## No 100% quota

SC ruling stresses that overzealous reservation tends to affect rights of other communities

The Supreme Court is right in considering cent per cent reservation as anathema to the constitutional scheme of equality even if it is for the laudable objective of providing representation to historically deprived sections. The verdict quashing the reservation of 100% of all teaching posts in 'Scheduled Areas' of Andhra Pradesh for local Scheduled Tribes is not against affirmative programmes as such, but a caution against implementing them in a manner detrimental to the rest of society. A five-judge Constitution Bench found that earmarking teacher posts in areas notified under the Fifth Schedule of the Constitution adversely affected the interests of other candidates not only from Scheduled Castes and other backward communities but also other ST communities not native to those areas. Of course, what the State government did, in its original orders of 1986, and thereafter, in a subsequent order in 2000, was not without its own rationale. It found that there was chronic absenteeism among teachers who did not belong to those remote areas where the schools were located. However, its solution of drafting only members of the local tribes was not a viable solution. As the Bench noted, it could have come up with other incentives to ensure the attendance of teachers. Another aspect that the court took into account was that Andhra Pradesh has a local area system of recruitment to public services. The President, under Article 371D, has issued orders that a resident of a district/zone cannot apply to another district/zone for appointment. Thus, the 100% quota deprived residents of the Scheduled Areas of any opportunity to apply for teaching posts.

Affirmative action loses its meaning if it does not leave the door slightly ajar for open competition. Dr. B.R. Ambedkar observed during the debate in the Constituent Assembly on the equality clause, that any reservation normally ought to be for a "minority of seats". This is one of the points often urged in favour of the 50% cap imposed by the Court on total reservation, albeit with some allowance for relaxation in special circumstances. It is still a matter of debate whether the ceiling has innate sanctity, but it is clear that wherever it is imperative that the cap be breached, a special case must be made for it. Such a debate should not divert attention from the fact that there is a continuing need for a significant quota for STs, especially those living in areas under the Fifth Schedule special dispensation. In this backdrop, it is somewhat disappointing that courts tend to record obiter dicta advocating a revision of the list of SCs and STs. While the power to amend the lists notified by the President is not in dispute, it is somewhat uncharitable to say that the advanced and "affluent" sections within SCs and STs are cornering all benefits and do not permit any trickle-down. Indian society is still some distance from reaching that point.

## www.youtube.com/c/iLearnCentre Joining of giants

The coming together of Facebook and Jio is

exciting, but there is a risk of a monopoly ¶acebook's decision to invest ₹43,574 crore for a ✓ 9.9% stake in Reliance Industries Ltd.'s Jio Platforms marks a rare coming together of two giants who have a reputation for market domination. The focus of their combined might is the India retail sector, a difficult terrain as large parts of it are still unorganised. But then for the same reason, it holds potential for huge disruption. In recent years, the retail space has been an ongoing battlefield for behemoths such as Amazon and Walmart, themselves globally dominant players. The other interested parties in this are payment services companies such as the Softbank- and Alibaba-backed Paytm, and Google, which runs Google Pay. But the combination of Facebook and Reliance will be difficult to beat – they seem to have both the marketplace and the payment solution sides covered. For Facebook's WhatsApp messaging service, India is the biggest market with over 400 million users. It currently awaits regulatory approval for its payment solutions. Jio is now India's No. 1 telecom brand by user base, less than four years after it launched its service. And then, JioMart is a recently-launched commerce marketplace, which seeks to connect local retailers with consumers. And this is why, "the largest investment for a minority stake by a technology company anywhere in the world" (as a Reliance Industries press release put it to describe the Facebook move) has been notably accompanied by an agreement to "further accelerate" business on the Jio-Mart platform using WhatsApp.

In short, it is a win-win deal for both players. While its social media services and messaging services have been extremely popular in India, Facebook has however struggled to get past regulatory concerns in India over some of its ambitious projects such as its free limited Internet offering Free Basics and digital currency Libra. While it stays blocked in mainland China, Facebook now gets to participate in a stronger way in one of the world's fastest growing markets for e-commerce. Reliance can rely on the popular messaging service to accelerate the building of its marketplace. It has also received handy money to reduce its debt. The deal, coming as it does at a time when the world is fighting the coronavirus pandemic, is a thumbs up to India's potential. It is noteworthy that this is the largest foreign direct investment in the technology sector in India. But will the deal that brings together the world's largest social media company and the group that is a leader in everything from oil to data lead to more consolidation and fewer players, as it happened in the telecom sector? It is a big question mark, and the deal should not be passed without closely scrutinising this. For, the future of India's Internet economy is at stake.

# Troughs and crests in the pandemic response

The nationalistic turn in global politics has affected vital institutions and partnerships at a time they are needed most



The novel coronavirus, SARS-CoV-2, that causes the disease COVID-19, has proven the ultimate stress test for governance systems globally. And governments worldwide are failing, showing up for all to see how poorly prepared they were for this examination. Even those governments that are likely to be rated relatively highly by scholars of public policy studying this moment later will not pass the examination unscathed. Such is the virality and lethality of this pathogen that success will be measured in hundreds of lives lost, compared to the tens of thousands of fatalities experienced elsewhere. Yet, the common challenges faced by all governments to fight COVID-19 must not mask the considerable variation in their performance which holds lessons from which we must

#### Stages in the response

Disease outbreaks, even global pandemics, are scarcely new. The playbook for dealing with them therefore is well understood and has been honed by practices and lessons gleaned from hard-fought battles. A first stage is early cleareyed recognition of the incoming threat, and, in the case of CO-VID-19 at least, requires the unpalatable decision to lock down so-

Ideally this is done with full consideration of how to support the most vulnerable members of society, especially in a country such as India, where so many survive hand-to-mouth. This is a phase aimed at buying time, of flattening the epidemic curve, so that public health facilities are not overwhelmed; and, for using this time, paid for by collective sacrifice, to secure the personal protective equipment (PPE) and medical supplies necessary to save lives.

The second phase of the pandemic response is slowly to ease the burden on the economy by permitting a measured return of business activity so that livelihoods and supply chains can be restored. This stage can only be safely executed if accompanied by a war-footing expansion of testing capacity so that new infections can be identified and isolated at once, allowing contact tracing to implemented by masses trained to do this crucial and painstaking work in communities across the country. The final stage, which for COVID-19 seems a lifetime away, is a mass vaccination programme and then the full rebuilding of economic and social life. None of this is easy, but, like an examination in a dreaded subject, one's only hope is early and persistent preparation and, at crunch time, remembering the lessons learned.

#### What drags systems down

So, why have governments failed to do better? And what separates successful responses from failed ones? Answers lie in three main limitations of contemporary governance systems. First, for all the defensive finger pointing, opportunistic politicking and xenophobic posturing – exemplified best by the peevish current occupant of the White House but hardly unique to him - this is not a crisis that can be tackled without robust and multidimensional international cooperation between nations. From the epidemiologists whose data-driven models inform policy debates about how and when to lift quarantines, to the medical community identifying more effective treatments, to the research scientists racing to find a vaccine,

we are watching in real time the benefits of intellectual collaboration that does not stop at national borders. But the nationalistic turn in global politics over the past two decades has reduced investment in and undermined the legitimacy of the very institutions that facilitate international partnership at the very time they are needed most. Prime Minister Narendra Modi

did well to convene the leaders of the South Asian Association for Regional Cooperation (SAARC) nations in mid-March to discuss the possibility of a regional response. but that video-conference call also highlighted that there have been no summit-level meetings of SAARC since 2014, in no small part due to India-Pakistan jingoism that has victimised the regional organisation. Similarly, last week's outburst by United States President Donald Trump that resulted in his demanding that the U.S. end its funding of the World Health Organization (WHO) not only endangers American lives by cutting off his own administration's access to vital international data, but also directly affects India which receives significant funding and expertise from WHO (with ~10% of its overall WHO financing in 2019 coming directly from the U.S.).

Second, pandemic response requires a whole-of-government strategy, for which political will and legitimate leadership are vital to convene and maintain.

Germany and Kerala provide two

### **Textbook examples**

powerful though different examples of this in action. In Germany, in spite of a high level of federalism that gives its States (Länder) a lot of power, Chancellor Angela Merkel's ability to mobilise the entire system has allowed Germany to emerge as a success story in Europe. In Kerala, as Patrick Heller described in this daily last week (The Hindu, Editorial page, April 18, 2020), State Chief Minister Pinarayi Vijayan convened a State response team at the earliest possible moment and has provided the full weight of his office in support of a coordinated public health strategy that has been accepted by the State's citizens who have learned to trust the government in such situations. Yet these two examples stand out in part for how rare they are. Consider again the cautionary tale of the U.S. where some State Governors have vet to issue stavat-home orders, and others are rushing to open the economy against the express advice of public health experts, all while the U.S. President urges citizens in States governed by his political op-

ponents to seek "liberation". Third, we are seeing first hand the consequences of starving public health systems of necessary funds and resources. The comparative advantage of the private sector is efficiency; the need of the hour in pandemic response is redundancy, or, more precisely, excess capacity. Most hospitals do not need invasive ventilators normally, just as they do not need vast stocks of PPE and extra intensive care units beds, but these are essential goods right now as we brace ourselves for a flood of sick patients into hospitals. Watching the advanced health-care system of northern Italy buckle under the unimaginable pressures to which it was exposed over the past six weeks should be a cautionary tale for all countries that thought turning health care over to private actors was responsible governance. It is not. Again, consider Kerala, which has consistently ranked at the top of State rankings for health expenditures, and which has, as a result, a well-functioning local public health system capable of implementing the test-isolate-trace protocols critical for fighting COVID-19.

#### A State in contrast

For a sharp and worrying contrast to Kerala's success, consider Madhva Pradesh. While State Chief Minister Shivraj Singh Chouhan earlier earned plaudits for his investments in infrastructure, health expenditures are low, with the State ranking dead last in this category as in NITI Aayog's data. This will undermine the State's ability to fight the virus, which given the rapid growth of cases and a relatively high case fatality ratio, looks increasingly vulnerable to a debilitating outbreak. But even more worrisome is the abdication of good sense by the political class in the State. Even as the threat of COVID-19 was apparent, and as Kerala had put its State response into action, a soap opera in Madhya Pradesh was in full swing, with defections and the collapse of the Congress State government. Then, while the rest of the country was practising social distancing, Mr. Chouhan was at the centre of incongruous images of large-scale packed celebrations. Now, finally, a full month after its new-old Chief Minister was inaugurated on March 23, Madhya Pradesh finally has a Health Minister. Wish him luck; he is going to need it.

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## Bihar's dystopian moments and a looming crisis

With the global and national order in reset mode, it is no longer an option for the State to ignore its chronic issues



YASHWANT SINHA &

hould the government of Bi-Should it, along with its political partner, the Central government, not be held solely responsible for its poor performance today? The Centre's much-touted spirit of 'cooperative federalism' has been nothing more than a hollow promise. There is a glaring gap between stark ground realities and propaganda. India's federal system is badly challenged today with partisan Governors, misplaced policies and languishing financial assistance. Bihar is no exception.

States, including Bihar, have been in the throes of financial stress from before; the novel coronavirus outbreak and the national lockdown have further weakened their fiscal position. In fact, Bihar is still waiting for the elusive 'special status' that Prime Minister Narendra Modi had promised during elections and again soon after Nitish Kumar formed the government with the Bharatiya Janata Party (BJP). Sadly, it has proved to be another 'jumla'.

Bihar has had a long history of suffering because of a persisting feudal political culture that neglected efforts to create industrial capabilities and employment opportunities in the State. Conse-

quently, the exodus of labour has become a new normal since the 1990s. Despite the fact that construction of new roads and overbridges made through central assistance in Mr. Kumar's first term along with the contractual recruitments (especially in schools) could draw a few migrants back to the State, the situation on the migration front remained grim. Mr. Kuyears, yet the fate of these workers has not improved. They continue to be vulnerable and compelled to work without any legal protection.

## The forgotten people

With the global pandemic and national lockdown causing unprecedented loss to lives and livelihoods, Bihar's vulnerabilities have come full circle. The State government has failed to ensure proper equipment and health-care facilities to the people. It has also dealt with migrants with disdain. A large number of Bihari migrants in Delhi, Mumbai and other parts of the country were left stranded when the lockdown took effect. Some of them tried their best to stay wherever they were, but finally gave up as they had no money or food to survive.

The heart-rending visuals of the poor and helpless migrants desperately walking from Delhi/National Capital Region back to Bihar reflect the hollowness of the State's approach to tackling a disastrous disease and the consequent lockdown. Also, some recent developments show that the government adopted a selective approach in disaster management. For example, while an MLA from the ruling party was issued a special pass to travel to Kota in Rajasthan to bring his child back from there, countless others were left to face socio-economic hard-

ship and apathy Within the State, pauperisation is in full swing and the hunger is just killing; Biharis with no support of remittances are on the fringes in their own homeland. In Gaya and other parts of Bihar, children were seen eating roasted frogs. What could be more pitiful than this in a country that will have food grains of over 100 million tonnes in warehouses by the end of April, and as according to the Food Corporation of India (FCI), where the annual produce is expected to be record 292 million tonnes in year 2019-20? Reportedly, India has enough in macro pro-

## Floundering health care

In Bihar, public health was the next thing after education that became corrupted and collapsed.

jection. Reportedly, India has too

little with lack of insight in disaster

management in a trying time such

Opening of new hospitals including an All India Institute of Medical Sciences and few others were hardly beneficial for the poor living in rural areas since they do not have the means to avail them. Unlike the highly publicised claims of Mr. Kumar, health-care facilities at district and block levels are in pathetic shape.

Central Bureau of Health Intelligence (CBHI), there are 7.13.986 total government hospital beds available in India. More precisely, this amounts to 0.55 beds per 1,000 population. Many States even lie below the national figure, Bihar is one of them, experiencing an acute shortage of government hospital beds with just 0.11 beds available per 1,000 population. This is something alarming in a State that was once known for its socialistic leanings. The odd match-making of allies in the ruling government is not creating room for the resolve to help people.

Irrespective of the fact that Bihar has now a new grammar of politics, the State government has failed to give due weightage to the health sector. Even when Mr. Kumar may no longer be charmed with socialism, how can he overlook the unimaginable hardship of the poor, the unemployed and the marginalised? He must bargain for more from the Centre, because his alliance with the BJP has not benefited Bihar. The people of Bihar are still waiting for the fulfilment of the promises made by Mr. Modi and Mr. Kumar.

Ram Vilas Paswan, who holds

charge of Food and Public Distribution at the Centre must think of universalising the Public Distribution System. As a leader from Bihar, he should think of the migrants from Bihar and elsewhere in the country, and ensure basic supplies to them even without ration cards. Mr. Kumar should enable timely policy advocacy for this. As per National Health Profile Also, he should not be wary in tion's views in terms of crisis management and a plan to rebuild.

As the global and national order is in a phase of reset, it is no longer an option for Bihar to ignore chronic issues such as industrial backwardness, unemployment and outbound migration. For Mr. Kumar, who was once known as 'Sushasan Babu', the time has come to follow Raj Dharma. What is expected from him is to be dutiful, not the balancing plays of caste arithmetic and crossing the fence merely for political survival. The state of affairs in Bihar is worrisome; accordingly, policies and plans have to be prioritised. Politics in the State should not defeat the aspirations of millions of Biharis who have already suffered too much.

For sure, the land of Bihar should never be known as the 'imaginary homeland' for its people who are now home-bound as the cities which they contributed to build have failed them.

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on migrant labourers, daily-

wage earners, self-employed persons and the micro, small

and medium enterprises

sector. There is a great deal

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## The options

It is dismaying that in a country of huge economic capabilities, where a major share of GDP is borne out of the toil of the labour class, they have, for many years, been marginalised when it came to the fruits of their labour. It is unfortunate that they have been denied their rightful entitlements as far as health, education and living conditions are concerned (OpEd page, 'Parley' - "How will India emerge out of the lockdown?", April 24). It may not be an exaggeration to say that we have been taken for a ride by the political class for over 70

years and we are still accepting of their excuses for not spending enough on health and other basic amenities. Take for instance the expenditure on health care, which is well short of the prescribed percentage for the overall well-being of the nation. Let us also not forget the underspending in education and living conditions. How long wil we be under this political lockdown at the cost of our basic rights is for us to decide. The pandemic response is also the right time to question the political class about the priorities. Let us not forget that Victor Hugo said: "The

paradise of the rich is made out of the hell of the poor." KARUMANCHI MANOHAR, Ongole, Andhra Pradesh

■ For India, further stretching the lockdown poses huge economic challenges. Unlike 'a formulaic slump, where policies can be tailored to finance and raise demand', the challenge now is to 'keep productive capacity intact even as many firms and workers remain idle'. As Nobel prize-winning economist Paul Krugman has argued, "The economic response to the crisis will have to include two parts -

one, an immediate disaster

relief component that ensures survival of both firms and workers who have been rendered idle. And two, a stimulus component that aims to repair and restart production lines during the exit phase of the lockdown." For India, with a large informal sector and a weak social safety net, the first challenge is going to be tougher than the second one. R. SIVAKUMAR,

## **Quarantine facilities**

It is disheartening to know that doctors and medical staff in Rae Bareli had to face dismal living conditions (Page 1, "In Rae Bareli,

doctors have untold stories of quarantine", April 24). Frontline health staff need to be treated in a dignified way in view of their selfless service to society. Such incidents might cause people to stay away from getting DEEPIKA JAIN,

Flattening the curve There is substance in the government's claim that the extended national lockdown has ensured that the growth of cases has remained linear (Page 1, April 24). But on the

other side there can be no

of doubt whether in a postlockdown scenario the lot of the vast majority of the population would improve. Much would depend on whether India will be in a position to continue focusing on steps such as social distancing. As WHO has predicted that the pandemic is not going away in a hurry, the Centre and States will have to be on their toes. C.V. ARAVIND,

denying that the lockdown Bengaluru has inflicted untold misery