



Income and quotas

SC lays bare the limits of using economic criterion to determine reservation eligibility

The Supreme Court's ruling that economic criterion alone cannot be used to classify a member of a Backward Class as belonging to the 'creamy layer' adds an interesting nuance to the jurisprudence of affirmative action. There was a time when backwardness was primarily related to the inadequate social and educational advancement of a group. Ever since the Court, in *Indra Sawhney* (1992), introduced the concept of 'creamy layer' – a term describing the well-off among the Backward Classes – and declared that this section should be denied reservation benefits, the original idea of including groups based on social backwardness was matched by a parallel exercise to exclude the more advanced among them. This position has crystallised into law. Many support the formulation that once caste is accepted as a basis for determining backwardness, there is nothing wrong in excluding the affluent among the eligible castes. The Union government has unreservedly accepted the 'creamy layer' rule, and formulated criteria for identifying those who fall under the category. The proponents of economic criteria feel that genuine social justice means reservation benefits should be restricted to the poorer among the backward; while sections championing Backward Class assertion disavow any dilution of the social basis for reservation.

The Court's latest judgment in a Haryana case corrects a grave error by the State. It has struck down a notification fixing an annual income of ₹6 lakh as the sole criterion to identify whether a family belongs to the creamy layer. It was contrary to *Indra Sawhney* that had spoken of different criteria, including being the children of high-ranking constitutional functionaries, employees of a certain rank in the Union and State governments, those affluent enough to employ others, or with significant property and agricultural holdings and, of course, an identified annual income. The Court has found that the Haryana criterion based on income alone was contrary to its own law that specifies that the creamy layer would be identified through social, economic and other factors. The Constitution permitted special provisions in favour of 'socially and educationally backward classes' through the first Amendment, as well as reservation in government employment for 'backward classes'. Judicial discourse introduced a 50% ceiling and the creamy layer concept as constitutional limitations on reservation benefits. However, the 103rd Constitution Amendment, by which 10% reservation for the 'economically weaker sections' (EWS) has been introduced, has significantly altered the affirmative action programme. With the current income ceiling being ₹8 lakh per annum for availing of both OBC and EWS quotas, there is a strange and questionable balance between the OBC and EWS segments in terms of eligibility, even though the size of the respective quotas vary.

Dissension in the ranks

Crises in the Congress can be attributed to its leaders' lack of ideological commitment

With their backs up against the wall and in a crisis, resilient organisations are expected to run a tight ship. But in politics, if the organisation lacks a strong glue, there are enough malcontents to weaken it from within. The Congress finds itself in such a situation today. Beleaguered and limited to power on its own in only three major States – Rajasthan, Punjab and Chhattisgarh – the Congress should have focused on utilising the period in power to provide good governance and to inspire successes elsewhere. Since nothing succeeds like success, working together to achieve a functioning government is an imperative. But far from backing the respective Chief Ministers to the hilt, leaders in the Congress have tried to take on the mantle of rebellion to varying degrees of success. In Rajasthan, Sachin Pilot's rebellion against Chief Minister Ashok Gehlot was managed last year, but no viable compromise between the two has been reached yet. In Punjab, despite being an import after a stint in the BJP, former cricketer Navjot Singh Sidhu managed to wrest the position of the Punjab Pradesh Congress Committee president by mobilising enough discontent against Chief Minister Amarinder Singh. Now chafing, Capt. Amarinder's allies have sought their utmost to undermine Mr. Sidhu's leadership in another round of internecine strife. In Chhattisgarh, Health Minister T.S. Singh Deo's claim that he was supposed to get the Chief Minister's post as "promised" to him halfway into the government's tenure, has not yet been accepted by the party high command which, however, seems unwilling to back the incumbent, Bhupesh Baghel.

In none of these instances can a claim be made that the incumbent government's performance has warranted a change. The rebellions, therefore, can be attributed to the personal ambitions of three leaders and not even to traditional factional politics related to ideological differences. There has been a lot of focus on the party's national leadership and a concentration of power in the Nehru-Gandhi family, but the more pressing problem it confronts is the absence of a clear ideological commitment that draws leaders and cadre into closer coordination and camaraderie. By drawing from its history as the party that led the country to freedom and helped work out a constitutional consensus and a liberal democratic polity, besides its legacy since the 1990s as the party that pushed for economic reforms and welfare-based governance as the twin pedestals for progress, the Congress can still lay a strong claim to power. For that it must have a committed cadre that is willing to selflessly work toward that aim rather than rely upon self-seeking leaders professing vapid centrism, and for whom power is the overarching motive.

Negotiating the new global climate policy

Reducing per-person emissions to the global average as a first step to national net-zero requires a human rights frame



MUKUL SANWAL

The policy significance of the recent report (<https://bit.ly/3Dcm8zb>) of the United Nations (UN) Intergovernmental Panel on Climate Change (IPCC) is that reaching net zero alone is not enough as it is the cumulative emissions up to net zero which determine the temperature that is reached, and that a global policy which considers only current emissions will not limit global warming and its adverse effects.

Restricting well-being

For 30 years, climate negotiations have struggled with a frame that created an imbalance between countries sharing global carbon space, the only limited natural resource. Development depleted carbon space causing the climate problem and developing countries are being pressured to limit their use of the remaining space as the solution. At the G20 Climate and Energy Ministerial meeting in July, India proposed that major economies bring down their own per capita emissions to the global average by 2030.

Reframing negotiations in terms of bringing per-person emissions, or human well-being, as the essential first step highlights that merely achieving net zero of current emissions by 2050 – the proposal of the G7 – restricts well-being and is unacceptable as global policy. Varying levels of per-capita emis-

sions converging to a common point will allow those who have already used more than their fair share of the carbon space a larger share of the remaining space than countries such as India which need the remaining carbon space to grow to comparable levels of well-being.

Per capita emissions

The policy significance of the imbalance becomes clear when per-capita emissions are compared. The world's per capita greenhouse gas emissions are 6.55 tonnes of carbon dioxide. India's per capita emission at 1.96 tonnes is less than one-third; emissions of the United States, Canada and Australia are more than two-and-a-half times; Germany, the United Kingdom and France are above, and China, at 6.4 tonnes, is just below the global average. Accepting 'net zero' emissions by 2050 effectively prevents India's urbanisation and shift of the rural population into the middle class.

India is rightly objecting to the obfuscation, as the Objective of the Climate Treaty is "stabilization of greenhouse gas concentrations". By contributing over 60% of global cumulative emissions, with just one-fourth of the global population, North America and Europe are responsible for nearly 970 billion tonnes of carbon emissions.

Whereas, the world's remaining carbon budget – the total amount we can emit to have a chance of limiting warming to 1.5°C – is only 400 gigatonnes of carbon dioxide, and the U.S. alone has contributed this amount for its high standard of living. For a global consensus, such countries will need some



flexibility in the new climate policy.

Emission sources

The reframing should stress 'essential' emissions to justify the flexibility and the need. Infrastructure, or construction, essential for urbanisation and quality of living is responsible for two-fifths of global carbon dioxide emissions from fuel combustion and 25% of emissions overall. These emissions arise from energy intensive cement production and half of the steel produced which is used in construction, both having no substitutes.

The varying levels of per capita emissions are accounted for by expressways and the urban boom in the U.S. and Europe between 1950 and 2000, before China began its infrastructure push, leading to per-capita material use that is four times that of China. The U.S. first recognised the implications of its way of life preparing for the Stockholm Summit in 1972, but then shaped the global agenda in terms of current emissions which were going to grow in developing countries as they urbanised, rather than the scientifically correct stabilisation of cumulative emissions, to draw attention away from its

own urbanisation and lifestyle.

Ideas and implications

New ideas such as 'climate justice', coming from India have three strategic implications. First, a focus on drivers and patterns of natural resource, not just anthropogenic emissions, highlights that as against measuring emissions when considering solutions, the causes become important, in particular, the shift of the human population from rural to urban areas. Second, the IPCC report has reiterated that impacts such as a rise in sea level, variability of rainfall and temperature increases will not be reversible for some time even after emissions fall. The adverse effects of climate change, or adaptation, are no longer a local but a global concern. Third, consequently, multilateral cooperation will shift from common rules monitoring emissions based on international environmental law to common goals of human well-being as a universal human right based on a policy consensus.

Shifting from environmental damage and its implications for well-being to comparable levels of well-being within global ecological limits provides a very different conceptual frame to understanding climate change and the negotiations. First, there is a need for a debate on what society values and whether societal priorities or market exchange and pricing mechanisms determine what is to be valued, produced, and consumed. Second, with consumption of the urban middle class now more important than production in terms of GDP, it has become clear that the rising prosperity of the poor and its need for infrastructure is

not endangering planetary life support systems as stress on population and national emissions suggests. Third, with different civilisational values, consumption of the middle class in developing countries is less wasteful than in the first phase of urbanisation. These socio-economic trends are not captured in the models based on natural sciences designed for countries whose emissions have peaked with questionable global policy relevance.

For a new policy objective

It took 25 years for the 'Paris Agreement' to reverse the defining feature of the 'Framework Convention', the division of countries into 'annexes', while providing for a 'common cause' instead of commitments. India's proposal supports this evolution. Moving away from regulating emissions to recognising ecological limits makes the subsidiary bodies for scientific advice and implementation review established to ratchet-up commitments redundant. Sharing prosperity should be the objective of new intergovernmental mechanisms, with the involvement of the private sector, for example, supporting solar energy, joint research in new crop varieties and exchanging experiences on infrastructure viability. We now know that climate change is not just an environmental or sustainable development concern involving trade-offs. It requires a civilisational transformation in what we value, the way we live, and how we interact with one another.

Mukul Sanwal is a former civil servant, negotiator and UN diplomat in the climate change secretariat

A Taliban outreach that needs correction

The overwhelming narrative to engage with the Taliban must change, which will lead to the budding of policy options



CHETAN RANA

Very few, if any, might have been surprised when the Taliban unleashed violence to take over territories in Afghanistan. What has surprised many is the pace at which the Taliban pushed their lines and replaced the Afghan state. The Doha peace deal with the United States and China's Foreign Minister Wang Yi's warm welcome to a Taliban delegation in Tianjin, in July, reflect the diplomatic successes of the Taliban at the international level. Almost all regional stakeholders at this point are engaging with the Taliban, openly or behind closed doors. The Special Envoy of the State of Qatar for Counterterrorism and Mediation of Conflict Resolution, Mutlaq bin Majed Al Qahani, in June, confirmed India's outreach to the Taliban. Now that the Afghan state has failed, the Taliban is the most powerful political entity. But the Afghan people are the most important stakeholders and India must resist engaging with the Taliban.

Issue of legitimacy

Where is 'the good Taliban'? In the past, leaders and analysts have used the terms 'Taliban 2.0', or

'the good Taliban', to create an environment conducive to negotiate with them. The Taliban's unleashing of war to secure power has put an end to those arguments. The claim that the Taliban shall have to reform to secure international legitimacy is exaggerated. The conclusion of an agreement with the U.S. while excluding the Afghan government, and talks with China, have already accorded the required legitimacy to the Taliban, internationally. On the domestic front, if the Taliban cared for legitimacy from the Afghan people they would have contested elections instead of capturing territory through force.

Long-term settlement

Several reports that have emerged over the last couple of months have confirmed that violence and oppression are the Taliban's *modus operandi*. Women, as expected, have been hit the worst. Female students and employees have been let off. News of the Taliban forcing women to marry their soldiers or else assaulting them has increased. The already dwindling Afghan Sikh community is leaving the country. The progress made during the fragile peace in the last two decades has been undone in a matter of weeks. As the struggle for power with and within the Taliban gains momentum, ethnic divisions will accentuate, and the minorities will become more and more vulnerable.

Sadly, the Afghans who are leav-



ing their homes today will not be returning to their homes anytime soon, if at all. Historically India has been one of the preferred refuges for Afghans beyond their immediate neighbourhood. First, nations must see refugees as their responsibility rather than a burden. This shall involve rapid processing of visa applications and ensuring safe routes to commute. Second, there should be an effort to develop a regional, and potentially an international, coalition to address the needs of Afghan refugees. An active policy to provide shelter, education, vaccination, and employment opportunities instead of sending them to congested, unhygienic, and then ignored refugee camps is needed. The policy must look beyond an immediate fix, and instead towards a long-term settlement strategy.

Looking beyond the Taliban

Many have argued that India must negotiate with the Taliban. The argument that India can engage with certain segments of a heterogeneous Taliban overestimates India's

capacity to begin and fruitfully engage with such elements and also underestimates the capacities of elements such as Inter-Services Intelligence and the Haqqani network to disrupt such negotiations. Even China and Pakistan, which are deeply engaged with the Taliban, will be reluctant to completely rely on them in the future. U.S. President Joe Biden, while addressing the drawdown from Afghanistan based on the deal with the Taliban, stated that he does not trust them. Therefore, the claim that India – so far a peripheral party – can plan its Afghan policy or security in Kashmir based on Taliban assurances is not sound. As far as terrorism in Kashmir is concerned, professor Rajesh Rajagopalan rightly argues, we don't have a Taliban problem but a Pakistan problem. The domestic efforts to reconcile differences with the local Kashmiris shall go a longer way than relying on the Taliban.

Irrespective of that, we must remember that a Pakistan-controlled and a Taliban-led Islamic Emirate is against the interests of a Shia-dominated Iran. The prospect of Afghanistan turning into a breeding ground for terrorist outfits is an issue for India but a bigger issue for Iran, the Central Asian States, China, Russia and even Pakistan. The Tehrik-i-Taliban Pakistan (TTP) (or the Pakistani Taliban) is expected to strengthen if instability in Afghanistan continues. Therefore, there is an area

for convergence amongst the parties if they seek to work together. Further, it is naive to believe that the other regional states would be comfortable with Pakistan having complete control over the future of Afghanistan. Taliban may itself seek greater autonomy from Rawalpindi as its grip over Afghanistan tightens.

Then and now

The overwhelming narrative to engage with the Taliban reflects the hegemony that men and realists hold in security analysis. There is a need to diversify the discourse, this will automatically lead to the budding of new policy options in Afghanistan. A policy that is ignorant or unconcerned of its consequences for women and minorities is not worth pursuing.

One must remember that the Taliban's rise in 2021 is not like its rise in 1996. Mohammed Omar enjoyed a certain level of popularity amongst Afghans as he led the Taliban to oust the warring Mujahideens in 1996. In 2021, the median age of the Afghan population is 18.4 years. Most of them have come up in a far more progressive environment than the Taliban's rule. The resistance has already begun in Panjshir. Afghan citizens will continue to resist. So must we.

Chetan Rana is a PhD research scholar (Diplomacy and Disarmament), Centre for International Politics, Organization and Disarmament (CIPOD), Jawaharlal Nehru University, New Delhi

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.

Political feud

Political rivalries have always existed, but there was always some kind of civility. The political climate in the nation has deteriorated so much that a Union Minister can go to the extent of talking about roughing up a Chief Minister. The kind of language being used across the political spectrum is disgusting, with no hope of improvement. Hopefully this comment should not develop into a law and order problem, given the antecedents of the protagonists.

ANTHONY HENRIQUES,
Mumbai

■ A Chief Minister unwittingly seeks the help of his aide when his mind goes blank. And then springs into action when a former party mate and now Union Minister has the temerity to cast aspersions for his 'brainfade'. The people's

court has to decide now who is more culpable.

BELLUR S. DATTA,TRI,
Bengaluru

■ It is a bit over the top to be calling this incident a "murder of democracy" and a "violation of constitutional values". The fact is that the limits of decency in public life are being violated. Those in the political arena making comments are conveniently forgetting how journalists, activists, student leaders and others are being harassed and arrested on flimsy grounds. That is a "murder of democracy" and a "violation of constitutional values".

TILAK SUBRAMANIAN V.,
Kunjibettu, Udipi, Karnataka

■ The happenings are distasteful, given the high offices both leaders hold in a democratic set-up. The culture in our democratic polity has reached an all-time low, and making

disparaging and crude personal comments against the other has become commonplace. A very poor example is being set.

PRABHU RAJ R.,
Bengaluru

Economic revival

The Centre is trying every trick in the book rolling out ambitious plans and schemes to revive animal spirits of the economy by way of disinvestment of Bharat Petroleum Corporation Limited, Air India and others. We now have the National Monetisation Pipeline. The Government seems unable to fix accountability as far as the babus entrusted with the job are concerned. The second is the lack of transparency and allegations of rigging. Customisation of bids to suit a few cronies is unacceptable. Until the culture of *quid pro quo* is obliterated, we are sure to see the Government

announcing what it thinks are catchy and flagship schemes, but to no avail.

DEEPAK SINGHAL,
Noida, Uttar Pradesh

■ The National Monetisation Pipeline is not a wise move and betrays the NDA's poor record of governance since 2014. The conversion of fixed assets into cash cannot be a permanent or even long-term remedy. It will spell doom for the economy.

MANOHARAN MUTHUSWAMY,
Chennai

House in disorder

In spite of being cast into a pit, politically and at the national level, it seems the Indian National Congress has not learned any lessons and continues with its culture of infighting, instead of seeking electoral successes (Page 1, "Amarinder Ministry reels under Congress feud again", August 25). Issues such as curbing drugs and the transport mafia, being raised

by Navjot Singh Sidhu's supporters, are perennial subjects that require long-term action but are being used as a smokescreen to fight personal battles. If the Congress is perceived to be incapable of solving its internal problems, its recent efforts at forging a united Opposition front at the national level will come to naught. Else, it can happily continue with its internecine battles and inconsequential Twitter wars.

KOSARAJU CHANDRAMOULI,
Hyderabad

■ When the Congress party found itself rudderless across much of political India, it was Capt. Amarinder who could keep the Congress ship steady. When the State is so close to the Assembly polls, the developments are sure to demoralise the cadre. The high command is responsible for the miasmic situation.

AVYASSERI RAVEENDRANATH,
Aranmula, Kerala

To read more letters online, scan the QR code



Paralympics

The Paralympics have started in Tokyo and one wishes the sportsmen and women luck. The Indian contingent deserves to be encouraged to the same level we did for the contingent that has returned from Japan. Let us mainstream these sportspersons as it is still Citius, Altius, Fortius - Communis for them too.

SATISH SRINIVASAN,
Bengaluru

CBSE review process

The CBSE needs to look into student grievances quickly. In my case, more than 10 days have passed since I submitted my Class 12 result grievance under the 'CBSE Dispute Settlement Type 3' category. The delay has cost me dear and I have lost a seat in a renowned institution. It is distressing.

PIYUSH MAHAJAN,
Amritsar, Punjab