



## Curbing the khaps

The Supreme Court guidelines are welcome — but we need a strong law on ‘honour’ crimes

Many crimes committed in the name of defending the honour of a caste, clan or family may have their origin in India’s abominable caste system, but there are other contributing factors as well. Entrenched social prejudices, feudal structures and patriarchal attitudes are behind what are referred to as ‘honour killings’. While these cannot be eradicated overnight through law or judicial diktat, it is inevitable that a stern law and order approach is adopted as the first step towards curbing groups that seek to enforce such medieval notions of ‘honour’ through murder or the threat of murder, or ostracisation. It is in this context that the Supreme Court’s strident observations against khap panchayats and guidelines to deal with them acquire significance. It is not the first time that the apex court has voiced its strong disapproval of khaps, or village assemblies that assume the authority to discipline what they deem behaviour that offends their notions of honour. Previous judgments have made it clear that the life choices of individual adults, especially with regard to love and marriage, do not brook any sort of interference from any quarter. In the latest judgment, a three-judge Bench headed by Chief Justice Dipak Misra has located the problem as one that violates the liberty and dignity of individuals, and something that requires preventive, remedial and punitive measures.

The High Courts of Punjab and Haryana and Madras have laid down guidelines to the police on creating special cells and 24-hour helplines to provide assistance and protection to young couples. The Supreme Court has now gone a step further and asked the police to establish safe-houses for couples under threat. The direction asking police officers to try and persuade khaps to desist from making illegal decisions may appear soft. But in the same breath, the court has also empowered the police to prohibit such gatherings and effect preventive arrests. How far it is feasible to videograph the proceedings of such assemblies remains to be seen, but it may be a deterrent against any brazen flouting of the law. The verdict is also notable for dealing with some points made often in defence of khap panchayats, rejecting outright the claims that they were only engaged in raising awareness about permissible marriages, including inter-caste and inter-faith ones, and against *sa-pinda* and *sagotra* marriages. The court has rightly laid down that deciding what is permitted and what is not is the job of civil courts. While these guidelines, if they are adhered to, may have some salutary effect on society, the government should not remain content with asking the States to implement these norms. It should expedite its own efforts to bring in a comprehensive law to curb killings in the name of honour and to prohibit interference in the matrimonial choices of individuals.

## Out of favour

The bond rout is a warning as the Centre looks at ramping up spending ahead of elections

More people are losing their love for Indian bonds. Foreign investors have been net sellers of over \$1 billion in Indian debt this month, almost cancelling out inflows since the beginning of the year. Domestic investors were already spooked by a widening fiscal deficit, so foreign selling now has managed to add pressure on the market. The deserting of the Indian market by foreign investors comes at a time when the Centre is looking at tapping the bond market aggressively to finance its election-year spending. The yield on the benchmark 10-year bond has risen by almost 100 basis points since late-July amid lacklustre investor demand. The rise in yields is due to a variety of reasons that have pushed both foreign and domestic investors to re-price Indian sovereign bonds. For one, the government is expected to step up borrowing ahead of elections; in fact, the fiscal deficit targets for the current as well as the coming fiscal year were revised upwards in the Budget. This has fuelled market fears about a rise in inflation. Further, the public sector banks, typically the biggest lenders to the government, have turned wary of lending. As the losses on their bond portfolios mount, they have turned net sellers of sovereign bonds in 2018. Another tailwind affecting bonds is the prospect of higher interest rates in the West, which has made Indian bonds look a lot less lucrative in the eyes of foreign investors. The weakening rupee, probably a reflection of higher domestic inflation and fund outflows in search of yields, has added to selling pressure. Given these pressing concerns, it is no surprise that Indian sovereign bonds have witnessed a relief rally since news broke on March 26 that the Centre will trim its market borrowing during the first half of the coming fiscal year. The yield on the 10-year Indian sovereign bond has dropped by more than 20 basis points since that day. The Centre’s borrowing target for April-September was cut to ₹2.88 lakh crore, which is about 48% of the total budgeted borrowing for the year, in contrast to ₹3.72 lakh crore in the first half of this year. Interestingly, first-half borrowing was more than 60% of the annual borrowing target in each of the last two years. The government also announced a cut of ₹50,000 crore in the total amount of market borrowings for the year, opting instead to dip into the National Small Savings Fund to meet its funding needs. Cutting down on market borrowing is a decision linked to the market’s ‘decision’ to punish the government for profligacy. The bond rout should thus serve as a timely warning as it looks to ramp up spending ahead of elections. Lastly, with the vacuum created by the state-run banks, it may be time for the Reserve Bank of India to re-examine the rule limiting the role of foreign investors in the bond market.

# When development brings loss

A Kerala village’s struggle against land acquisition highlights the larger debate on striking the right balance



PULAPRE BALAKRISHNAN

Some time in the 1990s the Colombian anthropologist Arturo Escobar produced a text titled *Encountering Development*. It was searing account of the attack on the native peoples of his continent by the power elites who had commandeered it. An Indian economist nourished by the idea of the liberating impact on the country of the Green Revolution and conscious of the role of the policies of the Nehru era in ending over a century of stagnation under colonialism, I had not given it much importance at that time. So it came as surprise to read of events in a corner of Kerala that corresponded quite closely, albeit on a far smaller scale, to what Escobar was alluding to.

### Keezhattur’s case

In the village of Keezhattur in Kerala’s Kannur district, a section of farmers is holding out against the announced, but yet to be implemented, acquisition of their farm land. This is to enable a bypass for the national highway that already exists. Long-cultivated farmland is to be layered over with concrete to construct a motorable road. The farmers agitating against the acquisition have come together under the banner *Vayalkillikal* which translates to ‘birds of the field’, flagging the assault on nature that it represents. They speak not only of the economic loss that the acquisition means to them but their opposition to the loss of habitat, water sources and other natural capital that they value for its own sake.

Two aspects pertaining to the



situation must be stated at the outset. First, not all the farmers are unwilling to sell their land. Second, there is a strong presence of a political party, the Communist Party of India (Marxist) or CPI(M), which is not only aggressively abetting the land acquisition but also attempting to break the opposition to it. No action has been left uncontemplated. The *samara pandal*, a temporary shelter from the heat, erected at the site by the farmers agitating against the takeover was burned down and the house of Suresh, their leader, was stoned at night by goons who made a cowardly getaway on motorcycles. That the opponents of the agitation are members of the CPI(M), which rules Kerala today, gives them an unfair advantage. Under the circumstances it must take immense courage to just mount an agitation. The Malayalam media is often not just close to but actually part of the political establishment. High economic rewards are said to be associated with managing the transfer of the land to the final builder and there is the ever-present threat of violence. The present State government has not shown itself to be sympathetic to those who wish to hold out. It has not even publicly asked that peace be maintained,

### When alternatives exist

Is it absolutely necessary to build a bypass through the paddy fields of Keezhattur? By at least one account it is not. The Kerala Sasthra Sahitya Parishad, which as its name suggests is a body devoted to bringing scientific reasoning to bear on public issues, has presented to the Kerala government an alternative. This involves building an elevated expressway that would leave the paddy fields of Keezhattur undamaged. The government must treat this proposal with seriousness and educate the public on all aspects of the issue. The point to note is that a north-south highway across Kerala already exists. For a State that is not particularly wide, the coverage of this existing road should be deemed good enough given the environmental damage that a new one would entail. The National Highways Authority of India

(NHAI) responsible for highway construction in the country ought to be sensitive to both the geographies of the different regions and the aspirations of the people who populate them. Insistence on a national standard for our highways is a form of dogmatism. It makes little sense to insist on roads of the same specification in Kerala with its fragile ecology of laterite formations and scattered population and the less densely populated alluvial plains of northern India. We should aim at the highest attainable quality of road across the country but cut according to the lay of the land.

At Keezhattur the local CPI(M) cadres have dubbed the protest against the land acquisition as ‘anti-development’. This is proclaimed on billboards at periodical intervals leading up to the fields all the way from the main road. It is abject propaganda. The agitating farmers have categorically stated that they are not against roads, only that they wish to avoid to the destruction of not just cropland but an entire ecosystem that encompasses the Western Ghats, the hillocks and food-producing wetlands. They have also stated a moral responsibility to future generations.

While much of this might appear mere sentimentality to the hard-boiled economist, even he is likely to ask the straight question: What awaits those who reach the northern extremity of the State once this bypass has been built? This is not been asked yet, leave alone answered. Keezhattur is already close to a highway to which there is a motorable road, though perhaps a somewhat narrow one. And a narrower access to the highway is the price you would have to pay if you want to conserve natural capital, and a set of farmers has already indicated that they are ready to pay the price. But maybe

even the farmers are not morally entitled to take the final call in this matter. There is always the greater common good to be reckoned with that limits the claims of private ownership. We are all only trustees of the natural world. The paddy fields of Keezhattur are the commonwealth of the people of India to be preserved as a source of food, for which by the way a road is not a substitute.

### The Chief Minister’s call

It is indeed difficult to read the mind of the Pinarayi Vijayan government on this matter. It has remained aloof when it has not been disingenuous in its response. The Home Minister has said that the State government is merely responding to the demands of the NHAI. Well, it must not do so passively. It must not grant consent to the project in its present form. At a uniquely non-party political rally held at Keezhattur on March 25 Suresh Gopi, Rajya Sabha member from Kerala, said that he had spoken to the national leadership of his party, the BJP, and that they are by no means adamant on the issue. Further, in an extraordinary gesture he offered to ‘touch the feet’ of the Chief Minister to seek a review of the present plan. Everything – economics, natural conservation and concern for food production in a State where paddy cultivation could become extinct if current trends continue – points to the need for statesmanship on the part of Mr. Vijayan. He could listen to his party members and, wielding state power, win the battle against an unarmed group of agitators or he could hear the birds of the field at Keezhattur and win the hearts and minds of his people.

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# Sending the wrong signal

The government must file a review petition of the Supreme Court order in the SC/ST Act case



FAIZAN MUSTAFA

India has over 180 million Dalits. A crime is committed against a Dalit every 15 minutes. Six Dalit women are raped every day. Over the last 10 years (2007-2017), there has been a 66% growth in crime against Dalits. Further, data from the National Crime Records Bureau on which the Supreme Court based its recent judgment that sought to protect public servants and private citizens from arbitrary arrests under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, show that the rape of Dalit women has doubled in the last 10 years. The figures represent only a tip of the iceberg since most Dalits do not register cases for fear of retaliation by higher castes. Even if a case reaches court, the most likely outcome is acquittal due to caste biases at every stage.

### Why the dilution?

Strangely, Justices A.K. Goel and U.U. Lalit in *Kashinath Mahajan*,

adopting ‘purposive interpretation’ and invoking Ambedkar on societal fraternity, have diluted the stringent provision of denial of anticipatory bail in the SC/ST Act. The judgment gives no prominence to caste atrocities and ignores untouchability, which is still prevalent. The mischief that Parliament wanted to address too was ignored by the court. In the Statement of Objects and Reasons of the Prevention of Atrocities Act, Parliament had clearly noted that when Dalits assert their rights, vested interests try to terrorise them. Accordingly, keeping in view the special nature of crimes against Dalits, anticipatory bail had been excluded. A cursory glance of crimes made punishable under the SC/ST Act would explain why. Moreover, constitutionality of this exclusion had been upheld by a five-judge bench of the apex court in Kartar Singh, which Justice Goel noted in passing.

The decline in the conviction rate for crimes against Dalits has created an impression that this may be driven by false filing of cases. But data from NCRB do not seem to support this contention. In fact, the share of false cases under the SC/ST Act has declined over time (2009-2015). The conviction



rate too has in fact improved – from 23.8% in 2013 to 28.8% in 2014. Why it dropped in 2015 after the Bharatiya Janata Party came to power has to be probed. But comparing conviction rates of hate crimes with that of ordinary crimes is neither rational nor reasonable.

### What is the message?

Moreover, low conviction rates show poor investigation and incompetence of prosecution. Witnesses routinely turn hostile in such cases. We have low conviction rates in terror crimes as well, but will the court similarly dilute stringent provisions of terror laws? If there is concern about the ‘presumption of innocence’ of the ac-

cused, the protection of anticipatory bail should be extended to the accused in all cases and under all statutes.

As far as facts of the case in hand are concerned, the court is absolutely right that an adverse entry by non-SC officers in itself as to the character or integrity of the Dalit employee or routine denial of sanction of prosecution in good faith may not amount to a crime under the SC/ST Act. But then in this case the accused was indeed granted anticipatory bail. He had come to the apex court after the high court had refused to quash criminal proceedings against him. The high court rightly noted that in spite of possibility of misuse of the SC/ST Act, its penal provisions cannot be faulted as it would send the wrong signals to the downtrodden. The apex court has indeed sent wrong signals.

The court has deviated from the established judicial opinion on the subject. The Supreme Court had clearly said that anticipatory bail provision for the first time was introduced in 1973 and it is merely a limited statutory right and not part of right to life and personal liberty under Article 21.

Justice Goel’s judgment has given too much space to the arguments in favour of those accused

of offences against Dalits. He has quoted judgments from the Gujarat High Court at length. Gujarat, incidentally, has a low conviction rate under the SC/ST Act.

Only three small paragraphs (27, 28, 29) have been devoted to arguments in favour of the provision. Even the government arguments were not considered worthy of more than one paragraph. The government did not put its best foot forward. But why should we be surprised?

In any case, as for the case in hand, Section 22 of the SC/ST Act already protects public servants from prosecution if they acted in ‘good faith’. But now even a First Information Report is not to be registered without preliminary inquiry. Moreover, even after the registration of FIR, the accused cannot be arrested without written approval of the appointing authority. No FIR can be registered against anybody without permission of the senior superintendent of police.

The judgment will have a chilling effect on the already underreported crimes against Dalits. The government must go for a review.

*Faizan Mustafa is Vice-Chancellor, NALSAR University of Law, Hyderabad. The views expressed are personal*

## 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.

### Data breach

Emerging information of the possibility of political parties having links with Cambridge Analytica is disturbing (‘World’ page—“Congress was Cambridge Analytica’s client’,” March 28). They seem to have compromised the integrity of the nation by way of utilising the services of such companies in “all kinds of projects in India, including regionally”. Over the past few years, hundreds of non-government organisations have lost their registration and have been forced to close down for some reason or other. Their access to foreign funds has become extremely difficult. Since political parties are not transparent about their source of funds, can civil society now demand an investigation into all political parties involved in the mining of data? **HEMACHANDRA BASAPPA, Bengaluru**

■ Yet another complicated story, of a data breach, appears to be leading to the doorstep of a major political party. If true, the Congress president has a lot of questions to answer. The “disclosures” also give rise to more questions. How safe is the average Indian’s personal data especially as Facebook has become a part of our daily life? And what steps is the government taking to safeguard our Aadhaar data? **MALAY PANCHAL, Ahmedabad**

### Federal polity

In the context of ongoing attempts to recast India into a monocultural entity, the “shots” fired by Chief Minister Siddaramaiah in Karnataka are bound to reverberate in the country beyond the Assembly election (“Birth pangs of a new federal polity”, March 28). The insensitivity of the new crop of BJP politicians from the Hindi belt appears to have engendered strong

resentment in the southern States. A look at proceedings in Parliament are a pointer. The strange names assigned to various institutions and Central government-sponsored schemes are totally unintelligible to most people from the south. A major shake-up is overdue in the federal set-up. **MANOHAR ALEMBATH, Kannur, Kerala**

### Cricket and quotas

The strange argument by the writer (“Does Indian cricket need quotas?” March 27) needs to be rejected outright. In any sport, excellence is to be displayed continuously over a period of time to play for one’s country. In Indian cricket, there are domestic levels of tournaments where a cricketer needs to establish his credentials to stake a strong claim to represent his country. Just 11 players get picked. On this ground, the argument on the need to accommodate Dalit and

Adivasi players fails. The need for a quota system may give rise to an opportunity for an undeserving player to get selected. Caste quota has no place in sports. South Africa, no doubt, has a quota for black Africans. But only a handful of them have made the grade. Players like Hashim Amla and Makhaya Ntini have been hugely talented to represent South Africa. The two new sensations were selected not because they are black Africans but because they deserved to be selected. **V. LAKSHMANAN, Tirupur, Tamil Nadu**

■ There are two ways of looking at the issue. If there are quotas, the selection process will be focussed on fulfilling the quota. In turn, this is bound to affect the quality of players in the team. However, the positive side is that it enables equal opportunity for marginalised communities. Cricket South Africa’s policy does

democratise the selection process, but we can also argue that the team has never won any major ICC tournament. On the other hand, the Indian team has seen a meteoric rise. Players from minority communities have proved their mettle in different formats of the game. This goes to show that selection is not discriminatory. On the contrary, it is based on merit. **AAKARSH DHAWAN, Noida**

■ It was only after I completed reading the article that I was able to understand the writer’s argument. The point is that the absence of

underprivileged, Adivasi and Dalit players from rural areas is an acceptable truth. The lack of infrastructural facilities, right from school, is one of the main reasons for their “backwardness” in sport. The government appears to have failed in providing sufficient infrastructure right from the school level. The cricket boards concerned have also failed to encourage players from these sections. The system has to change completely. Quotas can be thought of if such measures fail to have an impact. **SAI SUBRAHMANYAM PUDIPEDDI, Visakhapatnam**

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### CORRECTIONS & CLARIFICATIONS:

An Op-Ed article – “A perfect storm in the cotton field” (March 27, 2018) – referred to the extent of hybrid cotton cultivation in crops *per acre*. It should have been *per hectare*.

It is the policy of The Hindu to correct significant errors as soon as possible. Please specify the edition (place of publication), date and page. The Readers’ Editor’s office can be contacted by Telephone: +91-44-28418297/28576300 (11 a.m. to 5 p.m., Monday to Friday); Fax: +91-44-28552963; E-mail: readerseditor@thehindu.co.in; Mail: Readers’ Editor, The Hindu, Kasturi Buildings, 859 & 860 Anna Salai, Chennai 600 002, India. All communication must carry the full postal address and telephone number. No personal visits. The Terms of Reference for the Readers’ Editor are on [www.thehindu.com](http://www.thehindu.com)