



## Not always fair game

State must guard against zealous paternalism while seeking to curb activities online

Good intentions do not always make for good legislation. The Tamil Nadu government's effort to protect its youth from the temptations of online gambling by amending a colonial gaming law to ban online rummy and poker, has not survived judicial scrutiny. Its amendment to the Tamil Nadu Gaming Act, 1930, has been struck down by the Madras High Court, which found the prohibition unreasonable because it sought to bring even games predominantly of skill under the label of gambling, if there was an element of betting or even prize money or any other stake involved. The State's intention was acceptable to the extent that it sensed the danger involved in allowing addictive games. However, it erred in failing to make a distinction between games of skill and games of chance, and in seeking to treat as 'gaming' anything that involved stakes, contrary to judicial pronouncements circumscribing the term to games that are based on chance. In an audacious move that the court found completely unacceptable, the amending Act sought to "turn the statute on its head" by replacing a section that provided exemption to 'games of skill' from its purview with one that said it would apply to even games of skill if played for wager, bet, money or stake. The court rightly found that this would actually render illegal even offline games that were played for prize money. It said, "What was once the exemption or escape provision has now been given the most claustrophobic stranglehold and has the possibility of bringing about the most ridiculous and unwanted results if applied in letter and spirit."

One of the problems of political populism is that the state takes its paternalistic role too seriously. It assumes that large sections of society require guidance, lest their ideas of freedom lead them to uncharted zones where lack of restraint and self-control land them in debt and penury. Notions of individual freedom and choice tend to be forgotten. Another problem is that the moral element is predominant in such laws, often to the detriment of the reasonableness of their provisions. Some activities are associated with sin more than with commerce, and these are susceptible to the government's regulatory reach and banning instincts. The court, while understanding the law's intent, has rightly questioned the lack of proportionality in banning something that could have been regulated. It notes that excessive paternalism could descend into authoritarianism and curb an activity individuals are free to indulge in. It could not sympathise with the State's contention that online games were invariably open to manipulation and no distinction need be made between games of chance and those of skill. However, it did remember to observe that appropriate legislation regulating betting and gambling activities is still possible, but something that conforms to constitutional propriety.

## Pandemic of distrust

Those resisting vaccination mostly conform to a specific social, cultural, and political profile

President Joe Biden and the director of the CDC warned this week that the COVID-19 crisis in the U.S. was becoming a "pandemic of the unvaccinated". This underscores the growing divergence across U.S. States and communities in terms of the prevalence and intensity of the Delta variant infection, depending on the extent to which these cohorts had been vaccinated. Approximately 30% of the adult population has yet to be vaccinated, along with 58% of those in the 12-17 years age group. The country has reached this troubling impasse despite a strong start. To date, 348 million doses have been given so far. This came on the back of the firm commitment by the Biden administration to follow the science in the tackling of the pandemic, and quickly secure pledges from vaccine manufacturers – including Pfizer, Moderna and Johnson & Johnson – to supply 700m doses by the end of July 2021, enough to cover 400m people. Using everything from consistent high-level messaging by the President and his team to get vaccinated, to lottery tickets and cash gifts offered by local and State governments to those willing to step and get a shot, the country has powered through to the point where 193 million Americans have received at least one dose, and at least 165 million people have received all the required doses.

Yet, it is now increasingly clear that there are two cohorts of adults resisting vaccines: the first, who are averse to getting vaccinated in all circumstances – preponderantly those who are rural, white, politically conservative, and evangelical Christian, according to surveys; and the second that are open to considering getting vaccinated but would like to wait for some time before committing to it. The second cohort is, like the first, mixed to an extent, but primarily consists of a diverse urban group, younger in age, often Democratic, and includes minorities such as African Americans, and Latino Americans. Regardless of the reasons for resisting, the statistics paint a grim picture, of 95% or higher of COVID-19 hospitalisations and deaths being of unvaccinated people; and of the highest toll affecting States with lower-than-average vaccination rates, including the likes of Florida and Texas. The Biden administration has an unenviable, multi-pronged task at hand. On the one hand, it must continue to put out facts and data as well as advocacy messaging for ever-widening vaccine reach, and this includes working alongside social media platforms to clamp down on rampant misinformation. On the other hand, it needs to avoid succumbing to any and all pressures to relax precautions, for example the disastrous – and now reversed – guidance supplied by the CDC on May 13 to the effect that people need not wear masks if they had been vaccinated.

# A guide to resolving the Assam-Mizoram issue

Historical knowledge, sensitivity and an accommodative spirit need to accompany any dialogue and negotiation



KHAM KHAN SUAN HAUSING

The violent stand-off between the Assam and Mizoram armed policemen at Vairengte in Mizoram, on July 26, about six kilometres from Lailapur, Assam which took six lives and left over 50 injured is the culmination of a long-standing border dispute.

### History and a boundary

Almost one and a half centuries ago and 17 years before the Lushai hills was annexed to British Assam in 1892, the 'inner line' boundary of the Lushai hills was 'fixed' in 1875 on the southern border of Assam's Cachar district. In line with the colonial practice of 'fixing' borders, this boundary was however not 'precise' as it was drawn largely using natural markers such as rivers and hills. In post-independent India, the Mizoram government has accepted this boundary in preference over the subsequent revisions made by the colonial government when the Inner Line Permit under the Bengal Eastern Frontier Regulation, 1873 was extended to the Lushai hills district in 1930 and 1933.

Unlike the 1875 boundary, which involved a proxy of Suakpula, one of the Lushai chiefs, the Mizoram government perceives that the boundary instituted by these revisions sidestepped them and amounted to unilateral superimposition – driven as it were by 'administrative convenience'. These revisions are also seen to conspicuously fail to recognise the Mizo's long-standing historical rights to use the un-demarcated southern border of Cachar as their hunting ground, for *jhum* cultivation, and as sites of their re-

source extraction including rubber and timber. The enclosure of about 509 square miles of the Lushai hills under the Inner Line Reserve Forest area via the Assam Forest Regulation, 1877, is being cited as one of the glaring examples of 'encroachment' by the Assam government into the Lushai hills (now Mizoram). However, considering that borders cannot be driven by perception but by institutionalised rules and laws, Assam's government continues to refuse to accept Mizoram's standpoint.

### Assam's stand

Seen from this standpoint, the Assam government considers Mizo plantation and settlements in the Inner Line Reserve Forest areas as an 'encroachment'. Such a standpoint is oblivious to the fact that Seipua, a Lushai chief, established a village, Seidpur, on a hill nearly 10 miles from Silchar, the capital of Cachar. The Jalenga tea estate located in Tlangpui village and Paloi tea estate near Vairengte – both in Cachar – took their names after Zalenga and Palawia, two Lushai chiefs. Given that the Lushai (also known as old Kukis – Hrangkhaw, Biete, Ralte, etc.) are among the earliest settlers of Cachar, many villages in Cachar (and Karimganj) have Lushai settlements. Sporadic incidents of evictions or arrests by the Assam officials were reported in the 1970s and 2000s. A recent allegation of 'encroachment' happened in October 2020 when Assamese officials burnt down Mizo huts and other settlements in the Singla Reserve Forest which led to border clashes and a 12-day blockade of National Highway 306.

Although Assam Chief Minister Himanta Biswa Sarma is partially right in claiming that the dispute is about 'reserve forest' and not 'land', what is at the heart of this dispute is the contending approaches of the Assam and Mizoram governments to 'borders',



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namely 'state-centric' and 'people-centric' approaches.

Mr. Sarma and the Assam government represent a continuum of the colonial 'state-centric' approach to borders which gives premium to legal, juridical and administrative recognition and protection of the border. Colonial state-making and state-expansion entail a 'fixing' of borders. The discovery of oil, tea, rubber and coal around the middle of the 19th century in the 'outer limits' of Assam proper and the concomitant attempt to commercialise these commodities impel the regulation of trade and commerce between the British and their competitors. The enclosure of land in these 'outer limits' by declaring them either as 'forest reserve areas' or imposing an inner line permit raj system stem from this.

This development leverages a new land-use regime which is principally driven by efforts to augment State revenues. Forest conservation and the protection of tribal/indigenous land interests are peripheral concerns. One of the unintended consequences was the large-scale migration of labour from various parts of British India into Cachar, Hailakandi, and Karimganj. The 'encroachment' and 'enclosure' of their land and forest 'commons' reinforced the steely resolve of the tribal groups such as the Lushais to 'protect' their land.

The series of raids since the mid-1840s, which culminated in the famous raid of Alexandrapore tea garden in Cachar in early January 1871, stems from this. In this raid, James Winchester, a British

tea planter, was killed, and Mary Winchester, his daughter, captured. The British launched the Lushai Expedition (1871-72) partly to secure Mary's release.

The recent overtures by Mr. Sarma to approach the Supreme Court of India, and raise a 4,000-strong commando battalion to 'protect' the 'forest reserve' areas need to be seen against this backdrop. Parading a bullet-proof armoured vehicle is intended to drive home this message. The muscular display of power also becomes fully evident in the way in which a contingent of about 200 Assam armed policemen along with Karimganj forest officials overran the central paramilitary outpost, marched and 'encroached' deep into Mizoram's border at Vairengte a day after the dispute had already flared up.

Critics squarely blamed Mr. Sarma for this misadventure and political upmanship which cost the lives of five of Assam's armed policemen and a civilian and left over 50 people injured. It remains to be seen if the immediate valorisation, ex gratia payment of ₹50 lakh and securing jobs to each family of the 'martyrs', and ₹1 lakh relief to the injured edify his image as a 'decisive' Chief Minister or expose him as a regional bully. The last image has gained traction given that Assam has a long-standing border dispute with Arunachal Pradesh, Meghalaya and Nagaland.

### Mizoram's approach

In contrast to the above, Chief Minister Zoramthanga and the Mizoram government advocate a 'people-centric' approach which seeks to give a premium to the historical and traditional rights of the local indigenous people on the one hand and to the principle of *uti possidetis juris* ('as you possess under law', including customary law) on the other hand. Mr. Zoramthanga and his predecessors have made concerted attempts to forge

a consensus around this approach. The two-member boundary committee report of 1973 and the memorandum prepared by the Joint Action Committee, non-governmental organisations and all-political parties in Mizoram in 2018, which has been submitted to the Prime Minister of India, are pointers to this.

### At the negotiating table

Given that 'borders' are contested social constructs, 'mental maps' which are given subjective meanings and interpretations, the endeavours by Mr. Sarma and Mr. Zoramthanga to 'fix' the Assam-Mizoram border and resolve the dispute need to be sensitive to the historical context in which local land owners and protectors have transformed overtime as 'encroachers' of land across the two States. Such a resolution should be sensitive to the possibility of fluid and overlapping sovereignty, where forest 'commons' are seen not simply as sites of revenue-extraction but as powerful symbols of identity and sustainable livelihood resources for the local people.

Deep historical knowledge, sensitivity and an accommodative spirit need to inform Mr. Sarma and Mr. Zoramthanga even as they sit down peacefully to enter into dialogue and negotiation under the neutral supervision of the Centre. It is about time that the Centre sets up a permanent inter-governmental forum to involve important stakeholders in order to effectively manage border and territorial conflicts. Any quick-fix solution driven by temporal electoral considerations should be avoided if we were to resuscitate and sustain interdependent Assam-Mizoram borders and beyond.

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# India-Nepal flood management needs course correction

The two countries need to re-establish water cooperation as a common cause and draw inspiration from the 1950s



ATUL K. THAKUR

Nitish Kumar should be credited for bringing 'disaster management' into the popular imagination in Bihar. In his early days as Bihar Chief Minister (2005-2010), he made a few noticeable structural changes, with renewed approaches in infrastructure augmentation for dams and reservoirs, detention basins, embankments and channel improvement. Non-structural measures were also adopted in later years such as floodplain management, flood forecasting and warning, flood insurance and financial compensation.

However, despite the efforts made on the ground, people continue to suffer with perennial flooding in north Bihar (the Mithilanchal region). Already facing a humanitarian crisis of sorts following the novel coronavirus pandemic, this year's extra rainfall and floods have been a moment of reckoning. Unfortunately, this chronic issue which is making over five crore people of the north Bihar in India and Tarai in Nepal so vulnerable, does not seem to get the attention it deserves by policymakers on both sides of the border.

This year, on May 4-5, Bihar's Disaster Management Department released two documents titled: "Pre-Flood Preparedness" and "Flood Control Order 2021". The

aim was to help the local administration in terms of preparedness and having in place a relief support system. However, a solution to the issue of chronic flooding lies in revisiting the old plans and arrangements between India and Nepal. This is because flood control in Bihar is just not possible till a dedicated intergovernmental panel is formed through a bilateral mechanism between India and Nepal, that in turn can study, assess and offer solutions to this shared crisis.

### Fundamentals of flooding

Historically, Bihar has been known to be India's most flood-prone State. The Flood Management Improvement Support Centre (FMISC), Department of Water Resources, Government of Bihar estimates that 76% of the population in north Bihar faces the recurring threat of flood devastation. About 68,800 sq. km out of a total geographical area of 94,163 sq. km, or about 73.06% of the land area is flood affected. A large part of north Bihar, adjoining Nepal, is drained by a number of rivers that have their catchments in the steep and geologically nascent Himalayas.

Originating in Nepal, the high discharge and sediment load in the Kosi, Gandak, Burhi Gandak, Bagmati, Kamla Balan, Mahananda and Adhwara Group wreak havoc in the plains of Nepal's Tarai and Bihar. The FMISC says: "About 65% of the catchment area of these rivers falls in Nepal/Tibet and only 35% of the catchment area lies in Bihar. A review by Kale (1997) indicated that the plains of North Bihar have recorded the highest



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number of floods during the last 30-years. In the years 1978, 1987, 1998, 2004 and 2007[,] Bihar witnessed high magnitudes of flood. The total area affected by floods has also increased during these years. [The] Flood of 2004 demonstrates the severity of the flood problem when a vast area of 23490 Sq Km was badly affected by the floods of Bagmati, Kamla & Adhwara groups of rivers causing loss of about 800 human lives, even when Ganga, the master drain was flowing low."

### Cooperation of the past

Unlike the indifference shown by Kathmandu on matters of floods and water management in recent years, the history of cooperation between India and Nepal for embankments starting in the 1950s is worth looking at. When work on the Kosi embankments started in January 1955, a group of retired Nepali soldiers came over voluntarily to join hands with Indian volunteers and start the work. Such a progressive government-citizen interface could not sustain itself and water cooperation between the two countries for a common cause

waned. Consequently, not much has happened barring the use of water resources for hydroelectric generation.

### Recasting water management

For the people of Madhubani, Darbhanga, Sitamarhi, Sheohar, Saharsa, Supaul, Purnea, Araria, Madhepura, Katihar, Samastipur, Muzaffarpur, Bettiah, Motihari and Begusarai, the flood is a part of their lives. In fact, infrastructural interventions such as building embankments and re-routing streams have disturbed the conventional pattern of slow water flow.

Earlier, without so many artificial barriers, the flow of water used to aid farming in the region. The Kosi Treaty of 1954, under which the embankments in Nepal were established and maintained, was not futuristic and did not make enough provisions for the maintenance of embankments and the rivers changing their course. The deposition of stones, sand, silt and sediment has led to river beds rising, changing course and causing unimaginable losses. Between the mid-18th and mid-20th centuries, the Kosi is said to have shifted over 100 kilometres westward, resulting in large-scale human displacements. Also, there is a need for greater sensitisation on climatic imbalances and sustainable development. Ironically, the same flood-affected regions also face the issue of drought and a sinking water table.

Notwithstanding Kathmandu's wavered approach on the matters concerning water management with India, it would not be apt to blame Nepal for releasing water

from its rivers that cause flooding on the Indian side; and on their part, for believing that India is reaping the benefits from all projects that were taken up in the past. Clearly, course correction is needed to reestablish water cooperation as a common cause and draw inspiration for joint action from the 1950s.

### For a policy refresh

As early as in 1937, the transition from the traditional method of flood control to the embankment-based British system was thought out. To control the floodwater at Barahakshetra in Nepal, a high dam was thus planned and finally built after the devastating Kosi flood in 1953. Prime Minister Jawaharlal Nehru visited the flood-affected areas in 1953 and announced a visionary Kosi scheme for the safe resettlement of the affected people. Lalit Narayan Mishra, former Union Cabinet Minister, was the first prominent political leader from the Mithila region who unwaveringly tried improving infrastructural capabilities with the Kosi Project and other initiatives to control the flooding.

In the mainstream political and policy establishments, greater attention needs to be given to this annual calamity and its devastating effects on lives and livelihoods. India and Nepal need to be in dialogue to end the crisis of flooding every year. With a long-term strategy of water management cooperation between India and Nepal, the matter should be looked into.

Atul K. Thakur is a policy analyst and columnist

## 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.

### Mother tongue learning

The emphasis on using one's mother tongue as the primary medium of instruction in technical courses (Editorial page, "A language ladder for an education roadblock", August 5) in a linguistically and culturally diverse country such as India is ill-advised. Citing examples of homogenous and mostly monolingual countries such as South Korea, Japan and China where such programmes have been successful is missing the point. In a nation like ours,

where regions are primarily demarcated on the basis of language, this is a recipe for disastrous divisions and regressive development in the long run. Already plagued by rising bouts of regionalism, such moves will only further shackle our youth, limiting them to their homes with fewer employment opportunities. The solution is to implement bilingualism or, better yet, multilingualism across the education sector, with a special emphasis on English as a unifying factor, as well as our fellow

regional languages, thereby rewriting our colonial legacy. This will also eliminate the debate of Hindi versus other regional languages. Hence, we shall have a generation proficient in both English and their mother tongue in addition to the option of learning another regional language which will expand our human resource assets.

SALINI JOHNSON,  
Thiruvananthapuram

### Women and science

The article, "The doubted scientist and her vaccine

revolution" (OpEd page, August 5), makes it clear that Dr. Katalin Kariko's journey is not only heart-warming but also shows how she stands as a role model for scores of women in science. Women in STEM, or in the fields of Science, Technology,

Engineering and Mathematics, are significantly outnumbered by men. The discrimination against women in science continues in terms of access to education, questioning their abilities and knowledge, and there being a (gender) gap in pay and

opportunities. Highlighting Dr. Kariko's contribution would help get rid of sexist stereotypes and is a lesson for ensuring inclusiveness in the discipline.

PRAJAKTA SAWANT,  
Navi Mumbai

### CORRECTIONS & CLARIFICATIONS:

A clarification: With reference to the story headlined "Governor's pardon power overrides 433A: SC" (Aug. 4, 2021) – web editions had headlined the story as "Governors can pardon prisoners, including death row ones: Supreme Court" – the correspondent says the story should have referred to them as "death row prisoners whose sentences have been commuted to life imprisonment".

The photo caption in the story headlined "Trinamool eyes Tripura to gain national footprint" (Aug. 2, 2021) erroneously referred to Manik Sarkar as Tripura Chief Minister. It should have been former Chief Minister as correctly given in the text of the story.

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