exit of the U.S., while sustainable energy projects may continue in his second term.

Mr. Trump has gone beyond expectation in the case of India when he exerted pressure on Pakistan to release the Indian prisoner of war, Wing Commander Abhinandan Varthaman, from Pakistan's custody, thus stopping an escalation in conflict during the India-Pakistan stand-off in 2019. Similarly, China was told that the international community would not tolerate inaction anymore in the case of Masood Azhar. In both these cases, Mr. Trump has demonstrated a clear pro-Indian stand vis-à-vis Pakistan and China. But when it came to the withdrawal of U.S. troops from Afghanistan, Mr. Trump unabashedly feted Pakistani Prime Minister Imran Khan in Washington in July, promising mediation between India and Pakistan on Kashmir. Russian missiles, Iran and trade imbalance are the irritants in India-U.S. relations.

On China too, the evolving U.S. position appears to be paradoxical. The trade war appears negotiable as there does not seem to be a strategy to strangle China. The way China has relented on the Ma-

sood Azhar issue shows that China is sensitive to the U.S. position. China does not seem to put any pressure on the U.S. when it comes to North Korea. China also does not sense much pressure from the U.S. to contain it in the Indo-Pacific, with the Quadrilateral having receded into the background.

The U.S.'s western allies are expressing concern that Mr. Trump is deviating from foreign policy priorities such as countering China and Russia and instead focussing on nations that pose no real threat to the West such as Iran, Venezuela and Cuba. The Democrats believe that such shifts will damage the credibility of the U.S. with its European allies in the long term as the Europeans are likely to cultivate other powers. Among the countries named as being agitated about the U.S. policy are Turkey, South Korea, Japan and India.

Behind Mr. Trump's perplexing 'America First' policy, there seems to be a clear game plan for the President to secure a second term by focussing on internal progress and peace abroad in unconventional ways, without paying attention to the consequences for the U.S. and the world beyond 2020.

T.P. Sreenivasan, a former diplomat, is Chairman, Academic Council and Director, NSS Academy of Civil Services. He is also the Director General, Kerala International Centre, Thiruvananthapuram

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.

Kashmir road map

In his book on nationalism, Rabindranath Tagore has said that a nation is not just composed of land and boundaries, but of the people who live there. The same point applies to Jammu and Kashmir. Unless and until the people of Kashmir also wholeheartedly embrace the Indian nation, integration will be incomplete. Today there is a feeling of betrayal in Kashmir as the condition which led to Kashmir's merger with India has been diluted. It is more important to develop trust and confidence so that Kashmir's unique culture, customs and rights are safe from outside influences. To adopt an intransigent attitude that there won't be

alienation and resentment would be incorrect and inappropriate (Editorial page, "Piecing together Kashmir's audacious road map", August 6).

GAGAN PRATAP SINGH, Noida, Uttar Pradesh

■ When you need a million troops and a war-like siege in place to pass an order, the order has already failed. India in Kashmir has failed miserably; the fact that India cares only for the land and not for the people of Kashmir has been reaffirmed. One waits to see whether the highest court of the land will take cognisance of what has happened.

UMER BASHIR Anantnag, Jammu & Kashmir

■ Radically altering Jammu and Kashmir's special status

without political consensus was undoubtedly an exercise in avoidable unilateralism. At the same time, Article 370 metamorphosed into a lodestar to stoke separatist sentiments.

Having crossed the Rubicon, the government will have to address the fears of Kashmiris of the possibility of being swamped by 'outsiders'. It needs to assure the people of Kashmir that a revocation of Article 370 is not an exercise to alter the demographic and religious profile of the state similar to the forced Jewish settlements in the West Bank or the Chinese ethnic re-engineering in its Xinjiang province, except for the return of Pandit families to their original homes.

V.N. MUKUNDARAJAN, Thiruvananthapuram

■ Revoking Article 370 seems to have been done also because of global compulsions such as the re-emergence of the Taliban and statements by the U.S. President. The government must reach out to Kashmir by strengthening grass-roots democracy, holding immediate elections and reverting to full Statehood status after normalcy returns. Were the constitutional changes a valid process? Do the changes have the potential to strain federalism?

PUNYA JYOTI BORUAH, New Delhi

Amazon policy

This is with reference to the Editorial, "Logged out" (August 1). The size of untouched Amazon forest inside Brazil is larger than

the entire territory of India. I am certain there is understanding what the challenges to protect and ensure the sustainable development of such vast lands entails. With this aim, Brazil has established internationally recognised institutions responsible for the permanent monitoring of the rainforest and a legal system which handles infringements. In this connection, the Minister of the Environment announced last week the strengthening of the capacity to obtain higher resolution satellite images on a daily basis. Brazil, like India, has been working to balance the social, economic and environmental dimensions in its society, which includes the implementation of the Sustainable Development

Goals. Together with Brazil, South Africa, India and China (BASIC), Brazil has been proactive and constructive in negotiations under the United Nations Climate Change Convention. In 2019, the Bolsonaro Government has shown a willingness to engage in new institutional frameworks. In the process of becoming a member of the OECD, Brazil will abide by more than 35 environment-related instruments. In the recent European Union-Mercosur Association Agreement, Brazil has agreed with provisions that will enhance the integration of sustainable development in both trade and investment.

ANDRÉ CORRÊA DO LAGO, Ambassador of Brazil in India

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The new facts on the ground for Kashmir

India cannot claim the moral high ground any more that it has kept the State's integrity intact



LUV PURI

Without going into the moral and legal arguments for or against the scrapping of the special status to Jammu and Kashmir and the decision to reorganise the State into two Union Territories (UTs), a dispassionate analysis of the possible immediate implications of these constitutional changes is needed. Some assertions in support of the changes may partially be true while others may run contrary to the facts.

The implicit claim that this would lead to greater counterterrorism preparedness is questionable. The strength of any counterinsurgency grid is largely based on human intelligence coming from the ground. Here, it will be unrealistic to expect that merely changing the administrative and political set-up of the State will lead to more intelligence to the security apparatus; in fact, there is a high possibility of the contrary happening in the short-term on account of the decision's unpopularity in the Kashmir Valley. India needs to be mindful of the fact that historically, any spike in disaffection in Jammu and Kashmir has facilitated a misadventure by Pakistan. For instance, the maximum dilution of Article 370 took place in the 1960s, including changes concerning the nomenclature of the 'head of the State'. And this was followed by the infamous 'Operation Gibraltar' by Pakistani President Ayub Khan in August 1965.

A self-defeating strategy

The present cycle of violence can be traced back to the rigging of the 1987 Assembly elections and, in this connection, Home Minister Amit Shah is right in citing rigging of successive elections as the primary cause of the mistrust of Kashmiris towards India. But in bringing the State directly under the Centre as a Union Territory, the government may have overlooked the hard lessons learned by India's intelligence in its nearly 30 years of counterinsurgency operations – relying purely on militaristic tools can be self-defeating.

Further, bifurcating the State and



The call for Ladakh to be made a Union Territory gained momentum in the 1990s, particularly in Leh. Picture shows Ladakhis demonstrating to call for an autonomous hill council. • THE HINDU ARCHIVES

creating a Union Territory of Ladakh mirrors what Pakistan did with Gilgit and Baltistan regions by *de facto* creating a separate province in 2009. New Delhi has often objected to the Chinese infrastructural projects in the region and also opposed Islamabad's decision to separate it from the rest of Pakistan-occupied Kashmir. Now, after stripping Jammu and Kashmir of its special status, India cannot claim the moral high ground any more by pointing out unlike Pakistan, it kept the integrity of the State intact.

Ladakh as Union Territory

Though the demand for Union Territory status picked up momentum in Ladakh in the 1990s, its spread was limited to the Leh district of Ladakh. The Shia population of Kargil has consistently opposed such a call as it fears Buddhist domination in the new set-up. Hence, the Centre needs to assure leaders from Kargil that their interests would be safeguarded in the new Union Territory. India would not want to create another zone of disaffection in a strategically important border region of the State where it has already faced Pakistani aggression once.

The Centre also needs to take steps to prevent further polarisation

within the State. The ruling political elite, particularly from the Kashmir Valley, has remained indifferent to regional and ethnic aspirations, which are inherently political. Factoring in the complex societal landscape of the State and its divergent aspirations, saner proposals have been made before for five-tier devolution of powers – from State-level to regional-level to district-level to block-level to village-level. However, in the absence of any institutional mechanism to address regional and ethnic aspirations, polarisation has continued to increase among different regions, often taking a communal turn. Monday's decision might polarise the State even further along regional and religious lines.

Mr. Shah made a valid point when he said that political reservation, as enshrined in the Indian Constitution, has been denied to Scheduled Tribes in Jammu and Kashmir even though all political parties have suitably accommodated them in other ways. In the past, there had been several Bills in the Jammu and Kashmir Assembly for political reservation but they were never passed. Around 11.9% of the State's population is made of Scheduled Tribes, the bulk of them from Gujjar and Bakarwal tribes. Extending political reservation to them

will make the State's political structure more inclusive.

However, Mr. Shah's claim of widespread poverty in the State, cited as one of the justifications for Monday's decision, is not backed by facts. Only 10.35% of the State's population lives below the poverty line, compared to the national average of 21.92%. It needs to be noted that though restrictions on land sale existed, successive State governments had been, on an *ad hoc* basis, liberally giving land to non-state investors on 99-year leases.

Removal of impediments

Monday's decision on paper has removed all impediments on sale of land but, in the short term, could lead to an increase in private investment only in Jammu. A prolonged period of peace is needed in other parts of the State to attract investment. Monday's move has also removed another impediment – children born to women marrying citizens from outside Jammu and Kashmir can now inherit property.

Further, descendants of Partition refugees who migrated from Sialkot, many of whom belong to Scheduled Castes, will now be able to get employment, buy and own land and vote in the new Union Territory.

What also needs to be considered is that bifurcation of Jammu and Kashmir may trigger demands for further division of the State which, unless they are categorically rejected, could trigger a long period of instability and turbulence. Separation of ethnically and culturally distinct Ladakh from the rest of Jammu and Kashmir is somewhat less challenging, because of its relatively smaller population. And what about the right to return of Kashmiri Pandits? Monday's decision is unlikely to alter their present status as the security environment in the Valley is currently not conducive for them to go back.

On the whole, the country needs to be better informed of the implications of the changes on the ground. The road to resolution of the Jammu and Kashmir tangle lies in bringing the policymaking closer to facts, learning from the past and avoiding unrealistic expectations.

Luv Puri is the author of 'Across the Line of Control: Inside Pakistan administered Jammu and Kashmir'

The hard realities of India's fast-track courts

Many of them are understaffed and under-resourced



ARUNAV KAUL

Fast-track courts are in the limelight yet again. Smriti Irani, Minister for Women and Child Development, informed the Rajya Sabha that the government has proposed to set up 1,023 fast-track courts to clear the cases under the Protection of Children from Sexual Offences (POCSO) Act. A few weeks ago, the Supreme Court in a suo motu petition had issued directions, stating that districts with more than 100 cases pending under the POCSO Act need to set up special courts that can deal specifically with these cases.

Increasing the number of courts as a recourse to deal with the mounting backlog has been a common practice. However, while large sums of money and attention are being devoted to creating additional posts, little is being done to identify and address the prevalent systemic issues. Without fully optimising the current mechanisms and resolving the problems, sanctioning more judges may not provide the intended results.

Fast-track courts (FTCs) have been around for a long time, with the first ones being established in the year 2000. Since then, much has been spoken and written about them. To quote the Ministry of Law and Justice, at the end of March, there were 581 FTCs operational in the country, with approximately 5.9 lakh pending cases, Uttar Pradesh having the most number of cases. However, 56% of the States and Union Territories, including Karnataka, Madhya Pradesh and Gujarat, had no FTCs. In terms of money, ₹870 crore was released by the Centre between 2000-2001 and 2010-2011 towards these FTCs.

State-by-State variations

With all these years of experience and money spent, it is disconcerting to see not only the decline of FTCs across the country but also systemic issues prevalent in the States that have the courts. In a survey of FTCs conducted by National Law University Delhi, it was observed that there is a huge variation in the kinds of cases handled by these courts across States, with certain States primarily allocating rape and sexual offence cases to them and other States allocating various other matters. Further, several FTCs lacked technological resources to conduct audio and video recordings of the victims and many of them did not have regular staff.

While the Centre is promising to set up FTCs across the country, the moot question is: will a mere increase in the number of judges lead to a direct reduction in pendency of cases? Data collated from the Supreme Court's 'Court News' between 2010 and 2017 show otherwise. For instance, in Karnataka, the number of working judges increased between 2012 and 2017 (with occasional dips in certain years) but pendency did not reduce. Similarly in other States, such as Maharashtra, Kerala, Delhi and West Bengal, increase or decrease in the number of judges did not affect pendency of cases.

Addressing the systemic issues

Hence, there are several other factors that have an impact on disposal of cases. Inadequate staff and IT infrastructure, delay in getting reports from the understaffed forensic science laboratories, frivolous adjournments and over-listing of cases in the cause list are some of the variables. Identifying systemic issues and addressing the concerns is as important for timely disposal of cases as increasing the number of judges.

Furthermore, given the vacancies in subordinate courts across the country, it also needs to be seen whether States will hire additional judges or appoint FTCs from the current pool of judges. For instance, in the case of commercial courts, several States designate special judges from the current pool of judges. Such a move could prove to be problematic as it would increase substantially the workload of the remaining judges.

All said and done, the final responsibility of making sure that the entire exercise results in a positive change vests with the States. For the FTCs to become successful, States will need to take stock of the issues at the ground level.

It is often noted that policies and regulations are passed without keeping in view the ground realities. It is important that States engage with the principal and senior district judges to get a sense of issues the courts are facing in various districts. Equal attention must be paid to both the metropolitan and far-flung non-metropolitan areas. Critical issues such as inadequate court staff, improper physical and IT infrastructure and understaffed forensic labs, which affect the day-to-day functioning of the FTCs, must be comprehensively addressed. For the overall system to work productively, it is important to ensure that its various components work efficiently and without any hindrance.

Arunav Kaul works in the public policy sphere focussing on judicial reform issues. Views are personal

The bus to better transport

Buses need an image makeover and cities need several thousand of them, of good quality

G. ANANTHAKRISHNAN

The great cities of the world use one guiding principle in planning services for residents and visitors: working with finite space. In big cities, new roads are not possible, and no new land is available. But they must prepare to serve more and more people who arrive each year. Successful plans build better mobility.

When cities fail at mobility, the result is congestion, lost productivity, worsening pollution and a terrible quality of life. India's big cities have all these attributes, and 14 of them were in the list of the 15 most polluted cities worldwide last year. Congestion in the four biggest metros causes annual economic losses of over \$22 billion, the NITI Aayog says in its Transforming Mobility report.

Is there a viable solution? There is, and it is the good old bus.

Sadly, buses have an image problem, which came up during a public interaction Prime Minister Narendra Modi had in the U.K. He explained aspiration with the example of someone who wants to progress from a bicycle to a scooter, then to a four-wheeler; equally a lack of ambition, he said, could lead to the loss of even the bicycle, upon which the individual resigns himself to a bus ride. Ironically, Mr. Modi made his comments in London, a city with an iconic bus system that integrates famously with its equally popular 'tube' system – as the Metro is known there. The British capital also discourages the use of cars through a congestion charge within a defined area.

Not enough buses in India

So important is the bus to urban transport ecology that the executive in-charge of technology and customer satisfaction at Transport for London, Shashi Verma, said during a visit to India in July that Indian cities need to add several thousand buses more, and not just spend heavily on Metro rail. There are over 1.7 million buses in India, about 10% of them operated by governments. Individual cities don't have enough of them to provide a good service, and the gap is

filled mostly by unregulated intermediaries, such as vans. The buses operated by governments are not properly designed, are uncomfortable and badly maintained. Government corporations do a poor job when it comes to using technology.

Lack of information

One of the key barriers to taking a bus is not getting information about the service; bus corporations deprive themselves too, of revenue, by failing to act on this. Cities such as London and Singapore have systems to tell passengers where the next bus is on a route and predict its arrival at a stop in real time. Such a system is not available for even the biggest metro cities in India, something the Smart City mission could have addressed.

Buses need an image makeover and cities need several thousand more buses, of good design and build quality. They need to use contact-less fare payments using suitable cards, since buying tickets is also a barrier.

Buses also need support to move faster through city traffic, using policy tools such as congestion pricing for cars. This is an old idea, dating back to 1975 in Singapore, where it was done manually first and automated much later. The London congestion charge immediately cut traffic in the demarcated area by 20%, helped speed up buses and improved revenues.

The biggest reform that the U.K. experience teaches is integration. Bringing traffic authorities, road engineers and transport operators under the same umbrella worked wonders in London to eliminate planning and operational problems. Indian cities have unified Metropolitan Transport Authorities to do that. They must be brought to life and given mandatory targets. The goal should be a stipulated higher share of travel by public transport, walking and cycling, and this should be evaluated through periodic surveys of customer satisfaction.

ananthakrishnan.g@thehindu.co.in



DATA POINT

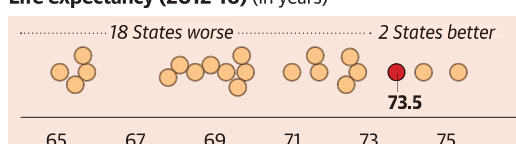
J&K's vital statistics

Home Minister Amit Shah cited poor health care, poverty, lack of doctors and slow economic growth as impediments in J&K that were linked to Article 370. A look at how J&K compares with other States in key indicators suggests that these concerns are exaggerated. By Vignesh Radhakrishnan & Sumant Sen

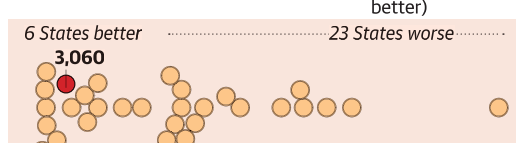
How to read the graphs

Each circle corresponds to a State, with Jammu & Kashmir highlighted in red. For instance, J&K's life expectancy was 73.5 years between 2012-16, the third best in the country

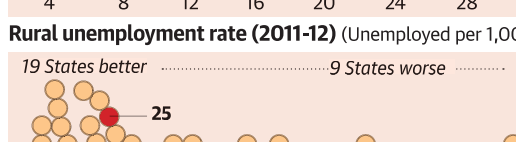
Life expectancy (2012-16) (in years)



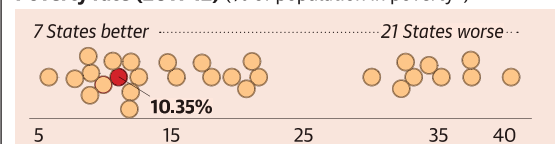
People served per govt. doctor - 2018 (lower the figure, better)



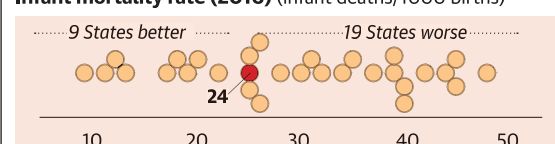
Rural unemployment rate (2011-12) (Unemployed per 1,000)



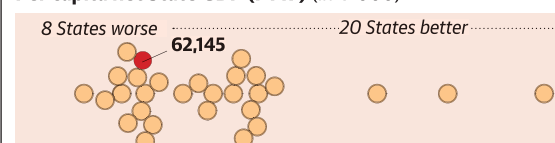
Poverty rate (2011-12) (% of population in poverty*)



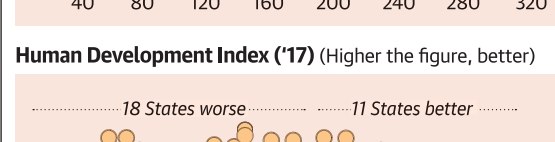
Infant mortality rate (2016) (infant deaths/1000 births)



Per capita net State GDP (FY17) (in ₹ '000)



Human Development Index ('17) (Higher the figure, better)



Source: RBI, NITI Aayog, National Health Profile 2018 *Tendulkar methodology

The Hindu

FROM THE ARCHIVES

FIFTY YEARS AGO AUGUST 7, 1969

Open clash at CPP meeting

The simmering inner party differences erupted into an open clash between the supporters and opponents of Mrs. Gandhi at the Congress Parliamentary Party meeting this evening [August 6]. The meeting, called to hear appeals from the Prime Minister and the Congress President to vote for Mr. Sanjiva Reddi in the Presidential election, ended in heated arguments and shouting over the propriety of a Congress member, Mrs. Tarakeswari Sinha writing an article in a newspaper attacking the Prime Minister. The issue was raised by Chowdhry Nitiraj Singh amidst shouts of protest from a section of the Party, but Mrs. Gandhi allowed him to continue to read from the article in the face of opposition from even the Congress President, Mr. Nijalingappa. Mrs. Gandhi did not agree with Mr. Nijalingappa that such issues should be left to him to be dealt with at leisure. "These are matters which could not wait to be brought to the notice of the President," she is understood to have told Mr. Nijalingappa in an angry tone. She felt that the article in question was an instance of serious breach of discipline and said "to brand any senior member of the party as a Communist is an insult to the party."

A HUNDRED YEARS AGO AUGUST 7, 1919

Ramakrishna Home at Bangalore.

Quite an interesting little function was celebrated on the morning of Sunday, the 3rd August 1919, when the Sri Ramakrishna Students' Home for poor students of the City [Bangalore] was opened. His Holiness Swami Nirmalandaji presided. The friends and admirers of the Mission and its work had gathered in large numbers. The function began with a procession of the photos of Sri Ramakrishna Paramahansa and the Swamis Vivekananda and Ramakrishnananda from the premises of the Sri Ramakrishna Ashrama to the Home building. The objects and aims of the Committee responsible for the Home were explained by Messrs. V. Gopalaswamigar and M.A. Narayan Iyengar, Excise Commissioner, Liberal promises of donation were made on the spot. Mr. Pasupati Iyer, a leading cloth merchant, promised a contribution of Rs. Five hundred, while Mr. S.K. Narasimhaiah and another high officer of Government promised to maintain each a student in honour of the birth of a son to His Holiness the Yuvaraja of Mysore. The Students' Home begins with nine students, and it is a special feature of the Home that it is opened to Brahmmins and non-Brahmins, alike.